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House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. STEARNS].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 6, 1997.

I hereby designate the Honorable CLIFF STEARNS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to 5 minutes.

The Chair recognizes the gentleman from Iowa [Mr. LEACH] for 5 minutes.

REGARDING HOLOCAUST VICTIMS REDRESS ACT

Mr. LEACH. Mr. Speaker, I rise to bring to the attention of my colleagues legislation I introduced last week with the gentleman from New York [Mr. GILMAN] in support of international efforts to provide redress to victims of the Holocaust.

In the Judaic tradition, Rosh Hashanah, which commenced at sundown last Wednesday, initiated 10 days of spiritual introspection that concludes on Friday of this week with the Day of Atonement, a time of reconciliation of man with God. The bill I have introduced, H.R. 2591, the Holocaust Victims Redress Act, represents national recognition of an aspect of the Holocaust for which the concept of reconciliation and introspection, in this case at the societal level, is profoundly appropriate.

The purpose of the legislation is to provide a measure of relief for the remaining victims of the greatest crime in man's memory, the Holocaust.

The bill would authorize up to $25 million for a U.S. contribution to organizations serving survivors of the Holocaust who live in the United States. The genesis for this proposal dates back to hearings which the Committee on Banking and Financial Services held over the past year, chronicling how the Nazis looted gold from the central banks of Europe as well as from individual Holocaust victims.

As some of my colleagues may know, following World War II the Tripartite Gold Commission, consisting of the United States, United Kingdom, and France, was created to oversee the recovery and return of Nazi-looted gold. Most of the gold recovered during that period was long ago returned to claimant countries. However, a portion of that gold remains to be distributed. The gold in the custody of the Tripartite Gold Commission, amounting to 6 metric tons, is worth anywhere from $50 to $70 million. Fifteen nations hold claim to some portion of that gold.

The case for speedy final distribution of remaining gold to Holocaust survivors, which involves a donation by 15 claimant nations of their share, is compelling. The moral case for such a distribution has been increased by the horrific revelation in the recently released Eizenstat report that Nazi Germany commingled victim gold, taken from the personal property of Holocaust victims, including their dental fillings, with monetary gold, resmelting it into gold bars and ingots which the Nazis then traded for hard currency to help finance their war efforts.

This legislation would put Congress on record in strong support of the State Department's appeal to claimant nations to contribute their share of Tripartite gold to Holocaust survivors. It would also strengthen the department's hand in seeking further recompense from other nations by authorizing the President to commit the United States to a voluntary donation of up to $25 million.

A voluntary contribution on our part could go a long way in facilitating a similar gesture of generosity from others who may be claimants of the gold pool or who may have reason to provide redress for actions taken during the dark night of the human soul we call the Holocaust. A contribution of this nature by the United States would also serve as an act of conscience on the part of this Nation.

A second aspect of the bill deals with the Nazi-looted art. Under international legal principles dating back to the Hague Convention of 1907, pillaging during war is forbidden, as is the seizure of works of art. In defiance of then extant international standards, the Nazis looted valuable works of art from their own citizens and institutions as well as from people and institutions in France and Holland and other occupied countries. This grand theft of art helped the Nazis finance their war efforts. Avarice served as an incentive to genocide with the ultimate in government censorship being reflected in the Aryan supremacist notion that certain modern art was degenerate and thus disposable.

Last Thursday in synagogues throughout the world, the shofar was sounded three times. The shrill blast of the ram's horn reminds us of many things, perhaps most importantly that God remembers the deeds of all. It is thus appropriate that as we begin the

Jewish New Year of 5758, we also move forward with reconciliation with people and with their descendants whose lives were destroyed during World War II in a way we can never truly understand.

During all days, but particularly during this period of remembrance and atonement, we cannot forget what occurred and those issues which remain to be resolved and the people who deserve justice.

ROLLING READERS TO THE RESCUE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. FILNER] is recognized during morning hour debates for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to recognize the fine work of one of the largest nonprofit children's programs in the great State of California, the Rolling Readers Volunteer Tutoring Program.

Rolling Readers is one of the Nation's premier volunteer children's literacy organizations. Back in 1991, after realizing the benefits of reading aloud to his sons, San Diego resident Robert Condon began Rolling Readers by volunteering to read to children at a local homeless shelter. From this simple beginning, the Rolling Readers Tutoring Program was developed in partnership with the San Diego County Office of Education.

Under executive director Condon, the Rolling Readers Program takes volunteer readers from the community and trains them to become weekly storytime readers for an hour each week at local schools and community organizations. A professional site coordinator is available to help the tutors succeed.

Over 2000 Rolling Readers volunteers now read to and tutor 50,000 children each and every week. That is 2,000 readers and 50,000 children. Each volunteer in the Rolling Readers Program reads to the same group of children each week, establishing a continuity not only in tutoring but in inspiring minds, touching imaginations, developing language skills, and assuring a positive impact on the children's lives.

Because of financial contributions to Rolling Readers from many individuals, both those who read to children and those who are not able to volunteer their time, the volunteer readers are also able to give new books to the children three times a year. Millions of dollars worth of new books have now been given, each book a gift from the volunteer to the child. Offices, phones, postage, printing, and delivery trucks are also donated. In these ways Rolling Readers is an organization unlike any other.

The vision of Rolling Readers is very clear: We have a major crisis in our country. For 30 years literacy rates have been falling, with the biggest decline occurring amongst the population already in the bottom half in reading test scores. Spend a few minutes thinking that over and you will realize how devastating that situation is and how important is the work of the Rolling Readers volunteers.

I am excited that the Rolling Readers Program is further expanding in my 50th Congressional District in San Diego. I salute this fine organization and its volunteers for the outstanding contribution they are making to our communities. What can happen for our kids through reading can be truly magical.

SUPPORT THE MARRIAGE TAX ELIMINATION ACT

The SPEAKER pro tempore (Mr. LEACH). Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. STEARNS] is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, this past weekend Washington witnessed the arrival of hundreds of thousands of men who joined together to proclaim their commitment to God, family, and freedom. I am talking about the Promise Keepers. Although maligned by some folks, I applaud these individuals for looking into themselves and into others for self-improvement. I also commend them for highlighting the importance of the family.

No single unit of any society is as important as a family. It lies at the core of building sound individuals by offering love, support, and guidance. I sympathize with the difficult plight of those single parents who are struggling to raise their children, but it is true that two-parent households provide the most maturing environments. Sadly, the traditional family structure is under assault. The dissolution of the American family is not merely a personal crisis, it imposes terrible consequences throughout our society.

What is one of the greatest concerns of the American people? Obviously one of them is crime. Forty-three percent of all inmates grew up in a single-parent household. According to the Cato Institute, a 1 percentage point increase in births to single mothers appeared to increase the violent crime rate about 1.7 percent. The disturbing fact is that men from single-parent families are twice as likely to commit crimes compared with men from two-parent families.

The corruption of family values is not only mirrored in crime rates, but studies also show that a weak family structure is unhealthy. Men and women who divorce have a 40 percent greater risk of premature death than those who stay steadfastly married. What is the impact on children? Children of divorced parents see their mortality rate increase by 44 percent.

Strong families produce healthy, productive individuals. It is in the interest of everyone to promote stable families. However, the values that build strong families and a strong Nation are constantly being undermined through our popular culture. In addition, families are threatened by the policies of our own government.

There is much that we can do and should do to strengthen American families. But today I would like to point out an easy means of reducing the pressure that is helping to tear our families apart. One simple step that we can take in Congress is to eliminate the marriage tax penalty.

Not only is its unfair to punish married couples through higher taxes, it is morally wrong to penalize the cornerstone of a strong, stable family, the institution of marriage. That is why I am a cosponsor of H.R. 2456, the Marriage Tax Elimination Act of 1997.

What is this marriage penalty? Under the present tax system, many couples filing jointly are pushed into a higher tax bracket. This often results in taxing the income of a family's second wage earner at a much higher rate than if that earner filed as an individual. For example, an individual with an income of $24,000 would be taxed at a 15-percent rate. However, a working couple with incomes of $24,000 each would be taxed at 28 percent if filing jointly.

How widespread is this penalty? According to the Congressional Budget Office, over 21 million couples have paid a marriage penalty which averages about $1,400.

The Marriage Tax Elimination Act simply allows families to decide how they file their income taxes, either individually or jointly, whichever gives them the greatest tax benefit. Just this past year Congress passed the $500-per-child tax credit to help families get by and enacted educational tax relief to help parents educate their children. We are moving in the right direction in defense of the family. We should continue our efforts by eliminating the marriage penalty.

For many Members, $1,400 in tax penalties for married couples may not seem like much. However, this amount can make a real difference in improving the family situation, providing for their children, reducing the financial pressure under which most Americans struggle.

I am under no illusion that this will reverse the decline in families, but it is a step down the right road, a means to reduce the erosion of the family structure. It is an issue of fairness and of recognizing the value of strong families through strong marriages. I urge my colleagues to join with me in supporting the Marriage Tax Elimination Act.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 44 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. Emerson) at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O gracious God, to translate our ideas and feelings and attitudes into actions that promote justice and mercy, and help us express the unity of ideas and feelings and attitudes in the lives we live every day. May good words become good deeds, may good thoughts become acts of kindness and generosity, and may good plans become the bedrock on which we build the qualities of righteousness and hope. Bless us, O God, this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nevada [Mr. GIBBONS] come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CONFERENCE REPORT ON H.R. 2158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

Mr. LIVINGSTON submitted the following conference report and statement on the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–297)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198); $19,932,997,000, to remain available until expended: Provided, That not to exceed $26,380,000 of the amount appropriated shall be reimbursed to ''General operating expenses'' and ''Medical care'' for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the ''Compensation and pensions'' appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to ''Medical facilities revolving fund'' to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992 (38 U.S.C. chapter 55).

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by 38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61, $1,366,000,000, to remain available until expended: Provided, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by 38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487, $51,360,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That during fiscal year 1998, within the resources available, not to exceed $300,000 in gross obligations for direct loans are authorized for specially adapted housing loans: Provided further, That during 1998 any moneys that would be otherwise deposited into or paid from the Loan Guaranty Revolving Fund, the Guaranty and Indemnity Fund, or the Direct Loan Revolving Fund shall be deposited into or paid from the Veterans Housing Benefit Program Fund: Provided further, That any balances in the Loan Guaranty Revolving Fund, the Guaranty and Indemnity Fund, or the Direct Loan Revolving Fund on the effective date of this Act may be transferred to and merged with the Veterans Housing Benefit Program Fund.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $160,437,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $200,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $44,000, as authorized by 38 U.S.C. chapter 31, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $2,278,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $388,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, $515,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department; and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in the Department; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances

therefor, as authorized by 5 U.S.C. 5901–5902; aid to State homes as authorized by 38 U.S.C. 1741; administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under 38 U.S.C. chapter 17, and the Federal Medical Care Recovery Act, 42 U.S.C. 2651 et seq.; and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $17,057,396,000, plus reimbursements: Provided, That of the funds made available under this heading, $570,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1998, and shall remain available until September 30, 1999: Provided further, That of the amount made available under this heading, not to exceed $5,000,000 shall be for a study on the cost-effectiveness of contracting with local hospitals in East Central Florida for the provision of non-emergent inpatient health care needs of veterans.

In addition, in conformance with Public Law 105–33 establishing the Department of Veterans Affairs Medical Care Collections Fund, such sums as may be deposited to such Fund pursuant to 38 U.S.C. 1729A may be transferred to this account, to remain available until expended for the purposes of this account.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by 38 U.S.C. chapter 73, to remain available until September 30, 1999, $272,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; $59,860,000, plus reimbursements.

GENERAL POST FUND, NATIONAL HOMES

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the ''General post fund'': Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000.

In addition, for administrative expenses to carry out the direct loan programs, $54,000, which shall be transferred from the ''General post fund'', as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $786,135,000: Provided, That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act: Provided further, That none of the funds made available under this heading may be used for the relocation of the loan guaranty divisions of the Department of Veterans Affairs Regional Office in St. Petersburg, Florida to the Department of Veterans Affairs Regional Office in Atlanta, Georgia.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles for use in cemeterial operations; and hire of passenger motor vehicles, $84,183,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $31,013,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $4,000,000 or more or where funds for a project were made available in a previous major project appropriation, $177,900,000, to remain available until expended: Provided, That the $32,100,000 provided under this heading in Public Law 104–204 for the replacement hospital at Travis Air Force Base, Fairfield, CA, shall not be obligated for that purpose but shall be available for any project approved by the Congress in the budgetary process: Provided further, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 1998, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1998, and (2) by the awarding of a construction contract by September 30, 1999: Provided further, That the Secretary shall promptly report in writing to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above: Provided further, That no funds from any other account except the ''Parking revolving fund'', may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $4,000,000; $175,000,000, to remain available until expended, along with unobligated balances of previous ''Construction, minor projects'' appropriations which are hereby made available for any project where the estimated cost is less than $4,000,000: Provided, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by 38 U.S.C. 8109, income from fees collected, to remain available until expended, which shall be available for all authorized expenses except operations and maintenance costs, which will be funded from ''Medical care''.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by 38 U.S.C. 8131–8137, $80,000,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERAN CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by 38 U.S.C. 2408, $10,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for fiscal year 1998 for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for fiscal year 1998 for salaries and expenses shall be available for services authorized by 5 U.S.C. 3109.

SEC. 103. No appropriations in this Act for the Department of Veterans Affairs (except the appropriations for ''Construction, major projects'', ''Construction, minor projects'', and the ''Parking revolving fund'') shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under 5 U.S.C. 7901–7904 or 42 U.S.C. 5141–5204), unless reimbursement of cost is made to the ''Medical care'' account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 1998 for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1997.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1998 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from ''Compensation and pensions''.

SEC. 107. Notwithstanding any other provision of law, during fiscal year 1998, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the ''General operating expenses'' account for the cost of administration of the insurance programs financed through those accounts: Provided, That reimbursement shall be made only

from the surplus earnings accumulated in an insurance program in fiscal year 1998, that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: Provided further, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: Provided further, That the Secretary shall determine the cost of administration for fiscal year 1998, which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 108. Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) (as added by section 220 of the Immigration and Nationality Technical Corrections Act of 1994 and redesignated as subsection (l) by section 671(a)(3)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) is amended by inserting before the period at the end the following: '', except that, in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary''.

SEC. 109. In accordance with section 1557 of title 31, United States Code, the following obligated balance shall be exempt from subchapter IV of chapter 15 of such title and shall remain available for expenditure without fiscal year limitation: Funds obligated by the Department of Veterans Affairs for lease number 757–084B–001–91 from funds made available in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (Public Law 102–389) under the heading ''Medical care''.

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

(INCLUDING TRANSFERS OF FUNDS)

For activities and assistance to prevent the involuntary displacement of low-income families, the elderly and the disabled because of the loss of affordable housing stock, expiration of subsidy contracts (other than contracts for which amounts are provided under another heading in this Act) or expiration of use restrictions, or other changes in housing assistance arrangements, and for other purposes, $9,373,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $8,180,000,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts, for enhanced vouchers as provided under the ''Preserving Existing Housing Investment'' account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, (Public Law 104–204), and contracts entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act: Provided further, That the Secretary may determine not to apply section 8(o)(6)(B) of the Act to housing vouchers during fiscal year 1998: Provided further, That of the total amount provided under this head, $850,000,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: Provided further, That of the total amount provided under this heading, $343,000,000 shall be for section 8 rental assistance under the United States Housing Act of 1937 including assistance to relocate residents of properties (i) that are owned by the Secretary and being disposed of or (ii) that are discontinuing section 8 project-based assistance; for the conversion of section 23 projects to assistance under section 8; for funds to carry out the family unification program; and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: Provided further, That of the total amount made available in the preceding proviso, $40,000,000 shall be made available to nonelderly disabled families affected by the designation of a public housing development under section 7 of such Act, the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 1361l), or the restriction of occupancy to elderly families in accordance with section 658 of such Act, and to the extent the Secretary determines that such amount is not needed to fund applications for such affected families, to other nonelderly disabled families: Provided further, That the amount made available under the fifth proviso under the heading ''Prevention of Resident Displacement'' in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, Public Law 104–204, shall also be made available to nonelderly disabled families affected by the restriction of occupancy to elderly families in accordance with section 658 of the Housing and Community Development Act of 1992: Provided further, That to the extent the Secretary determines that the amount made available under the fifth proviso under the heading ''Prevention of Resident Displacement'' in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, Public Law 104–204, is not needed to fund applications for affected families described in the fifth proviso, or in the preceding proviso under this heading in this Act, the amount not needed shall be made available to other nonelderly disabled families: Provided further, That all balances, as of September 30, 1997, remaining in the ''Annual Contributions for Assisted Housing'' account and the ''Prevention of Resident Displacement'' account for use in connection with expiring or terminating section 8 subsidy contracts and for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, shall be transferred to and merged with the amounts provided for those purposes under this heading.

SECTION 8 RESERVE PRESERVATION ACCOUNT

The amounts recaptured during fiscal year 1998 that were heretofore made available to public housing agencies for tenant-based assistance under the section 8 existing housing certificate and housing voucher programs from the Annual Contributions for Assisted Housing account shall be collected in the account under this heading, for use as provided for under this heading, as set forth under the Annual Contributions for Assisted Housing heading in chapter 11 of Public Law 105–18, approved June 12, 1997.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

Notwithstanding any other provision of law, of the amounts recaptured under this heading during fiscal year 1998 and prior years, $550,000,000, heretofore maintained as section 8 reserves made available to housing agencies for tenant-based assistance under the section 8 existing housing certificate and housing voucher programs, are rescinded.

All balances outstanding as of September 30, 1997, in the Preserving Existing Housing Investment Account for the Preservation program shall be transferred to and merged with the amounts previously provided for those purposes under this heading.

PUBLIC HOUSING CAPITAL FUND

(INCLUDING TRANSFERS OF FUNDS)

For the Public Housing Capital Fund Program for modernization of existing public housing projects as authorized under section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), $2,500,000,000, to remain available until exended: Provided, That of the total amount, $30,000,000 shall be for carrying out activities under section 6(j) of such Act and technical assistance for the inspection of public housing units, contract expertise, and training and technical assistance directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the Department and of public housing agencies and to residents in connection with the public housing program and for lease adjustments to section 23 projects: Provided further, That of the amount available under this heading, up to $5,000,000 shall be for the Tenant Opportunity Program: Provided further, That all balances, as of September 30, 1997, of funds heretofore provided (other than for Indian families) for the development or acquisition costs of public housing, for modernization of existing public housing projects, for public housing amendments, for public housing modernization and development technical assistance, for lease adjustments under the section 23 program, and for the Family Investment Centers program, shall be transferred to and merged with amounts made available under this heading.

PUBLIC HOUSING OPERATING FUND

(INCLUDING TRANSFER OF FUNDS)

For payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,900,000,000, to remain available until expended: Provided, That all balances outstanding, as of September 30, 1997, of funds heretofore provided (other than for Indian families) for payments to public housing agencies for operating subsidies for low-income housing projects, shall be transferred to and merged with amounts made available under this heading.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

(INCLUDING TRANSFER OF FUNDS)

For grants to public housing agencies and tribally designated housing entities for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901–11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $310,000,000, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance, training, and program assessment and execution for or on behalf of public housing agencies, resident organizations, and Indian Tribes and their tribally designated housing entities (including the cost of necessary travel for participants in such training); $10,000,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home Program administered by the Inspector General of the Department of Housing and Urban Development; $10,000,000 shall be provided to the Office of Inspector General for Operation Safe Home; and $20,000,000 shall be available for a program named the New Approach Anti-Drug program which will provide competitive grants to entities managing or operating public housing developments, federally assisted multifamily housing developments, or other multifamily housing developments for low-income families supported by non-Federal governmental entities or similar housing developments supported by nonprofit private sources in order to provide or augment security (including personnel costs), to assist in the investigation and/or prosecution of drug related criminal activity in and around

such developments, and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments: Provided, That grants for the New Approach Anti-Drug program shall be made on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989: Provided further, That the term ''drug-related crime'', as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary: Provided further, That, notwithstanding section 5130(c) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(c)), the Secretary may determine not to use any such funds to provide public housing youth sports grants.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

For grants to public housing agencies for assisting in the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937; and for providing replacement housing and assisting tenants displaced by the demolition, $550,000,000, to remain available until expended, of which the Secretary may use up to $10,000,000 for technical assistance and contract expertise, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: Provided, That of the amount made available under this heading, $26,000,000 shall be made available, including up to $10,000,000 for Heritage House in Kansas City, Missouri, for the demolition of obsolete elderly public housing projects and the replacement, where appropriate, and revitalization of the elderly public housing as new communities for the elderly designed to meet the special needs and physical requirements of the elderly: Provided further, That no funds appropriated under this heading shall be used for any purpose that is not provided for herein, in the United States Housing Act of 1937, in the Appropriations Acts for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, for the fiscal years 1993, 1994, 1995, and 1997, and the Omnibus Consolidated Rescissions and Appropriations Act of 1996: Provided further, That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein.

NATIVE AMERICAN HOUSING BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For the Native American Housing Block Grants program, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104–330), $600,000,000, to remain available until expended, of which $5,000,000 shall be used to support the inspection of Indian housing units, contract expertise, training, and technical assistance in the oversight and management of Indian housing and tenant-based assistance, including up to $200,000 for related travel: Provided, That of the amount provided under this heading, $5,000,000 shall be made available for the cost of guaranteed notes and other obligations, as authorized by title VI of the Native American Housing Assistance and Self-Determination Act of 1996: Provided further, That such costs, including the costs of modifying such notes and other obligations, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize the total principal amount of any notes and other obligations, any part of which is to be guaranteed, not to exceed $217,000,000: Provided further, That the funds made available in the first proviso are for a demonstration on ways to enhance economic growth, to increase access to private capital, and to encourage the investment and participation of traditional financial institutions in tribal and other Native American areas: Provided further, That all balances outstanding as of September 30, 1997, previously appropriated under the headings ''Annual Contributions for Assisted Housing'', ''Development of Additional New Subsidized Housing'', ''Preserving Existing Housing Investment'', ''HOME Investment Partnerships Program'', ''Emergency Shelter Grants Program'', and ''Homeless Assistance Funds'', identified for Indian Housing Authorities and other agencies primarily serving Indians or Indian areas, shall be transferred to and merged with amounts made available under this heading.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739), $5,000,000, to remain available until expended: Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $73,800,000.

CAPITAL GRANTS/CAPITAL LOANS PRESERVATION ACCOUNT

At the discretion of the Secretary, to reimburse owners, nonprofits, and tenant groups for which plans of action were submitted with regard to eligible properties under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA) prior to the effective date of this Act, but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action or any purchase agreement as determined by the Secretary, on terms and conditions to be established by the Secretary, $10,000,000 shall be made available.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), $204,000,000, to remain available until expended: Provided, That of the amount made available under this heading for non-formula allocation, the Secretary may designate, on a noncompetitive basis, one or more nonprofit organizations that provide meals delivered to homebound persons with acquired immunodeficiency syndrome or a related disease to receive grants, not exceeding $250,000 for any grant, and the Secretary shall assess the efficacy of providing such assistance to such persons.

COMMUNITY DEVELOPMENT BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, to carry out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (the ''Act'' herein) (42 U.S.C. 5301), $4,675,000,000, to remain available until September 30, 2000: Provided, That $67,000,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of such Act; $2,100,000 shall be available as a grant to the Housing Assistance Council; $1,500,000 shall be available as a grant to the National American Indian Housing Council; $32,000,000 shall be for grants pursuant to section 107 of such Act; $7,500,000 shall be for the Community Outreach Partnership program; $16,700,000 shall be for grants pursuant to section 11 of the Housing Opportunity Program Extension Act of 1996 (Public Law 104–120): Provided further, That not to exceed 20 percent of any grant made with funds appropriated herein (other than a grant made available under the preceding proviso to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974, as amended) shall be expended for ''Planning and Management Development'' and ''Administration'' as defined in regulations promulgated by the Department.

Of the amount made available under this heading, $15,000,000 shall be made available for ''Capacity Building for Community Development and Affordable Housing,'' as authorized by section 4 of the HUD Demonstration Act of 1993 (Public Law 103–120), as in effect immediately before June 12, 1997, with not less than $5,000,000 of the funding to be used in rural areas, including tribal areas.

Of the amount provided under this heading, the Secretary of Housing and Urban Development may use up to $55,000,000 for a public and assisted housing self-sufficiency program, of which up to $5,000,000 may be used for the Moving to Work Demonstration, and at least $7,000,000 shall be used for grants for service coordinators and congregate services for the elderly and disabled: Provided, That for self-sufficiency activities, the Secretary may make grants to public housing agencies (including Indian tribes and their tribally designated housing entities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals: Provided further, That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: Provided further, That the supportive services may include congregate services for the elderly and disabled, service coordinators, and coordinated education, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: Provided further, That the Secretary shall require applications to demonstrate firm commitments of funding or services from other sources: Provided further, That the Secretary shall select public and Indian housing agencies to receive assistance under this heading on a competitive basis, taking into account the quality of the proposed program, including any innovative approaches, the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary (except that this proviso shall not apply to renewal of grants for service coordinators and congregate services for the elderly and disabled).

Of the amount made available under this heading, notwithstanding any other provision of law, $35,000,000 shall be available for YouthBuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading. Local YouthBuild programs that

demonstrate an ability to leverage private and nonprofit funding shall be given a priority for YouthBuild funding.

Of the amount made available under this heading $25,000,000 shall be available for the Secretary, in consultation with the Secretary of Agriculture, to make grants, not to exceed $4,000,000 each, for rural and tribal areas, including at least one Native American area in Alaska and one rural area in each of the States of Iowa and Missouri, to test comprehensive approaches to developing a job base through economic development, developing affordable low- and moderate-income rental and homeownership housing, and increasing the investment of both private and nonprofit capital.

Of the amount made available under this heading, $138,000,000 shall be available for the Economic Development Initiative (EDI) to finance a variety of efforts, including $100,000,000 for making grants for targeted economic investments in accordance with the terms and conditions specified for such grants in the conference report and the joint explanatory statement of the committee of conference accompanying this Act (H.R. 2158).

Of the amount made available under this heading, notwithstanding any other provision of law, $60,000,000 shall be available for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992.

Of the amount made available under this heading, $25,000,000, including $15,000,000 for the County of San Bernardino, California, shall be used for neighborhood initiatives that are utilized to improve the conditions of distressed and blighted areas and neighborhoods, and to determine whether housing benefits can be integrated more effectively with welfare reform initiatives.

For the cost of guaranteed loans, $29,000,000, as authorized by section 108 of the Housing and Community Development Act of 1974: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,261,000,000, notwithstanding any aggregate limitation on outstanding obligations guaranteed in section 108(k) of the Housing and Community Development Act of 1974. In addition, for administrative expenses to carry out the guaranteed loan program, $1,000,000, which shall be transferred to and merged with the appropriation for departmental salaries and expenses.

Of the $500,000,000 made available under the heading ''Community Development Block Grants Fund'' in the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia (Public Law 105–18), not more than $3,500,000 shall be made available for the non-Federal cost-share for a levee project at Devils Lake, North Dakota: Provided, That the Secretary of Housing and Urban Development shall provide the State of North Dakota with a waiver to allow the use of its annual Community Development Block Grant allocation for use in funding the non-Federal cost-share for a levee project at Devils Lake, North Dakota: Provided further, That notwithstanding any other provision of law, the Secretary is prohibited from providing waivers, other than those provided herein, for funds in excess of $100,000 in emergency Community Development Block Grants funds for the non-Federal cost-share of projects funded by the Secretary of the Army through the Corps of Engineers.

BROWNFIELDS REDEVELOPMENT

For Economic Development Grants, as authorized by section 108(q) of the Housing and Community Development Act of 1974, as amended, for Brownfields redevelopment projects, $25,000,000, to remain available until expended: Provided, That the Secretary of Housing and Urban Development shall make these grants available on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

For planning grants, technical assistance, contracts and other assistance, and training in connection with Empowerment Zones and Enterprise Communities, designated by the Secretary of Housing and Urban Development, to continue efforts to stimulate economic opportunity in America's distressed communities, $5,000,000, to remain available until expended.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,500,000,000, to remain available until expended: Provided, That up to $7,000,000 shall be available for the development and operation of integrated community development management information systems: Provided further, That $20,000,000 shall be available for Housing Counseling under section 106 of the Housing and Urban Development Act of 1968: Provided further, That up to $10,000,000 shall be available to carry out a demonstration program in which the Secretary makes grants to up to three organizations exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code, selected on a competitive basis, to demonstrate methods of expanding homeownership opportunities for low-income borrowers through expanding the secondary market for non-conforming home mortgage loans to low-wealth borrowers: Provided further, That grantees for such demonstration program shall have experience in working with lenders who make non-conforming loans to low-income borrowers, have experience in expanding the secondary market for such loans, have demonstrated success in carrying out such activities including raising non-Federal grants and capital on concessionary terms for the purpose of expanding the secondary market for loans in the previous two years in amounts equal to or exceeding the amount awarded to such organization under this paragraph, and have demonstrated the ability to provide data on the performance of such loans sufficient to allow for future analysis of the investment risk of such loans.

SUPPORTIVE HOUSING PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior laws for the Supportive Housing Demonstration Program, as authorized by the Stewart B. McKinney Homeless Assistance Act, $6,000,000 of funds recaptured during fiscal year 1998 shall be rescinded.

SHELTER PLUS CARE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior laws for the Shelter Plus Care program, as authorized by the Stewart B. McKinney Homeless Assistance Act, $4,000,000 of funds recaptured during fiscal year 1998 shall be rescinded.

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and the shelter plus care program (as authorized under subtitle F of title IV of such Act), $823,000,000, to remain available until expended.

HOUSING PROGRAMS

HOUSING FOR SPECIAL POPULATIONS

(INCLUDING TRANSFERS OF FUNDS)

For assistance for the purchase, construction, acquisition, or development of additional public and subsidized housing units for low income families under the United States Housing Act of 1937, as amended (42 U.S.C. 1437), not otherwise provided for, $839,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $645,000,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for the elderly under section 202(c)(2) of the Housing Act of 1959, and for supportive services associated with the housing; and $194,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, for project rental assistance, for amendments to contracts for project rental assistance, and supportive services associated with the housing for persons with disabilities as authorized by section 811 of such Act: Provided further, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of such Act for tenant-based assistance, as authorized under that section, including such authority as may be waived under the next proviso, which assistance is five years in duration: Provided further, That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the Cranston-Gonzalez National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance and tenant-based assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate: Provided further, That all balances, as of September 30, 1997, remaining in either the ''Annual Contributions for Assisted Housing'' account or the ''Development of Additional New Subsidized Housing'' account for capital advances, including amendments to capital advances, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly, under section 202(c)(2) of such Act, shall be transferred to and merged with the amounts for those purposes under this heading; and, all balances, as of September 30, 1997, remaining in either the ''Annual Contributions for Assisted Housing'' account or the ''Development of Additional New Subsidized Housing'' account for capital advances, including amendments to capital advances, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities, as authorized under section 811 of such Act, shall be transferred to and merged

with the amounts for those purposes under this heading.

OTHER ASSISTED HOUSING PROGRAMS

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1998 by not more than $7,350,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts: Provided, That up to $125,000,000 of recaptured budget authority shall be canceled.

FLEXIBLE SUBSIDY FUND

(TRANSFER OF FUNDS)

From the Rental Housing Assistance Fund, all uncommitted balances of excess rental charges as of September 30, 1997, and any collections made during fiscal year 1998, shall be transferred to the Flexible Subsidy Fund, as authorized by section 236(g) of the National Housing Act, as amended.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1998, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $110,000,000,000.

During fiscal year 1998, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $200,000,000: Provided, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under the Mutual Mortgage Insurance Fund.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $338,421,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $326,309,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which not to exceed $12,112,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of loan guarantee modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended), $81,000,000, to remain available until expended: Provided, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, of up to $17,400,000,000: Provided further, That any amounts made available in any prior appropriations Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(a) of the National Housing Act, shall not exceed $120,000,000; of which not to exceed $100,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $222,305,000, of which $218,134,000, including $25,000,000 for the enforcement of housing standards on FHA-insured multifamily projects, shall be transferred to the appropriation for departmental salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

During fiscal year 1998, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $130,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $9,383,000, to be derived from the GNMA-guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $9,383,000 shall be transferred to the appropriation for departmental salaries and expenses.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $36,500,000, to remain available until September 30, 1999.

Of the amount made available under this heading, $500,000 shall be made available for a contract with the National Academy of Public Administration to evaluate the Secretary's efforts to implement needed management systems and processes.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $30,000,000, to remain available until September 30, 1999, of which $15,000,000 shall be to carry out activities pursuant to such section 561. No funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal government in connection with a specific contract, grant or loan.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $1,000,826,000, of which $544,443,000 shall be provided from the various funds of the Federal Housing Administration, $9,383,000 shall be provided from funds of the Government National Mortgage Association, and $1,000,000 shall be provided from the ''Community Development Grants Program'' account.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $66,850,000, of which $16,283,000 shall be provided from the various funds of the Federal Housing Administration and $10,000,000 shall be transferred from the amount earmarked for Operation Safe Home in the ''Drug Elimination Grants for Low Income Housing'' account.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $16,000,000, to remain available until expended, to be derived from the Federal Housing Enterprise Oversight Fund: Provided, That not to exceed such amount shall be available from the General Fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: Provided further, That the General Fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the General Fund estimated at not more than $0.

ADMINISTRATIVE PROVISIONS

SEC. 201. EXTENDERS. (a) ONE-FOR-ONE REPLACEMENT OF PUBLIC HOUSING.—Section 1002(d) of Public Law 104–19 is amended by striking ''1997'' and inserting ''1998''.

(b) STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE.—Section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, is amended by striking ''fiscal years 1996 and 1997'' and inserting ''fiscal years 1996, 1997, and 1998''.

(c) SECTION 8 RENT ADJUSTMENTS.—Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended—

(1) in the third sentence, by striking ''fiscal year 1997'' and inserting ''fiscal years 1997 and 1998''; and

(2) in the last sentence, by striking ''fiscal year 1997'' and inserting ''fiscal years 1997 and 1998''.

(d) PUBLIC AND ASSISTED HOUSING RENTS, INCOME ADJUSTMENTS AND PREFERENCES.—

(1) Section 402(a) of The Balanced Budget Downpayment Act, I is amended by striking ''fiscal year 1997'' and inserting in lieu thereof ''fiscal years 1997 and 1998''.

(2) Section 402(f) of The Balanced Budget Downpayment Act, I is amended by striking ''fiscal years 1996 and 1997'' and inserting in lieu thereof ''fiscal years 1996, 1997, and 1998''.

SEC. 202. DELAY REISSUANCE OF VOUCHERS AND CERTIFICATES.—Section 403(c) of The Balanced Budget Downpayment Act, I is amended—

(1) by striking ''fiscal years 1996 and 1997'' and inserting ''fiscal years 1996, 1997, and 1998'';

(2) by striking ''1996 and October'' and inserting ''1996, October''; and

(3) by inserting before the semicolon the following: ''and October 1, 1998 for assistance made available during fiscal year 1998''.

SEC. 203. WAIVER.—The part of the HUD 1996 Community Development Block Grant to the State of Illinois which is administered by the State of Illinois Department of Commerce and Community Affairs (grant number B–96–DC–170001) and which, in turn, was granted by the Illinois Department of Commerce and Community Affairs to the city of Oglesby, Illinois, located in LaSalle County, Illinois (State of Illinois Department of Commerce and Community Affairs grant number 96–24104), for the purpose of providing infrastructure for a warehouse in Oglesby, Illinois, is exempt from the provisions of section 104(g)(2), (g)(3), and (g)(4) of title I of

the Housing and Community Development Act of 1974 as amended.

SEC. 204. FINANCING ADJUSTMENT FACTORS.—Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not rescinded or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

SEC. 205. ANNUAL ADJUSTMENT FACTORS.—Section 8(c)(2)(A) of the United States Housing Act of 1937, as amended by section 201 of this title, is further amended by inserting the following new sentences at the end: ''In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.''.

SEC. 206. COMMUNITY DEVELOPMENT BLOCK GRANT.—Notwithstanding any other provision of law, the $7,100,000 appropriated for an industrial park at 18th Street and Indiana Avenue shall be made available by the Secretary instead to 18th and Vine for rehabilitation and infrastructure development associated with the ''Negro Leagues Baseball Museum'' and the jazz museum.

SEC. 207. FAIR HOUSING AND FREE SPEECH.—None of the amounts made available under this Act may be used during fiscal year 1998 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction.

SEC. 208. REQUIREMENT FOR HUD TO MAINTAIN PUBLIC NOTICE AND COMMENT RULEMAKING.—Notwithstanding any other provision of law, for fiscal year 1998 and for all fiscal years thereafter, the Secretary of Housing and Urban Development shall maintain all current requirements under part 10 of the Department of Housing and Urban Development regulations (24 CFR part 10) with respect to the Department's policies and procedures for the promulgation and issuance of rules, including the use of public participation in the rulemaking process.

SEC. 209. BROWNFIELDS AS ELIGIBLE CDBG ACTIVITY.—During fiscal year 1998, States and entitlement communities may use funds allocated under the community development block grants program under title I of the Housing and Community Development Act of 1974 for environmental cleanup and economic development activities related to Brownfields projects in conjunction with the appropriate environmental regulatory agencies, as if such activities were eligible under section 105(a) of such Act.

SEC. 210. PARTIAL PAYMENT OF CLAIMS ON HEALTH CARE FACILITIES.—Section 541(a) of the National Housing Act is amended—

(1) in the section heading, by adding ''AND HEALTH CARE FACILITIES'' at the end; and

(2) in subsection (a)—

(A) by inserting ''or a health care facility (including a nursing home, intermediate care facility, or board and care home (as those terms are defined in section 232 of this Act), a hospital (as that term is defined in section 242 of this Act), or a group practice facility (as that term is defined in section 1106 of this Act))'' after ''1978''; and

(B) by inserting ''or for keeping the health care facility operational to serve community needs,'' after ''character of the project,''.

SEC. 211. CALCULATION OF DOWNPAYMENT.—Section 203(b) of the National Housing Act is amended by striking ''fiscal year 1997'' in paragraph (10)(A) and inserting in lieu thereof ''fiscal years 1997 and 1998''.

SEC. 212. HOPE VI NOFA.—Notwithstanding any other provision of law, including the July 22, 1996 Notice of Funding Availability (61 Fed. Reg. 38024), the demolition of units at developments funded under the Notice of Funding Availability shall be at the option of the New York City Housing Authority and the assistance awarded shall be allocated by the public housing agency among other eligible activities under the HOPE VI program and without the development costs limitations of the Notice, provided that the public housing agency shall not exceed the total cost limitations for the public housing agency, as provided by the Department of Housing and Urban Development.

SEC. 213. ENHANCED DISPOSITION AUTHORITY.—Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, is amended by inserting after ''owned by the Secretary'' the following: '', including, for fiscal years 1997 and 1998, the provision of grants and loans from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation or demolition,''.

SEC. 214. HOME PROGRAM FORMULA.—The first sentence of section 217(b)(3) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking ''only those jurisdictions that are allocated an amount of $500,000 or greater shall receive an allocation'' and inserting in lieu thereof the following: ''jurisdictions that are allocated an amount of $500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than $500,000, shall receive an allocation''.

SEC. 215. HUD RENT REFORM.—Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may provide tenant-based assistance to eligible tenants of a project insured under either sections 221(d)(3) or 236 of the National Housing Act in the same manner as if the owner had prepaid the insured mortgage to the extent necessary to minimize any rent increases or to prevent displacement of low-income tenants in accordance with a transaction approved by the Secretary provided that the rents are no higher than the published section 8 fair market rents, as of the date of enactment, during the tenants' occupancy of the property.

SEC. 216. NURSING HOME LEASE TERMS.—Section 232(b)(4)(B) of the National Housing Act is amended by striking ''fifty years from the date the mortgage was executed'' and inserting ''ten years to run beyond the maturity date of the mortgage''.

SEC. 217. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS GRANTS.—(a) ELIGIBILITY.—Notwithstanding section 854(c)(1)(A) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)(1)(A)), from any amounts made available under this title for fiscal year 1998 that are allocated under such section, the Secretary of Housing and Urban Development shall allocate and make a grant, in the amount determined under subsection (b), for any State that—

(1) received an allocation for fiscal year 1997 under clause (ii) of such section;

(2) is not otherwise eligible for an allocation for fiscal year 1998 under such clause (ii) because the State does not have the number of cases of acquired immunodeficiency syndrome required under such clause; and

(3) would meet such requirement if the cases in the metropolitan statistical area for any city within the State, which city was not eligible for an allocation for fiscal year 1997 under clause (i) of such section but is eligible for an allocation for fiscal year 1998 under such clause, were considered to be cases outside of metropolitan statistical areas described in clause (i) of such section.

(b) AMOUNT.—The amount of the allocation and grant for any State described in subsection (a) shall be the amount that is equal to the lesser of—

(1) the difference between—

(A) the total amount allocated for such State under section 854(c)(1)(A)(ii) of the AIDS Housing Opportunity Act for fiscal year 1997; and

(B) the total amount allocated for the city described in subsection (a)(3) of this section under section 854(c)(1)(A)(i) of such Act for fiscal year 1998 (from amounts made available under this title); and

(2) $300,000.

SEC. 218. DEBT FORGIVENESS.—The Secretary of Housing and Urban Development shall cancel the indebtedness of the Village of Robbins, Illinois, relating to loans under the Reconstruction Finance Corporation and refinanced under the Public Facility Loan program (loan numbers ILL–11–RFC–0029 and ILL–11–PFL0111). The Village is hereby relieved of all liability to the Federal government for the outstanding principal balance on such loans, for the amount of accrued interest on such loans, and for any fees and charges payable in connection with such loans.

TITLE III—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $26,897,000, to remain available until expended: Provided, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: Provided further, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: Provided further, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, including hire of passenger vehicles, and for services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $4,000,000.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development lenders, and

administrative expenses of the Fund, including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for ES–3, $80,000,000, to remain available until September 30, 1999, of which $12,000,000 may be used for the cost of direct loans, and up to $1,000,000 may be used for administrative expenses to carry out the direct loan program: Provided, That the cost of direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $32,000,000: Provided further, That not more than $25,000,000 of the funds made available under this heading may be used for programs and activities authorized in section 114 of the Community Development Banking and Financial Institutions Act of 1994.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable under 5 U.S.C. 5376, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $45,000,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the ''Corporation'') in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the ''Act'') (42 U.S.C. 12501 et seq.), $425,500,000, to remain available until September 30, 1999: Provided, That not more than $27,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): Provided further, That not more than $2,500 shall be for official reception and representation expenses: Provided further, That not more than $70,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.), of which not to exceed $5,000,000 shall be available for national service scholarships for high school students performing community service: Provided further, That not more than $227,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): Provided further, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): Provided further, That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): Provided further, That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): Provided further, That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal costs per participant in all programs.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $3,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7298, $9,319,000, of which $790,000, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set fourth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $11,815,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $631,000,000, which shall remain available until September 30, 1999: Provided, That $49,600,000 of the funds appropriated under this heading shall be to conduct and administer a comprehensive, peer-reviewed, near- and long-term particulate matter research program in accordance with the terms and conditions set forth for such research program in the conference report and joint explanatory statement of the committee of conference accompanying this Act (H.R. 2158): Provided further, That no later than 30 days following enactment of this Act, the Environmental Protection Agency shall enter into a contract or cooperative agreement with the National Academy of Sciences to develop a comprehensive, prioritized, near- and long-term particulate matter research program and monitoring plan in accordance with the terms and conditions set forth in the conference report and joint explanatory statement of the committee of conference accompanying this Act (H.R. 2158).

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses, $1,801,000,000, which shall remain available until September 30, 1999.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $28,501,000, to remain available until September 30, 1999.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $109,420,000, to remain available until expended: Provided, That the Environmental Protection Agency is authorized to establish and construct a consolidated research facility at Research Triangle Park, North Carolina, at a maximum total construction cost of $272,700,000, and to obligate such monies as are made available by this Act for this purpose.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; not to exceed $2,150,000,000 (of which $100,000,000 shall not become available until September 1, 1998), to remain available until expended, consisting of $1,900,000,000, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508: Provided, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: Provided further, That of the funds appropriated under this heading, $650,000,000 shall not become available for obligation until October 1, 1998, and, further, shall be available for obligation only upon enactment by May 15, 1998, of specific legislation which reauthorizes the Superfund program: Provided further, That $11,641,000 of the funds appropriated under this heading shall be transferred to the ''Office of Inspector General'' appropriation to remain available until September 30, 1999: Provided further, That notwithstanding section 111(m) of CERCLA or any other provision of law, $74,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA

and section 118(f) of SARA: Provided further, That $35,000,000 of the funds appropriated under this heading shall be transferred to the ''Science and Technology'' appropriation to remain available until September 30, 1999: Provided further, That none of the funds appropriated under this heading shall be used for Brownfields revolving loan funds unless specifically authorized by subsequent legislation: Provided further, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1998.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $65,000,000, to remain available until expended: Provided, That no more than $7,500,000 shall be available for administrative expenses.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: Provided, That not more than $9,000,000 of these funds shall be available for administrative expenses.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $3,213,125,000, to remain available until expended, of which $1,350,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, and $725,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended; $75,000,000 for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $50,000,000 for grants to the State of Texas which shall be matched by state funds from state resources at 20 percent of the federal appropriation for the purpose of improving water and wastewater treatment for colonias; $15,000,000 for grants to the State of Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages as provided by section 303 of Public Law 104–182; $253,125,000 for making grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure in accordance with the terms and conditions specified for such grants in the conference report and joint explanatory statement of the committee of conference accompanying this Act (H.R. 2158); and $745,000,000 for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities pursuant to the provisions set forth under this heading in Public Law 104–134, provided that eligible recipients of these funds and the funds made available for this purpose since fiscal year 1996 and hereafter include States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies, as provided in authorizing statutes, subject to such terms and conditions as the Administrator shall establish, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities: Provided, That, consistent with section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)), section 302 of the Safe Drinking Water Act Amendments of 1996 (Public Law 104–182) and the accompanying joint explanatory statement of the committee on conference (H. Rept. No. 104–741 to accompany S. 1316, the Safe Drinking Water Act Amendments of 1996), and notwithstanding any other provision of law, States may combine the assets of State Revolving Funds (SRFs) established under section 1452 of the Safe Drinking Water Act, as amended, and title VI of the Federal Water Pollution Control Act, as amended, as security for bond issues to enhance the lending capacity of one or both SRFs, but not to acquire the state match for either program, provided that revenues from the bonds are allocated to the purposes of the Safe Drinking Water Act and the Federal Water Pollution Control Act in the same portion as the funds are used as security for the bonds: Provided further, That, hereafter from funds appropriated under this heading, the Administrator is authorized to make grants to federally recognized Indian governments for the development of multi-media environmental programs: Provided further, That, hereafter, the funds available under this heading for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities may also be used for the direct implementation by the Federal Government of a program required by law in the absence of an acceptable State or tribal program: Provided further, That notwithstanding any other provision of law, in the case of a publicly owned treatment works in the District of Columbia, the Federal share of grants awarded under title II of the Federal Water Pollution Control Act, beginning October 1, 1997, and continuing through September 30, 1999, shall be 80 percent of the cost of construction, and all grants made to such publicly owned treatment works in the District of Columbia may include an advance of allowance under section 201(l)(2): Provided further, That, notwithstanding any other provision of law, the Administrator is authorized to make a grant of $4,326,000 under title II of the Federal Water Pollution Control Act, as amended, from funds appropriated in prior years under section 205 of the Act for the State of Florida and available due to deobligation, to the appropriate instrumentality for wastewater treatment works in Monroe County, Florida.

WORKING CAPITAL FUND

Under this heading in Public Law 104–204, delete the following: the phrases, ''franchise fund pilot to be known as the''; ''as authorized by section 403 of Public Law 103–356,''; and ''as provided in such section''; and the final proviso. After the phrase, ''to be available'', insert ''without fiscal year limitation''.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,932,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,500,000: Provided, That, notwithstanding any other provision of law, no funds other than those appropriated under this heading, shall be used for or by the Council on Environmental Quality and Office of Environmental Quality: Provided further, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as Chairman and exercising all powers, functions, and duties of the Council.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $34,365,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $320,000,000, and, notwithstanding 42 U.S.C. 5203, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $1,495,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $341,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles as authorized by 31 U.S.C. 1343; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $171,773,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $4,803,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $243,546,000: Provided, That for purposes of pre-

disaster mitigation pursuant to 42 U.S.C. 5131 (b) and (c) and 42 U.S.C. 5196 (e) and (i), $30,000,000 of the funds made available under this heading shall be available until expended for project grants: Provided further, That the Director of the Federal Emergency Management Agency shall make a grant for $1,500,000 to resolve issues under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646, involving the City of Jackson, Mississippi.

EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended, $100,000,000: Provided, That total administrative costs shall not exceed three and one-half percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and the National Flood Insurance Reform Act of 1994, not to exceed $21,610,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $78,464,000 for flood mitigation, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 1999. In fiscal year 1998, no funds in excess of (1) $47,000,000 for operating expenses, (2) $375,165,000 for agents' commissions and taxes, and (3) $50,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 1998, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994.

Section 1309(a)(2) of the National Flood Insurance Act (42 U.S.C. 4016(a)(2)), as amended by Public Law 104–208, is further amended by striking the date ''1997'' and inserting in lieu thereof the date ''1998''.

Section 1319 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4026), is amended by striking ''October 23, 1997'' and inserting ''September 30, 1998''.

Section 1336 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4056), is amended by striking ''October 23, 1997'' and inserting ''September 30, 1998''.

The first sentence of section 1376(c) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4127(c)), is amended by striking all after ''to be appropriated'' and inserting ''such sums as may be necessary through September 30, 1998, for studies under this title.''.

ADMINISTRATIVE PROVISION

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected beginning in fiscal year 1998 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1998 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees shall be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1998.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,419,000, to be deposited into the Consumer Information Center Fund: Provided, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1998 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts: Provided further, That notwithstanding any other provision of law, the Consumer Information Center may accept and deposit to this account, during fiscal year 1998 and hereafter, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials and undertaking other consumer information activities; may expend those gifts for those purposes, in addition to amounts appropriated or otherwise made available; and the balance shall remain available for expenditure for such purpose.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,506,500,000, to remain available until September 30, 1999: Provided, That of the $2,351,300,000 made available under this heading for Space Station activities, only $1,500,000,000 shall be available before March 31, 1998.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and technology research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,690,000,000, to remain available until September 30, 1999.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed 33 for replacement only) and hire of passenger motor vehicles; $2,433,200,000, to remain available until September 30, 1999.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $18,300,000.

ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the availability of funds appropriated for ''Human space flight'', ''Science, aeronautics and technology'', or ''Mission support'' by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in ''Mission support'' pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for ''Human space flight'', ''Science, aeronautics and technology'', or ''Mission support'' by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2000.

Notwithstanding the limitation on the availability of funds appropriated for ''Mission support'' and ''Office of Inspector General'', amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1998 and may be used to enter into contracts for training, investigations, costs associated with personnel relocation, and for other services, to be provided during the next fiscal year.

Of the funds provided to the National Aeronautics and Space Administration in this Act, the Administrator shall by November 1, 1998, make available no less than $400,000 for a study by the National Research Council, with an interim report to be completed by June 1, 1998, that evaluates, in terms of the potential impact on the Space Station's assembly schedule, budget, and capabilities, the engineering challenges posed by extravehicular activity (EVA) requirements, United States and non-United States space launch requirements, the potential need to upgrade or replace equipment and components after assembly complete, and the requirement to decommission and disassemble the facility.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1998, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795), shall not exceed $600,000,000: Provided, That administrative expenses of the Central Liquidity Facility in fiscal year 1998 shall not exceed $203,000: Provided further, That $1,000,000, together with amounts of principal and interest on loans repaid, to be available until expended, is available for loans to community development credit unions.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,545,700,000, of which not to exceed $228,530,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the

balance to remain available until September 30, 1999: Provided, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: Provided further, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: Provided further, That $40,000,000 of the funds available under this heading shall be made available for a comprehensive research initiative on plant genomes for economically significant crops.

MAJOR RESEARCH EQUIPMENT

For necessary expenses of major construction projects pursuant to the National Science Foundation Act of 1950, as amended, $109,000,000, to remain available until expended, of which $35,000,000 shall become available on September 30, 1998.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $632,500,000, to remain available until September 30, 1999: Provided, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For salaries and expenses necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services and headquarters relocation; $136,950,000: Provided, That contracts may be entered into under ''Salaries and expenses'' in fiscal year 1998 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $4,850,000, to remain available until September 30, 1999.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $60,000,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $23,413,000: Provided, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: Provided further, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefore in the budget estimates submitted for the appropriations: Provided, That this provision does not apply to accounts that do not contain an object classification for travel: Provided further, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: Provided further, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefore set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under 31 U.S.C. 1344 or 5 U.S.C. 7905.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: Provided, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 409. None of the funds provided in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 410. Except as otherwise provided under existing law or under an existing Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 411. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 412. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 413. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 414. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 415. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of

each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 416. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A–21.

SEC. 417. Such sums as may be necessary for fiscal year 1998 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 418. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 419. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1998 for such corporation or agency except as hereinafter provided: Provided, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 420. Notwithstanding section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)), funds made available pursuant to authorization under such section for fiscal year 1998 and prior fiscal years may be used for implementing comprehensive conservation and management plans.

SEC. 421. Such funds as may be necessary to carry out the orderly termination of the Office of Consumer Affairs shall be made available from funds appropriated to the Department of Health and Human Services for fiscal year 1998.

SEC. 422. Notwithstanding any other provision of law, the term ''qualified student loan'' with respect to national service education awards shall mean any loan made directly to a student by the Alaska Commission on Postsecondary Education, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

TITLE V—HUD MULTIFAMILY HOUSING REFORM

SEC. 501. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE V—HUD MULTIFAMILY HOUSING REFORM

Sec. 510. Short title.

SUBTITLE A—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING

Sec. 511. Findings and purposes.
Sec. 512. Definitions.
Sec. 513. Authority of participating administrative entities.
Sec. 514. Mortgage restructuring and rental assistance sufficiency plan.
Sec. 515. Section 8 renewals and long-term affordability commitment by owner of project.
Sec. 516. Prohibition on restructuring.
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Sec. 524. Section 8 contract renewals.

SUBTITLE B—MISCELLANEOUS PROVISIONS

Sec. 531. Rehabilitation grants for certain insured projects.
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SUBTITLE C—ENFORCEMENT PROVISIONS

Sec. 541. Implementation.
Sec. 542. Income verification.

PART 1—FHA SINGLE FAMILY AND MULTIFAMILY HOUSING

Sec. 551. Authorization to immediately suspend mortgagees.
Sec. 552. Extension of equity skimming to other single family and multifamily housing programs.
Sec. 553. Civil money penalties against mortgagees, lenders, and other participants in FHA programs.

PART 2—FHA MULTIFAMILY PROVISIONS

Sec. 561. Civil money penalties against general partners, officers, directors, and certain managing agents of multifamily projects.
Sec. 562. Civil money penalties for noncompliance with Section 8 HAP contracts.
Sec. 563. Extension of double damages remedy.
Sec. 564. Obstruction of Federal audits.

SUBTITLE D—OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

Sec. 571. Establishment of Office of Multifamily Housing Assistance Restructuring.
Sec. 572. Director.
Sec. 573. Duty and authority of Director.
Sec. 574. Personnel.
Sec. 575. Budget and financial reports.
Sec. 576. Limitation on subsequent employment.
Sec. 577. Audits by GAO.
Sec. 578. Suspension of program because of failure to appoint Director.
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SEC. 510. SHORT TITLE.

This title may be cited as the ''Multifamily Assisted Housing Reform and Affordability Act of 1997''.

Subtitle A—FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring

SEC. 511. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) as of the date of enactment of this Act, it is estimated that—

(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

(7) it is estimated that—

(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $3,600,000,000 in fiscal year 1997 to over $14,300,000,000 by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance are likely to default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Fund;

(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects;

(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary to and with capable State, local, and other entities; and

(12) the authority and duties of the Secretary, not including the control by the Secretary of applicable accounts in the Treasury of the United States, may be delegated to State, local or other entities at the discretion of the Secretary, to the extent the Secretary determines, and for the purpose of carrying out this Act, so that the Secretary has the discretion to be relieved of processing and approving any document or action required by these reforms.

(b) PURPOSES.—Consistent with the purposes and requirements of the Government Performance and Results Act of 1993, the purposes of this subtitle are—

(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this subtitle before the year in which the contract expires;

(4) to reduce the cost of insurance claims under the National Housing Act related to mortgages insured by the Secretary and used to finance eligible multifamily housing projects;

(5) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

(6) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals;

(7) to protect the interest of project owners and managers, because they are partners of the Federal Government in meeting the affordable housing needs of the Nation through the section 8 rental housing assistance program;

(8) to protect the interest of tenants residing in the multifamily housing projects at the time of the restructuring for the housing; and

(9) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

SEC. 512. DEFINITIONS.

In this subtitle:

(1) COMPARABLE PROPERTIES.—The term ''comparable properties'' means properties in the same market areas, where practicable, that—

(A) are similar to the eligible multifamily housing project as to neighborhood (including risk of crime), type of location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, utilities, and other relevant characteristics; and

(B) are not receiving project-based assistance.

(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term ''eligible multifamily housing project'' means a property consisting of more than 4 dwelling units—

(A) with rents that, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area, determined in accordance with guidelines established by the Secretary;

(B) that is covered in whole or in part by a contract for project-based assistance under—

(i) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

(iv) the loan management assistance program under section 8 of the United States Housing Act of 1937;

(v) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(C) financed by a mortgage insured or held by the Secretary under the National Housing Act.

(3) EXPIRING CONTRACT.—The term ''expiring contract'' means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

(4) EXPIRATION DATE.—The term ''expiration date'' means the date on which an expiring contract expires.

(5) FAIR MARKET RENT.—The term ''fair market rent'' means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

(6) LOW-INCOME FAMILIES.—The term ''low-income families'' has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937.

(7) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—The term ''mortgage restructuring and rental assistance sufficiency plan'' means the plan as provided under section 514.

(8) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means any private non-profit organization that—

(A) is organized under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

(C) has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

(9) PORTFOLIO RESTRUCTURING AGREEMENT.—The term ''Portfolio restructuring agreement'' means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 513.

(10) PARTICIPATING ADMINISTRATIVE ENTITY.—The term ''participating administrative entity'' means a public agency (including a State housing finance agency or a local housing agency), a nonprofit organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under section 513(b).

(11) PROJECT-BASED ASSISTANCE.—The term ''project-based assistance'' means rental assistance described in paragraph (2)(B) of this section that is attached to a multifamily housing project.

(12) RENEWAL.—The term ''renewal'' means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this subtitle.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(14) STATE.—The term ''State'' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(15) TENANT-BASED ASSISTANCE.—The term ''tenant-based assistance'' has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(16) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(17) VERY LOW-INCOME FAMILY.—The term ''very low-income family'' has the same meaning as in section 3(b) of the United States Housing Act of 1937.

(18) QUALIFIED MORTGAGEE.—The term ''qualified mortgagee'' means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

(A) is not suspended or debarred by the Secretary;

(B) is not suspended or on probation imposed by the Mortgagee Review Board; and

(C) is not in default under any Government National Mortgage Association obligation.

SEC. 513. AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

(1) IN GENERAL.—Subject to subsection (b)(3), the Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act, in order to—

(A) reduce the costs of expiring contracts for assistance under section 8 of the United States Housing Act of 1937;

(B) address financially and physically troubled projects; and

(C) correct management and ownership deficiencies.

(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 514;

(C) require the participating administrative entity to review and certify to the accuracy and completeness of the evaluation of rehabilitation needs required under section 514(e)(3) for each eligible multifamily housing project included in the portfolio restructuring agreement, in accordance with regulations promulgated by the Secretary;

(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 516 or 517;

(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 514 for each eligible multifamily housing project;

(F) include other requirements established by the Secretary, including a right of the Secretary to terminate the contract immediately for failure of the participating administrative entity to comply with any applicable requirement;

(G) if the participating administrative entity is a State housing finance agency or a local housing agency, indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving willful misconduct or negligence;

(H) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this subtitle; and

(I) include, where appropriate, incentive agreements with the participating administrative entity to reward superior performance in meeting the purposes of this Act.

(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on whether, in the determination of the Secretary, the participating administrative entity—

(A) has demonstrated experience in working directly with residents of low-income housing projects and with tenants and other community-based organizations;

(B) has demonstrated experience with and capacity for multifamily restructuring and multifamily financing (which may include risk-sharing arrangements and restructuring eligible multifamily housing properties under the fiscal year 1997 Federal Housing Administration multifamily housing demonstration program);

(C) has a history of stable, financially sound, and responsible administrative performance (which may include the management of affordable low-income rental housing);

(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity;

(E) has demonstrated that it will carry out the specific transactions and other responsibilities under this part in a timely, efficient, and cost-effective manner; and

(F) meets other criteria, as determined by the Secretary.

(2) SELECTION.—If more than 1 interested entity meets the qualifications and selection criteria for a participating administrative entity, the Secretary may select the entity that demonstrates, as determined by the Secretary, that it will—

(A) provide the most timely, efficient, and cost-effective—

(i) restructuring of the mortgages covered by the portfolio restructuring agreement; and

(ii) administration of the section 8 project-based assistance contract, if applicable; and

(B) protect the public interest (including the long-term provision of decent low-income affordable rental housing and protection of residents, communities, and the American taxpayer).

(3) PARTNERSHIPS.—For the purposes of any participating administrative entity applying under this subsection, participating administrative entities are encouraged to develop partnerships with each other and with nonprofit organizations, if such partnerships will further the participating administrative entity's ability to meet the purposes of this Act.

(4) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project for which a participating administrative entity is unavailable, or should not be selected to carry out the requirements of this subtitle with respect to that multifamily housing project for reasons relating to the selection criteria under paragraph (1), the Secretary shall—

(A) carry out the requirements of this subtitle with respect to that eligible multifamily housing project; or

(B) contract with other qualified entities that meet the requirements of paragraph (1) to provide the authority to carry out all or a portion of the requirements of this subtitle with respect to that eligible multifamily housing project.

(5) PRIORITY FOR PUBLIC AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—The Secretary shall provide a reasonable period during which the Secretary will consider proposals only from State housing finance agencies or local housing agencies, and the Secretary shall select such an agency without considering other applicants if the Secretary determines that the agency is qualified. The period shall be of sufficient duration for the Secretary to determine whether any State housing financing agencies or local housing agencies are interested and qualified. Not later than the end of the period, the Secretary shall notify the State housing finance agency or the local housing agency regarding the status of the proposal and, if the proposal is rejected, the reasons for the rejection and an opportunity for the applicant to respond.

(6) STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in that State as may be agreed upon by the participating administrative entity and the Secretary. If a local housing agency is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in the jurisdiction of the agency as may be agreed upon by the participating administrative entity and the Secretary.

(B) NONDELEGATION.—Except with the prior approval of the Secretary, a participating administrative entity may not delegate or transfer responsibilities and functions under this subtitle to 1 or more entities.

(7) PRIVATE ENTITY REQUIREMENTS.—

(A) IN GENERAL.—If a for-profit entity is selected as the participating administrative entity, that entity shall be required to enter into a partnership with a public purpose entity (including the Department).

(B) PROHIBITION.—No private entity shall share, participate in, or otherwise benefit from any equity created, received, or restructured as a result of the portfolio restructuring agreement.

SEC. 514. MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

(a) IN GENERAL.—

(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed by the participating administrative entity, in cooperation with an owner of an eligible multifamily housing project and any servicer for the mortgage that is a qualified mortgagee, under such terms and conditions as the Secretary shall require.

(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than 1 property.

(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration.

(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g), or provide for tenant-based assistance in accordance with section 515;

(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

(3) require the owner or purchaser of an eligible multifamily housing project to evaluate the rehabilitation needs of the project, in accordance with regulations of the Secretary, and notify the participating administrative entity of the rehabilitation needs;

(4) require the owner or purchaser of the project to provide or contract for competent management of the project;

(5) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

(A) the Secretary; or

(B) local housing codes or codes adopted by public housing agencies that—

(i) meet or exceed housing quality standards established by the Secretary; and

(ii) do not severely restrict housing choice;

(6) require the owner or purchaser of the project to maintain affordability and use restrictions in accordance with regulations promulgated by the Secretary, for a term of not less than 30 years which restrictions shall be—

(A) contained in a legally enforceable document recorded in the appropriate records; and

(B) consistent with the long-term physical and financial viability and character of the project as affordable housing;

(7) include a certification by the participating administrative entity that the restructuring meets subsidy layering requirements established by the Secretary by regulation for purposes of this subtitle;

(8) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

(9) prohibit the owner from refusing to lease a reasonable number of units to holders of certificates and vouchers under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenants as certificate and voucher holders.

(f) TENANT AND OTHER PARTICIPATION AND CAPACITY BUILDING.—

(1) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis in the restructuring process established by this subtitle.

(B) COVERAGE.—These procedures shall take into account the need to provide tenants of the project, residents of the neighborhood, the local government, and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. To the extent practicable and consistent with the need to accomplish project restructuring in an efficient manner, the procedures shall give all such parties an opportunity to provide comments to the participating administrative entity in writing, in meetings, or in another appropriate manner (which comments shall be taken into consideration by the participating administrative entity).

(2) REQUIRED CONSULTATION.—The procedures developed pursuant to paragraph (1) shall require consultation with tenants of the project, residents of the neighborhood, the local government, and other affected parties, in connection with at least the following:

(A) the mortgage restructuring and rental assistance sufficiency plan;

(B) any proposed transfer of the project; and

(C) the rental assistance assessment plan pursuant to section 515(c).

(3) FUNDING.—

(A) IN GENERAL.—The Secretary may provide not more than $10,000,000 annually in funding from which the Secretary may make obligations to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this subtitle (including transfer of developments to new owners) and for tenant services, from those amounts made available under appropriations Acts for implementing this subtitle or previously made available for technical assistance in connection with the preservation of affordable rental housing for low-income persons.

(B) MANNER OF PROVIDING.—Notwithstanding any other provision of law restricting the use of preservation technical assistance funds, the Secretary may provide any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and the Multifamily Property Disposition Reform Act of 1994, or through any other means that the Secretary considers consistent with the purposes of this subtitle, without regard to any set-aside requirement otherwise applicable to those funds.

(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device,

intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

(g) RENT LEVELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this subtitle shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

(A) are equivalent to rents derived from comparable properties, if—

(i) the participating administrative entity makes the rent determination within a reasonable period of time; and

(ii) the market rent determination is based on not less than 2 comparable properties; or

(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

(2) EXCEPTIONS.—

(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the fair market rent for the market area (except that the Secretary may waive this limit for not more than five percent of all units subject to restructured mortgages in any fiscal year, based on a finding of special need), if the participating administrative entity—

(i) determines that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

(ii) follows the procedures under paragraph (3).

(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units covered by the portfolio restructuring agreement with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need.

(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculated based on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

(A) the debt service of the project;

(B) the operating expenses of the project, as determined by the participating administrative entity, including—

(i) contributions to adequate reserves;

(ii) the costs of maintenance and necessary rehabilitation; and

(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which may be established to provide incentives for owners or purchasers to meet benchmarks of quality for management and housing quality; and

(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

(h) EXEMPTIONS FROM RESTRUCTURING.—The following categories of projects shall not be covered by a mortgage restructuring and rental assistance sufficiency plan if—

(1) the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of a unit of a State government or unit of general local government);

(2) the project is a project financed under section 202 of the Housing Act of 1959 or section 515 of the Housing Act of 1949; or

(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act.

SEC. 515. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—

(1) PROJECT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts, and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with project-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend the contract, or the Secretary shall offer to renew such contract, and the owner of the project shall accept the offer, if the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(2) TENANT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with tenant-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall provide for the renewal of section 8 assistance on an eligible multifamily housing project with tenant-based assistance, or the Secretary shall provide for such renewal, in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the term of the affordability and use restrictions required by section 514(e)(6), if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

(c) DETERMINATION OF WHETHER TO RENEW WITH PROJECT-BASED OR TENANT-BASED ASSISTANCE.—

(1) MANDATORY RENEWAL OF PROJECT-BASED ASSISTANCE.—Section 8 assistance shall be renewed with project-based assistance, if—

(A) the project is located in an area in which the participating administrative entity determines, based on housing market indicators, such as low vacancy rates or high absorption rates, that there is not adequate available and affordable housing or that the tenants of the project would not be able to locate suitable units or use the tenant-based assistance successfully;

(B) a predominant number of the units in the project are occupied by elderly families, disabled families, or elderly and disabled families;

(C) the project is held by a nonprofit cooperative ownership housing corporation or nonprofit cooperative housing trust.

(2) RENTAL ASSISTANCE ASSESSMENT PLAN.—

(A) IN GENERAL.—With respect to any project that is not described in paragraph (1), the participating administrative entity shall, after consultation with the owner of the project, develop a rental assistance assessment plan to determine whether to renew assistance for the project with tenant-based assistance or project-based assistance.

(B) RENTAL ASSISTANCE ASSESSMENT PLAN REQUIREMENTS.—Each rental assistance assessment plan developed under this paragraph shall include an assessment of the impact of converting to tenant-based assistance and the impact of extending project-based assistance on—

(i) the ability of the tenants to find adequate, available, decent, comparable, and affordable housing in the local market;

(ii) the types of tenants residing in the project (such as elderly families, disabled families, large families, and cooperative homeowners);

(iii) the local housing needs identified in the comprehensive housing affordability strategy, and local market vacancy trends;

(iv) the cost of providing assistance, comparing the applicable payment standard to the project's adjusted rent levels determined under section 514(g);

(v) the long-term financial stability of the project;

(vi) the ability of residents to make reasonable choices about their individual living situations;

(vii) the quality of the neighborhood in which the tenants would reside; and

(viii) the project's ability to compete in the marketplace.

(C) REPORTS TO DIRECTOR.—Each participating administrative entity shall report regularly to the Director as defined in subtitle D, as the Director shall require, identifying—

(i) each eligible multifamily housing project for which the entity has developed a rental assistance assessment plan under this paragraph that determined that the tenants of the project generally supported renewal of assistance with tenant-based assistance, but under which assistance for the project was renewed with project-based assistance; and

(ii) each project for which the entity has developed such a plan under which the assistance is renewed using tenant-based assistance.

(3) ELIGIBILITY FOR TENANT-BASED ASSISTANCE.—Subject to paragraph (4), with respect to any project that is not described in paragraph (1), if a participating administrative entity approves the use of tenant-based assistance based on a rental assistance assessment plan developed under paragraph (2), tenant-based assistance shall be provided to each assisted family (other than a family already receiving tenant-based assistance) residing in the project at the time the assistance described in section 512(2)(B) terminates.

(4) RENTS FOR FAMILIES RECEIVING TENANT-BASED ASSISTANCE.—

(A) IN GENERAL.—Notwithstanding subsection (c)(1) or (o)(1) of section 8 of the United States Housing Act of 1937, in the case of any family described in paragraph (3) that resides in a project described in section 512(2)(B) in which the reasonable rent (which rent shall include any amount allowed for utilities and shall not exceed comparable market rents for the relevant housing market area) exceeds the fair market rent limitation or the payment standard, as applicable, the amount of assistance for the family shall be determined in accordance with subparagraph (B).

(B) MAXIMUM MONTHLY RENT; PAYMENT STANDARD.—With respect to the certificate program under section 8(b) of the United States Housing Act of 1937, the maximum monthly rent under the contract (plus any amount allowed for utilities) shall be such reasonable rent for the unit. With respect to the voucher program under section 8(o) of the United States Housing Act of 1937, the payment standard shall be deemed to be such reasonable rent for the unit.

(5) INAPPLICABILITY OF CERTAIN PROVISION.—If a participating administrative entity approves renewal with project-based assistance under this subsection, section 8(d)(2) of the United States Housing Act of 1937 shall not apply.

SEC. 516. PROHIBITION ON RESTRUCTURING.

(a) PROHIBITION ON RESTRUCTURING.—The Secretary may elect not to consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the Secretary or the participating administrative entity determines that—

(1)(A) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to such project; or

(B) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally-assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal government.

(2) Material adverse financial or managerial actions or omissions include—

(A) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

(3) the owner or purchaser of the property materially failed to follow the procedures and requirements of this part, after receipt of notice and an opportunity to cure; or

(4) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

The term ''owner'' as used in this subsection, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner. The term ''purchaser'' as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser. The terms ''affiliate of the owner'' and ''affiliate of the purchaser'' means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser. The term ''control'' means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial legal, beneficial or other interests of the owner or purchaser.

(b) OPPORTUNITY TO DISPUTE FINDINGS.—

(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 514, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 514.

(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

(d) DISPLACED TENANTS.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section in accordance with paragraph (1) or (2) of subsection (a) because of actions by an owner or purchaser, the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

SEC. 517. RESTRUCTURING TOOLS.

(a) MORTGAGE RESTRUCTURING.—

(1) In this part, an approved mortgage restructuring and rental assistance sufficiency plan shall include restructuring mortgages in accordance with this subsection to provide—

(A) a restructured or new first mortgage that is sustainable at rents at levels that are established in section 514(g); and

(B) a second mortgage that is in an amount equal to no more than the difference between the restructured or new first mortgage and the indebtedness under the existing insured mortgage immediately before it is restructured or refinanced, provided that the amount of the second mortgage shall be in an amount that the Secretary or participating administrative entity determines can reasonably be expected to be repaid.

(2) The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate as defined in section 1274(d) of the Internal Revenue Code of 1986. The term of the second mortgage shall be equal to the term of the restructured or new first mortgage.

(3) Payments on the second mortgage shall be deferred when the first mortgage remains outstanding, except to the extent there is excess project income remaining after payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and any other expenditures approved by the Secretary. At least 75 percent of any excess project income shall be applied to payments on the second mortgage, and the Secretary or the participating administrative entity may permit up to 25 percent to be paid to the project owner if the Secretary or participating administrative entity determines that the project owner meets benchmarks for management and housing quality.

(4) The full amount of the second mortgage shall be immediately due and payable if—

(A) the first mortgage is terminated or paid in full, except as otherwise provided by the holder of the second mortgage;

(B) the project is purchased and the second mortgage is assumed by any subsequent purchaser in violation of guidelines established by the Secretary; or

(C) the Secretary provides notice to the project owner that such owner has failed to materially comply with any requirements of this section or the United States Housing Act of 1937 as those requirements apply to the project, with a reasonable opportunity for such owner to cure such failure.

(5) The Secretary may modify the terms or forgive all or part of the second mortgage if the Secretary holds the second mortgage and if the project is acquired by a tenant organization or tenant-endorsed community-based nonprofit or public agency, pursuant to guidelines established by the Secretary.

(b) RESTRUCTURING TOOLS.—In addition to the requirements of subsection (a) and to the extent these actions are consistent with this section and with the control of the Secretary of applicable accounts in the Treasury of the United States, an approved mortgage restructuring and rental assistance sufficiency plan under this subtitle may include 1 or more of the following actions:

(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act, as amended by section 523(b) of this Act. Any payment under this paragraph shall not require the approval of a mortgagee.

(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project. If the refinancing involves a mortgage that will continue to be insured under the National Housing Act, the refinancing shall be documented through amendment of the existing insurance contract and not through a new insurance contract.

(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the Liquidating Account of the General Insurance Fund or the Special Risk Insurance Fund and shall not be subject to any limitation on appropriations.

(4) CREDIT ENHANCEMENT.—Any additional State or local mortgage credit enhancements and risk-sharing arrangements may be established with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified or refinanced first mortgage.

(5) COMPENSATION OF THIRD PARTIES.—Consistent with the portfolio restructuring agreement, entering into agreements, incurring costs, or making payments, including incentive agreements designed to reward superior performance in meeting the purposes of this Act, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this subtitle. Upon request to the Secretary, participating administrative entities that are qualified under the United States Housing Act of 1937 to serve as contract administrators shall be the contract administrators under section 8 of the United States Housing Act of 1937 for purposes of any contracts entered into

as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United States Housing Act of 1937, such amounts may be used to compensate participating administrative entities for compliance monitoring costs incurred under section 519.

(6) USE OF PROJECT ACCOUNTS.—Applying any residual receipts, replacement reserves, and any other project accounts not required for project operations, to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts, replacement reserves, or other such accounts, by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent, in accordance with guidelines established by the Secretary.

(7) REHABILITATION NEEDS.—

(A) IN GENERAL.—Assisting in addressing the rehabilitation needs of the project. Rehabilitation may be paid from the residual receipts, replacement reserves, or any other project accounts not required for project operations, or, as provided in appropriations Acts and subject to the control of the Secretary of applicable accounts in the Treasury of the United States, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 236(s) of the National Housing Act, or through the debt restructuring transaction. Rehabilitation under this paragraph shall only be for the purpose of restoring the project to a non-luxury standard adequate for the rental market intended at the original approval of the project-based assistance.

(B) CONTRIBUTION.—Each owner or purchaser of a project to be rehabilitated under an approved mortgage restructuring and rental assistance sufficiency plan shall contribute, from non-project resources, not less than 25 percent of the amount of rehabilitation assistance received, except that the participating administrative entity may provide an exception from the requirement of this subparagraph for housing cooperatives.

(c) ROLE OF FNMA AND FHLMC.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) paragraph (4), by striking the period at the end and inserting ''; and'';

(3) by striking ''To meet'' and inserting the following:

''(a) IN GENERAL.—To meet''; and

(4) by adding at the end the following:

''(5) assist in maintaining the affordability of assisted units in eligible multifamily housing projects with expiring contracts, as defined under the Multifamily Assisted Housing Reform and Affordability Act of 1997.

''(b) AFFORDABLE HOUSING GOALS.—Actions taken under subsection (a)(5) shall constitute part of the contribution of each entity in meeting its affordable housing goals under sections 1332, 1333, and 1334 for any fiscal year, as determined by the Secretary.''.

(d) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

(e) CONFLICT OF INTEREST GUIDELINES.—The Secretary may establish guidelines to prevent conflicts of interest by a participating administrative entity that provides, directly or through risk-sharing arrangements, any form of credit enhancement or financing pursuant to subsections (b)(3) or (b)(4) or to prevent conflicts of interest by any other person or entity under this subtitle.

SEC. 518. MANAGEMENT STANDARDS.

Each participating administrative entity shall establish management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

SEC. 519. MONITORING OF COMPLIANCE.

(a) COMPLIANCE AGREEMENTS.—(1) Pursuant to regulations issued by the Secretary under section 522(a), each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subtitle. Each agreement shall, at a minimum, provide for—

(A) enforcement of the provisions of this subtitle; and

(B) remedies for the breach of those provisions.

(2) If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator or fails to perform its duties under the portfolio restructuring agreement, the Secretary shall have the right to enforce the agreement.

(b) PERIODIC MONITORING.—

(1) IN GENERAL.—Not less than annually, each participating administrative entity that is qualified to be the section 8 contract administrator shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this subtitle and the portfolio restructuring agreements.

(3) ADMINISTRATION.—If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator, either the Secretary or a qualified State or local housing agency shall be responsible for the review required by this subsection.

(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

SEC. 520. REPORTS TO CONGRESS.

(a) ANNUAL REVIEW.—In order to ensure compliance with this subtitle, the Secretary shall conduct an annual review and report to the Congress on actions taken under this subtitle and the status of eligible multifamily housing projects.

(b) SEMIANNUAL REVIEW.—Not less than semiannually during the 2-year period beginning on the date of the enactment of this Act and not less than annually thereafter, the Secretary shall submit reports to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate stating, for such periods, the total number of projects identified by participating administrative entities under each of clauses (i) and (ii) of subparagraph (C).

SEC. 521. GAO AUDIT AND REVIEW.

(a) INITIAL AUDIT.—Not later than 18 months after the effective date of final regulations promulgated under this part, the Comptroller General of the United States shall conduct an audit to evaluate eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to Congress a report on the status of eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the initial audit conducted under subsection (a); and

(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

SEC. 522. REGULATIONS.

(a) RULEMAKING AND IMPLEMENTATION.—

(1) INTERIM REGULATIONS.—The Director shall issue such interim regulations as may be necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter. If, before the expiration of such period, the Director has not been appointed, the Secretary shall issue such interim regulations.

(2) FINAL REGULATIONS.—The Director shall issue final regulations necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter before the later of (A) the expiration of the 12-month period beginning upon the date of the enactment of this Act, and (B) the 3-month period beginning upon the appointment of the Director under subtitle B.

(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with publication of the interim rule, the Secretary shall—

(A) seek recommendations on the implementation of sections 513(b) and 515(c)(1) from organizations representing—

(i) State housing finance agencies and local housing agencies;

(ii) other potential participating administering entities;

(iii) tenants;

(iv) owners and managers of eligible multifamily housing projects;

(v) States and units of general local government; and

(vi) qualified mortgagees; and

(B) convene not less than 3 public forums at which the organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

(b) TRANSITION PROVISION FOR CONTRACTS EXPIRING IN FISCAL YEAR 1998.—Notwithstanding any other provision of law, the Secretary shall apply all the terms of section 211 and section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (except for section 212(h)(1)(G) and the limitation in section 212(k)) contracts for project-based assistance that expire during fiscal year 1998 (in the same manner that such provisions apply to expiring contracts defined in section 212(a)(3) of such Act), except that section 517(a) of the Act shall apply to mortgages on projects subject to such contracts.

SEC. 523. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CALCULATION OF LIMIT ON PROJECT-BASED ASSISTANCE.—Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following:

''(5) CALCULATION OF LIMIT.—Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.''.

(b) PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS.—Section 541 of the National Housing Act (12 U.S.C. 1735f–19) is amended—

(1) in subsection (a), in the subsection heading, by striking ''AUTHORITY'' and inserting ''DEFAULTED MORTGAGES'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

''(b) EXISTING MORTGAGES.—Notwithstanding any other provision of law, the Secretary, in connection with a mortgage restructuring under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, may make a 1 time, nondefault partial payment of the claim under the mortgage insurance contract, which shall include a determination by the Secretary or the participating administrative entity, in accordance with the Multifamily Assisted Housing Reform and Affordability Act of 1997, of the market value of the project and a restructuring of the mortgage, under such terms and conditions as are permitted by section 517(a) of such Act.''.

(c) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Section 8(bb) of the United States Housing Act of 1937 (42 U.S.C. 1437f(bb) is amended—

(1) by inserting after ''(bb)'' the following: ''TRANSFER, REUSE, AND RESCISSION OF BUDGET AUTHORITY.—(1)''; and

(2) by inserting the following new paragraph at the end:

''(2) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under title I is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.''.

(d) SECTION 8 CONTRACT RENEWALS.—Section 405(a) of the Balanced Budget Downpayment Act, I (42 U.S.C. 1437f note) is amended by striking ''For'' and inserting ''Notwithstanding part 24 of title 24 of the Code of Federal Regualtions, for''.

(e) RENEWAL UPON REQUEST OF OWNER.—Section 211(b)(3) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2896) is amended—

(1) by striking the paragraph heading and inserting the following:

''(3) EXEMPTION OF CERTAIN OTHER PROJECTS.—''; and

(2) by striking ''section 202 projects, section 811 projects and section 515 projects'' and inserting ''section 202 projects, section 515 projects, projects with contracts entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act, and projects with rents that exceed 100 percent of fair market rent for the market area, but that are less than rents for comparable projects''.

(f) EXTENSION OF DEMONSTRATION CONTRACT PERIOD.—Section 212(g) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204) is amended—

(1) by inserting ''(1)'' after ''(g)'';

(2) by inserting before the period at the end the following: ''or in paragraph (2)''; and

(3) by adding at the end the following:

''(2) The Secretary may renew a demonstration contract for an additional period of not to exceed 120 days, if—

''(A) the contract was originally executed before February 1, 1997, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay of publication of the Secretary's demonstration program guidelines until January 23, 1997 (not to exceed 21 projects); or

''(B) the contract was originally executed before October 1, 1997, in connection with a project that has been identified for restructuring under the joint venture approach described in section VII.B.2. of the Secretary's demonstration program guidelines, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay in implementation of the joint venture agreement required by the guidelines (not to exceed 25 projects).''.

SEC. 524. SECTION 8 CONTRACT RENEWALS.

(a) SECTION 8 CONTRACT RENEWAL AUTHORITY.—

(1) IN GENERAL.—Notwithstanding part 24 of title 24 of the Code of Federal Regulations and subject to section 516 of this subtitle, for fiscal year 1999 and henceforth, the Secretary may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937, upon termination or expiration of a contract for assistance under section 8 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act at rent levels that do not exceed comparable market rents for the market area. The assistance shall be provided in accordance with terms and conditions prescribed by the Secretary.

(2) EXCEPTION PROJECTS.—Notwithstanding paragraph (1), upon the request of the owner, the Secretary shall renew an expiring contract in accordance with terms and conditions prescribed by the Secretary at the lesser of (i) existing rents, adjusted by an operating cost, adjustment factor established by the Secretary, (ii) a level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses), or (iii) in the case of a contract under the moderate rehabilitation program, other than a moderate rehabilitation contract under section 441 of the Stewart B. McKinney Homeless Assistance Act, the base rent adjusted by an operating cost adjustment factor established by the Secretary, for the following categories of multifamily housing projects—

(A) projects for which the primary financing or mortgage insurance was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of either) and is not insured under the National Housing Act;

(B) projects for which the primary financing was provided by a unit of State government or a unit or general local government (or an agency or instrumentality of either) and the financing involves mortgage insurance under the National Housing Act, such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this Act is in conflict with applicable law or agreements governing such financing;

(C) projects financed under section 202 of the Housing Act of 1959 or section 515 of the Housing Act of 1949;

(D) projects that have an expiring contract under section 8 of the United States Housing Act of 1937 pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and

(E) projects that do not qualify as eligible multifamily housing projects pursuant to section 512(2) of this subtitle.

Subtitle B—Miscellaneous Provisions

SEC. 531. REHABILITATION GRANTS FOR CERTAIN INSURED PROJECTS.

Section 236 of the National Housing Act (12 U.S.C. 1715z–1) is amended by adding at the end the following:

''(s) GRANT AUTHORITY.—

''(1) IN GENERAL.—The Secretary may make grants for the capital costs of rehabilitation to owners of projects that meet the eligibility and other criteria set forth in, and in accordance with, this subsection.

''(2) PROJECT ELIGIBILITY.—A project may be eligible for capital grant assistance under this subsection—

''(A) if—

''(i) the project is or was insured under any provision of title II of the National Housing Act;

''(ii) the project was assisted under section 8 of the United States Housing Act of 1937 on the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997; and

''(iii) the project mortgage was not held by a State agency as of the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997;

''(B) if the project owner agrees to maintain the housing quality standards as required by the Secretary;

''(C)(i) if the Secretary determines that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to such project; or

''(ii) if the Secretary elects to make such determination, that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally-assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal government;

''(iii) material adverse financial or managerial actions or omissions, as the terms are used in this subparagraph, include—

''(I) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

''(II) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

''(III) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

''(IV) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

''(V) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

''(VI) committing any act or omission that would warrant suspension or debarment by the Secretary; and

''(iv) the term 'owner' as used in this subparagraph, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner; the term 'purchaser' as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser; the terms 'affiliate of the owner' and 'affiliate of the purchaser' means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under

common control with the owner or purchaser; the term 'control' means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial legal, beneficial or other interests of the owner or purchaser; and

''(D) if the project owner demonstrates to the satisfaction of the Secretary—

''(i) using information in a comprehensive needs assessment, that capital grant assistance is needed for rehabilitation of the project; and

''(ii) that project income is not sufficient to support such rehabilitation.

''(3) ELIGIBLE PURPOSES.—The Secretary may make grants to the owners of eligible projects for the purposes of—

''(A) payment into project replacement reserves;

''(B) debt service payments on non-Federal rehabilitation loans; and

''(C) payment of nonrecurring maintenance and capital improvements, under such terms and conditions as are determined by the Secretary.

''(4) GRANT AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall provide in any grant agreement under this subsection that the grant shall be terminated if the project fails to meet housing quality standards, as applicable on the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997, or any successor standards for the physical conditions of projects, as are determined by the Secretary.

''(B) AFFORDABILITY AND USE CLAUSES.—The Secretary shall include in a grant agreement under this subsection a requirement for the project owners to maintain such affordability and use restrictions as the Secretary determines to be appropriate.

''(C) OTHER TERMS.—The Secretary may include in a grant agreement under this subsection such other terms and conditions as the Secretary determines to be necessary.

''(5) DELEGATION.—

''(A) IN GENERAL.—In addition to the authorities set forth in subsection (p), the Secretary may delegate to State and local governments the responsibility for the administration of grants under this subsection. Any such government may carry out such delegated responsibilities directly or under contracts.

''(B) ADMINISTRATION COSTS.—In addition to other eligible purposes, amounts of grants under this subsection may be made available for costs of administration under subparagraph (A).

''(6) FUNDING.—

''(A) IN GENERAL.—For purposes of carrying out this subsection, the Secretary may make available amounts that are unobligated amounts for contracts for interest reduction payments—

''(i) that were previously obligated for contracts for interest reduction payments under this section until the insured mortgage under this section was extinguished;

''(ii) that become available as a result of the outstanding principal balance of a mortgage having been written down;

''(iii) that are uncommitted balances within the limitation on maximum payments that may have been, before the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997, permitted in any fiscal year; or

''(iv) that become available from any other source.

''(B) LIQUIDATION AUTHORITY.—The Secretary may liquidate obligations entered into under this subsection under section 1305(10) of title 31, United States Code.

''(C) CAPITAL GRANTS.—In making capital grants under the terms of this subsection, using the amounts that the Secretary has recaptured from contracts for interest reduction payments, the Secretary shall ensure that the rates and amounts of outlays do not at any time exceed the rates and amounts of outlays that would have been experienced if the insured mortgage had not been extinguished or the principal amount had not been written down, and the interest reduction payments that the Secretary has recaptured had continued in accordance with the terms in effect immediately prior to such extinguishment or write-down.''.

SEC. 532. GAO REPORT ON SECTION 8 RENTAL ASSISTANCE FOR MULTIFAMILY HOUSING PROJECTS.

Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress analyzing—

(1) the housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937, but which are not subject to a mortgage insured or held by the Secretary under the National Housing Act;

(2) how State and local housing finance agencies have benefited financially from the rental assistance program under section 8 of the United States Housing Act of 1937, including any benefits from fees, bond financings, and mortgage refinancings; and

(3) the extent and effectiveness of State and local housing finance agencies oversight of the physical and financial management and condition of multifamily housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937.

Subtitle C—Enforcement Provisions

SEC. 541. IMPLEMENTATION.

(a) ISSUANCE OF NECESSARY REGULATIONS.—Notwithstanding section 7(o) of the Department of Housing and Urban Development Act or part 10 of title 24, Code of Federal Regulations (as in existence on the date of enactment of this Act), the Secretary shall issue such regulations as the Secretary determines to be necessary to implement this subtitle and the amendments made by this subtitle in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

(b) USE OF EXISTING REGULATIONS.—In implementing any provision of this subtitle, the Secretary may, in the discretion of the Secretary, provide for the use of existing regulations to the extent appropriate, without rulemaking.

SEC. 542. INCOME VERIFICATION.

(a) REINSTITUTION OF REQUIREMENTS REGARDING HUD ACCESS TO CERTAIN INFORMATION OF STATE AGENCIES.—

(1) IN GENERAL.—Section 303(i) of the Social Security Act is amended by striking paragraph (5).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any request for information made after the date of the enactment of this Act.

(b) REPEAL OF TERMINATION REGARDING HOUSING ASSISTANCE PROGRAMS.—Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 is amended by striking the last sentence.

Part 1—FHA Single Family and Multifamily Housing

SEC. 551. AUTHORIZATION TO IMMEDIATELY SUSPEND MORTGAGEES.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended by inserting after the first sentence the following: ''Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public.''.

SEC. 552. EXTENSION OF EQUITY SKIMMING TO OTHER SINGLE FAMILY AND MULTIFAMILY HOUSING PROGRAMS.

Section 254 of the National Housing Act (12 U.S.C. 1715z–19) is amended to read as follows:

''SEC. 254. EQUITY SKIMMING PENALTY.

''(a) IN GENERAL.—Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b), willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than $500,000, imprisoned not more than 5 years, or both.

''(b) MORTGAGE NOTES DESCRIBED.—For purposes of subsection (a), a mortgage note is described in this subsection if it—

''(1) is insured, acquired, or held by the Secretary pursuant to this Act;

''(2) is made pursuant to section 202 of the Housing Act of 1959 (including property still subject to section 202 program requirements that existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act); or

''(3) is insured or held pursuant to section 542 of the Housing and Community Development Act of 1992, but is not reinsured under section 542 of the Housing and Community Development Act of 1992.''.

SEC. 553. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) CHANGE TO SECTION TITLE.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended by striking the section heading and the section designation and inserting the following:

''SEC. 536. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.''.

(b) EXPANSION OF PERSONS ELIGIBLE FOR PENALTY.—Section 536(a) of the National Housing Act (12 U.S.C. 1735f–14(a)) is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: ''If a mortgagee approved under the Act, a lender holding a contract of insurance under title I, or a principal, officer, or employee of such mortgagee or lender, or other person or entity participating in either an insured mortgage or title I loan transaction under this Act or providing assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents and dealers, knowingly and materially violates any applicable provision of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender, or such other person or entity, in accordance with this section. The penalty under this paragraph shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.''; and

(2) in paragraph (2)—

(A) in the first sentence, by inserting ''or such other person or entity'' after ''lender''; and

(B) in the second sentence, by striking ''provision'' and inserting ''the provisions''.

(c) ADDITIONAL VIOLATIONS FOR MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.—Section 536(b) of the National Housing Act (12 U.S.C. 1735f–14(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

''(2) The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a principal, officer, or

employee of a mortgagee or lender, or other participants in either an insured mortgage or title I loan transaction under this Act or provision of assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers for—

''(A) submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act;

''(B) falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity; or

''(C) failure by a loan correspondent or dealer to submit to the Secretary information which is required by regulations or directives in connection with any loan that is covered by a contract of insurance under title I.''; and

(3) in paragraph (3), as redesignated, by striking ''or paragraph (1)(F)'' and inserting ''or (F), or paragraph (2) (A), (B), or (C)''.

(d) CONFORMING AND TECHNICAL AMENDMENTS.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended—

(1) in subsection (c)(1)(B), by inserting after ''lender'' the following: ''or such other person or entity'';

(2) in subsection (d)(1)—

(A) by inserting ''or such other person or entity'' after ''lender''; and

(B) by striking ''part 25'' and inserting ''parts 24 and 25''; and

(3) in subsection (e), by inserting ''or such other person or entity'' after ''lender'' each place that term appears.

Part 2—FHA Multifamily Provisions

SEC. 561. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS, OFFICERS, DIRECTORS, AND CERTAIN MANAGING AGENTS OF MULTIFAMILY PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f–15) is amended—

(1) in subsection (b)(1), by striking ''on that mortgagor'' and inserting the following: ''on that mortgagor, on a general partner of a partnership mortgagor, or on any officer or director of a corporate mortgagor'';

(2) in subsection (c)—

(A) by striking the subsection heading and inserting the following:

''(c) OTHER VIOLATIONS.—''; and

(B) in paragraph (1)—

(i) by striking ''VIOLATIONS.—The Secretary may'' and all that follows through the colon and inserting the following:

''(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

''(i) any mortgagor of a property that includes 5 or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

''(ii) any general partner of a partnership mortgagor of such property;

''(iii) any officer or director of a corporate mortgagor;

''(iv) any agent employed to manage the property that has an identity of interest with the mortgagor, with the general partner of a partnership mortgagor, or with any officer or director of a corporate mortgagor of such property; or

''(v) any member of a limited liability company that is the mortgagor of such property or is the general partner of a limited partnership mortgagor or is a partner of a general partnership mortgagor.

''(B) VIOLATIONS.—A penalty may be imposed under this section upon any liable party under subparagraph (A) that knowingly and materially takes any of the following actions:'';

(ii) in subparagraph (B), as designated by clause (i), by redesignating the subparagraph designations (A) through (L) as clauses (i) through (xii), respectively;

(iii) by adding after clause (xii), as redesignated by clause (ii), the following:

''(xiii) Failure to maintain the premises, accommodations, any living unit in the project, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

''(xiv) Failure, by a mortgagor, a general partner of a partnership mortgagor, or an officer or director of a corporate mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary.

''(xv) Failure to provide access to the books, records, and accounts related to the operations of the mortgaged property and of the project.''; and

(iv) in the last sentence, by deleting ''of such agreement'' and inserting ''of this subsection'';

(3) in subsection (d)—

(A) in paragraph (1)(B), by inserting after ''mortgagor'' the following: '', general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property''; and

(B) by adding at the end the following:

''(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.'';

(4) in subsection (e)(1), by deleting ''a mortgagor'' and inserting ''an entity or person'';

(5) in subsection (f), by inserting after ''mortgagor'' each place such term appears the following: '', general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property'';

(6) by striking the heading of subsection (f) and inserting the following: ''CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, OFFICERS AND DIRECTORS OF CORPORATE MORTGAGORS, AND CERTAIN MANAGING AGENTS''; and

(7) by adding at the end the following:

''(k) IDENTITY OF INTEREST MANAGING AGENT.—In this section, the terms 'agent employed to manage the property that has an identity of interest' and 'identity of interest agent' mean an entity—

''(1) that has management responsibility for a project;

''(2) in which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and

''(3) over which the ownership entity exerts effective control.''.

(b) IMPLEMENTATION.—

(1) PUBLIC COMMENT.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. The notice shall seek comments primarily as to the definitions of the terms ''ownership interest in'' and ''effective control'', as those terms are used in the definition of the terms ''agent employed to manage the property that has an identity of interest'' and ''identity of interest agent''.

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after that date.

SEC. 562. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE WITH SECTION 8 HAP CONTRACTS.

(a) BASIC AUTHORITY.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) by designating the second section designated as section 27 (as added by section 903(b) of Public Law 104–193 (110 Stat. 2348)) as section 28; and

(2) by adding at the end the following:

''SEC. 29. CIVIL MONEY PENALTIES AGAINST SECTION 8 OWNERS.

''(a) IN GENERAL.—

''(1) EFFECT ON OTHER REMEDIES.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

''(2) FAILURE OF SECRETARY.—The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

''(b) VIOLATIONS OF HOUSING ASSISTANCE PAYMENT CONTRACTS FOR WHICH PENALTY MAY BE IMPOSED.—

''(1) LIABLE PARTIES.—The Secretary may impose a civil money penalty under this section on—

''(A) any owner of a property receiving project-based assistance under section 8;

''(B) any general partner of a partnership owner of that property; and

''(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

''(2) VIOLATIONS.—A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

''(A) failure to provide decent, safe, and sanitary housing pursuant to section 8; or

''(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

''(3) AMOUNT OF PENALTY.—The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

''(c) AGENCY PROCEDURES.—

''(1) ESTABLISHMENT.—The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

''(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

''(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

''(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

''(2) FINAL ORDERS.—

''(A) IN GENERAL.—If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

''(B) EFFECT OF REVIEW.—If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

''(C) FAILURE TO REVIEW.—If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or

order is issued, the determination or order shall be final.

''(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

''(A) the gravity of the offense;

''(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

''(C) the ability of the violator to pay the penalty;

''(D) any injury to tenants;

''(E) any injury to the public;

''(F) any benefits received by the violator as a result of the violation;

''(G) deterrence of future violations; and

''(H) such other factors as the Secretary may establish by regulation.

''(4) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

''(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—Judicial review of determinations made under this section shall be carried out in accordance with section 537(e) of the National Housing Act.

''(e) REMEDIES FOR NONCOMPLIANCE.—

''(1) JUDICIAL INTERVENTION.—

''(A) IN GENERAL.—If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

''(B) FEES AND EXPENSES.—Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

''(2) NONREVIEWABILITY OF DETERMINATION OR ORDER.—In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

''(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

''(g) DEPOSIT OF PENALTIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is insured or formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

''(2) EXCEPTION.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

''(h) DEFINITIONS.—In this section—

''(1) the term 'agent employed to manage the property that has an identity of interest' means an entity—

''(A) that has management responsibility for a project;

''(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

''(C) over which such ownership entity exerts effective control; and

''(2) the term 'knowing' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.

(c) IMPLEMENTATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment.

(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms ''ownership interest in'' and ''effective control'', as such terms are used in the definition of the term ''agent employed to manage such property that has an identity of interest''.

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.

SEC. 563. EXTENSION OF DOUBLE DAMAGES REMEDY.

Section 421 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715z–4a) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by striking ''Act; or (B)'' and inserting the following: ''Act; (B) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held by the Secretary under section 542 of the Housing and Community Development Act of 1992, but not reinsured under section 542 of the Housing and Community Development Act of 1992; or (D)''; and

(B) in the second sentence, by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,'';

(2) in subsection (a)(2), by inserting after ''Act,'' the following: ''under section 202 of the Housing Act of 1959 (including section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990) and under section 542 of the Housing and Community Development Act of 1992,'';

(3) in subsection (b), by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,'';

(4) in subsection (c)—

(A) in the first sentence, by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,''; and

(B) in the second sentence, by inserting before the period the following: ''or, in the case of any project for which the mortgage is held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990), to the project or to the Department for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary, as appropriate''; and

(5) in subsection (d), by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,''.

SEC. 564. OBSTRUCTION OF FEDERAL AUDITS.

Section 1516(a) of title 18, United States Code, is amended by inserting after ''under a contract or subcontract,'' the following: ''or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,''.

Subtitle D—Office of Multifamily Housing Assistance Restructuring

SEC. 571. ESTABLISHMENT OF OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING.

There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Multifamily Housing Assistance Restructuring.

SEC. 572. DIRECTOR.

(a) APPOINTMENT.—The Office shall be under the management of a Director, who shall be appointed by the President by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and have a demonstrated understanding of financing and mortgage restructuring for affordable multifamily housing. Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Senate a nomination for initial appointment to the position of Director.

(b) VACANCY.—A vacancy in the position of Director shall be filled in the manner in which the original appointment was made under subsection (a).

(c) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States and have a demonstrated understanding of financing and mortgage restructuring for affordable multifamily housing.

(2) FUNCTIONS.—The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (b).

SEC. 573. DUTY AND AUTHORITY OF DIRECTOR.

(a) DUTY.—The Secretary shall, acting through the Director, administer the program of mortgage and rental assistance restructuring for eligible multifamily housing projects under subtitle A. During the period before the Director is appointed, the Secretary may carry out such program.

(b) AUTHORITY.—The Director is authorized to make such determinations, take such actions, issue such regulations, and perform such functions assigned to the Director under law as the Director determines necessary to carry out such functions, subject to the review and approval of the Secretary. The Director shall semiannually submit a report to the Secretary regarding the activities, determinations, and actions of the Director.

(c) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Office (but not to contractors, subcontractors, or consultants) any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(d) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—

(1) IN GENERAL.—Notwithstanding subsection (a) or (b), the Director shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

(2) REQUIREMENT.—If the Director determines at any time that the Secretary is taking or has taken any action that interferes with the ability

of the Director to carry out the duties of the Director under this Act or that affects the administration of the program under subtitle A of this Act in manner that is inconsistent with the purposes of this Act, including any proposed action by the Director, in the discretion of the Director, that is overruled by the Secretary, the Director shall immediately report directly to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding such action. Notwithstanding subsection (a) or (b), any determination or report under this paragraph by the Director shall not be subject to prior review or approval of the Secretary.

SEC. 574. PERSONNEL.

(a) OFFICE PERSONNEL.—The Director may appoint and fix the compensation of such officers and employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(b) COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.—In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability with compensation of officers and employees of the Federal Deposit Insurance Corporation.

(c) PERSONNEL OF OTHER FEDERAL AGENCIES.—In carrying out the duties of the Office, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

(d) OUTSIDE EXPERTS AND CONSULTANTS.—The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

SEC. 575. BUDGET AND FINANCIAL REPORTS.

(a) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Secretary shall submit a copy of the financial operating plans and forecasts for the Office to the Director of the Office of Management and Budget.

(b) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Secretary shall submit a copy of the report of the results of the operations of the Office during such period to the Director of the Office of Management and Budget.

(c) INCLUSION IN PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this section shall be included (1) in the Budget of the United States in the appropriate form, and (2) in the congressional justifications of the Department of Housing and Urban Development for each fiscal year in a form determined by the Secretary.

SEC. 576. LIMITATION ON SUBSEQUENT EMPLOYMENT.

Neither the Director nor any former officer or employee of the Office who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS–15 of the General Schedule under section 5107 of title 5, United States Code, may, during the 2-year period beginning on the date of separation from employment by the Office, accept compensation from any party (other than a Federal agency) having any financial interest in any mortgage restructuring and rental assistance sufficiency plan under subtitle A or comparable matter in which the Director or such officer or employee had direct participation or supervision.

SEC. 577. AUDITS BY GAO.

The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to, or used by, the Office shall be made available to the Comptroller General. Audits under this section shall be conducted annually for the first 2 fiscal years following the date of the enactment of this Act and as appropriate thereafter.

SEC. 578. SUSPENSION OF PROGRAM BECAUSE OF FAILURE TO APPOINT DIRECTOR.

(a) IN GENERAL.—If, upon the expiration of the 12-month period beginning on the date of the enactment of this Act, the initial appointment to the office of Director has not been made, the operation of the program under subtitle A shall immediately be suspended and such provisions shall not have any force or effect during the period that ends upon the making of such appointment.

(b) INTERIM APPLICABILITY OF DEMONSTRATION PROGRAM.—Notwithstanding any other provision of law, during the period referred to in subsection (a), the Secretary shall carry out sections 211 and 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997. For purposes of applying such sections pursuant to the authority under this section, the term ''expiring contract'' shall have the meaning given in such sections, except that such term shall also include any contract for project-based assistance under section 8 of the United States Housing Act of 1937 that expires during the period that the program is suspended under subsection (a).

SEC. 579. TERMINATION.

(a) REPEAL.—Subtitle A (except for section 524) and subtitle D (except for this section) are repealed effective October 1, 2001.

(b) EXCEPTION.—Notwithstanding the repeal under subsection (a), the provisions of subtitle A (as in effect immediately before such repeal) shall apply with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2001.

(c) TERMINATION OF DIRECTOR AND OFFICE.—The Office of Multifamily Housing Assistance Restructuring and the position of Director of such Office shall terminate upon September 30, 2001.

(d) TRANSFER OF AUTHORITY.—Effective upon the termination under subsection (c), any authority and responsibilities assigned to the Director that remain applicable after such date pursuant to subsection (b) are transferred to the Secretary.

This Act may be cited as the ''Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998''.

And the Senate agree to the same.

JERRY LEWIS,
TOM DELAY,
JAMES T. WALSH,
DAVE HOBSON,
JOE KNOLLENBERG,
R.P. FRELINGHUYSEN,
ROGER F. WICKER,
BOB LIVINGSTON,
LOUIS STOKES,
ALAN B. MOLLOHAN,
MARCY KAPTUR,
CARRIE P. MEEK,
DAVID E. PRICE,
DAVE OBEY,
Managers on the Part of the House.

CHRISTOPHER S. BOND,
CONRAD BURNS,
TED STEVENS,
RICHARD SHELBY,
BEN NIGHTHORSE CAMPBELL,
LARRY E. CRAIG,
THAD COCHRAN,
BARBARA A. MIKULSKI,
PATRICK J. LEAHY,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA BOXER,
ROBERT C. BYRD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report.

The language and allocations set forth in House Report 105–175 and Senate Report 105–53 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or Senate have directed the submission of a report, such report is to be submitted to both House and Senate Committees on Appropriations.

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

Appropriates $17,057,396,000 for medical care, instead of $17,006,846,000 as proposed by the House and $17,026,846,000 as proposed by the Senate.

The increase of $98,550,000 consists of the following additions to the budget request:

+$68,000,000 to continue the funding of compensation and pension examinations from the medical care account.

+$30,550,000 as a general increase, subject to approval in the operating plan.

The conferees agree that within the total amount provided, $6,000,000 is to establish the Musculoskeletal Disease Prevention and Treatment Research Center at the Jerry L. Pettis Memorial VA Medical Center in Loma Linda, California. This amount is in addition to the amount that would otherwise be made available to VISN 22.

The conferees wish to emphasize language in the House and Senate reports regarding expanding an outpatient clinic in Williamsport, Pennsylvania; activation costs for construction projects at the medical centers in Wilkes-Barre, Pennsylvania and Phoenix, Arizona; and the demonstration project involving the Clarksburg VA Medical Center and Ruby Memorial Hospital. The VA is urged to establish a community based outpatient clinic in Brookhaven, New York.

Deletes language proposed by the House and stricken by the Senate enabling compensation and pension exams to be directly funded from Veterans Benefits Administration resources. The Administration proposed that the cost of conducting medical examinations with respect to veterans' claims for compensation or pension be reimbursed from the general operating expenses appropriation. The conferees expect the results of a soon to begin pilot program to contract for compensation and pension exams will determine the advisability of this concept.

Delays the availability of $570,000,000 of the medical care appropriation in the equipment and land and structures object classifications until August 1, 1998, instead of delaying the availability of $565,000,000 as proposed by the House and $550,000,000 as proposed by the Senate.

Inserts language as proposed by the House earmarking not to exceed $5,000,000 for a pilot program on the cost-effectiveness of contracting with local hospitals in East Central Florida for the provision of nonemergent inpatient health care needs of veterans. The VA is to submit a report to the Committees on Appropriations on how it plans to conduct the demonstration program prior to implementation.

Inserts modifications to identical language proposed by the House and the Senate making amounts recovered or collected and deposited in the Department of Veterans Affairs Medical Care Collections Fund available for general purposes of the medical care appropriation, including administrative costs associated with collecting such funds. The modifications reflect the authorizing legislation which was enacted subsequent to House and Senate consideration of the appropriations bill. The conference agreement also provides for the availability of any moneys deposited in the Fund due to a shortfall that is in excess of $25,000,000 below the $604,000,000 estimated to be recovered, as authorized in Public Law 105–33, the Balanced Budget Act of 1997. Including this language on shortfalls is scored as costing $15,000,000 in budget authority and $14,000,000 in outlays. The conferees wish to make clear that the $15,000,000 is not the amount that would be made available in the event of a shortfall, rather it is the cost scored for permitting funds deposited by the Secretary of the Treasury to be made available from the Fund to the VA for health care. The actual amount of the funds made available would depend upon the amount of the shortfall. The language proposed by the House in section 108 of the VA administrative provisions dealing with a potential shortfall is deleted due to the enactment of authorizing legislation and language carried under this heading.

The House report contained a request that the General Accounting Office study and report on the effects of Veterans Integrated Service Networks (VISN) and Veterans Equitable Resource Allocation (VERA) processes and their implementation. The report was to be completed in four months. The Secretary was directed, pending receipt of the GAO report, to fund all VISNs at least at the fiscal year 1996 level. The Senate report indicated support for the implementation of VISN and VERA. It also expressed opposition to efforts to thwart VERA. The conference agreement retains the GAO report requirements, modified to direct that the report be completed in nine months. The conference agreement does not direct the VA to fund all VISNs at least at the fiscal year 1996 level.

The conferees support the pilot diabetes project in New England and Hawaii funded through the Department of Defense. The two-year pilot demonstration program shows promise for improved and innovative methods of diabetes detection, prevention, and care.

The conferees encourage VA to examine carefully the work in Detroit associated with the PARMIN, population and resource management information network. The conferees further encourage VA to consider setting aside an appropriate amount for the development and analytical work associated with the PARMIN system, and have the VA report back to the Committees on Appropriations as to the viability of this project within 120 days of enactment of this Act.

MEDICAL AND PROSTHETIC RESEARCH

Appropriates $272,000,000 for medical and prosthetic research, instead of $292,000,000 as proposed by the House and $267,000,000 as proposed by the Senate. The conference agreement includes $10,000,000 for research into Parkinson's disease. The VA is to report to the Committees on Appropriations with detailed plans on how it plans to spend these research funds.

Deletes language proposed by the House and stricken by the Senate earmarking $25,000,000 of the appropriation for medical research relating to Gulf War illnesses afflicting Persian Gulf veterans. The committee of conference is concerned with illnesses reported by some Gulf War veterans. However, the VA indicates that it is not possible to utilize effectively $25,000,000 for such research. The conferees agree that the VA is to utilize $12,500,000 of the appropriation for such purposes, and to submit information with the operating plan on how the funds will be spent. The conferees note that the Federal Government is also spending money on this effort in the Department of Defense, the National Institute of Environmental Health Sciences, and the Centers for Disease Control.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

Appropriates $59,860,000 for medical administration and miscellaneous operating expenses, instead of $60,160,000 as proposed by the House and the Senate. The decrease of $300,000 is a general reduction from the budget request, subject to approval in the operating plan. Additional information on the reduction can be found in this report under the general operating expenses account.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

Appropriates $786,135,000 for general operating expenses, instead of $853,385,000 as proposed by the House and $786,385,000 as proposed by the Senate. This amount includes the following changes to the budget request:

−$68,000,000 requested to fund compensation and pension examinations from the general operating expenses appropriation. Funds for these purposes continue to be included in the medical care account.

+$8,000,000, subject to approval in the operating plan, for activities such as higher than anticipated contracting costs to ensure compliance with Year 2000 computer problems, retaining Veterans Benefits Administration staff to improve the timeliness of processing veterans claims, development and implementation of capacities that will enable effective Department-wide strategic planning and management, information technology priorities delineated in the recent National Academy of Public Administration report, and other priorities recommended by NAPA. Consideration should be given to reprogramming funds from activities identified by NAPA as lower priority, such as VETSNET. The VA should consider this a one-time adjustment to address on-going concerns. Future budget requests are to include adequate funds for administrative costs.

−$150,000 from the $3,630,000 requested for the Office of the Secretary.

−$100,000 from the $2,373,000 requested for the Office of the Assistant Secretary for Congressional Affairs.

The conferees are concerned about the responsiveness of the Department of Veterans Affairs to Congressional inquiries regarding the implementation of the VERA system. The committee of conference directs the Department to communicate with Congress on the development of this new allocation system, as well as all other matters of interest, in a timely and informative manner. The conferees are particularly disturbed by the implementation of the VERA system within VISN 4. It is the understanding of the conferees that the VA failed to provide any information regarding the 40 different funding scenarios that were run in VISN 4 before deciding on a final allocation. Further, some hospitals within VISN 4 received allocations above their budget request, while some hospitals were targeted for cuts. The conferees are concerned that no satisfactory justification for this discrepancy has been provided. Additionally, the committee of conference understands that harsh and unfair personnel policies have been implemented in at least one hospital within VISN 4. The conferees emphasize that such activity will not be tolerated.

In an effort to address these issues, the conferees expect the Department to provide a full and detailed report, not later than December 15, 1997, to the Committees on Appropriations. This report should include but not be limited to: a complete explanation of the funding allocation within VISN 4, including all 40 funding scenarios in the Stars and Stripes Health Care Network, the specific methodology used to reach the final allocation within the VISN 4 network, a detailed justification for any funding increases or decreases provided to any hospital within VISN 4 throughout fiscal year 1997, and a detailed evaluation of the formulas and funding methodology used for the allocation of resources during fiscal year 1997.

Finally, the Secretary, the Assistant Secretary for Congressional Affairs, and the Under Secretary for Health are immediately to take appropriate action to ensure that the agency is more responsive to Congressional inquiries, and that responses to requests for information are timely and provide clear, specific, and forthcoming explanations. The committee of conference directs that $3,480,000 will be available for the Office of the Secretary, a reduction of $150,000 below the budget request. An amount of $2,273,000 will be available for the Office of the Assistant Secretary for Congressional Affairs, a $100,000 reduction below the budget request. The conferees direct that none of the reduction is to be applied to the Congressional liaison offices. An amount of $59,860,000 will be made available for the medical and miscellaneous operating expenses account, a decrease of $300,000 below the budget request. The total amount of these savings, $550,000, will be provided as an increase to the medical care account for providing health care to veterans.

Deletes language proposed by the House and stricken by the Senate enabling compensation and pension medical examinations to be directly funded from Veterans Benefits Administration resources. Such exams will continue to be funded from the medical care appropriation.

Inserts language proposed by the House and stricken by the Senate prohibiting the VA from proceeding with the relocation of loan guaranty divisions of the Regional Office in St. Petersburg, Florida to Atlanta, Georgia. The conferees do not believe the VA has adequately justified the proposed relocation. Any future relocation proposal should include a detailed cost-benefit analysis including comparison of savings for the cost of space and personnel.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

Adds technical change to the bill language for the Veterans Housing Benefit Program Fund Program Account facilitating the transition during fiscal year 1998 from the previous direct and guaranteed housing loan program accounts to the new appropriation. These provisions have recently been requested by the VA, but were not included in either the House or Senate bills.

CONSTRUCTION, MAJOR PROJECTS

Appropriates $177,900,000 for construction, major projects, instead of $159,600,000 as proposed by the House and $92,800,000 as proposed by the Senate. The conference agreement includes the following changes from the budget estimate:

+$26,300,000 for construction of an ambulatory care addition at the Asheville, North Carolina VA Medical Center.

+$21,100,000 for construction of an ambulatory care addition at the Lyons, New Jersey VA Medical Center.

+$7,700,000 for the ward renovations for patient privacy project at the Omaha, Nebraska VA Medical Center.

+$26,000,000 for the environmental improvements project at the Waco, Texas VA Medical Center.

+$4,000,000 for the columbarium component of the development and improvement project at the National Memorial Cemetery of Arizona. This amount is in addition to the $9,100,000 requested and included in the total for major construction for the development and improvement of this cemetery project.

+$12,400,000 for the patient privacy/environmental improvements project at the Pittsburgh, Pennsylvania VA Medical Center.

+$900,000 for planning of a new national cemetery in Oklahoma City, Oklahoma.

Inserts language proposed by the Senate making $32,100,000 earmarked in the 1997 Appropriations act for a replacement hospital at Travis Air Force Base available to implement the recommendations contained in the final report entitled ''Assessment of Veterans' Health Care Needs in Northern California,'' modified to make such funds generally available for major construction projects approved in the budgetary process. This $32,100,000 together with $38,700,000 provided in previous Appropriations Acts for the replacement for the hospital at Martinez, makes a total of $70,800,000 available for capital funding for construction projects in northern California. Instead of a replacement hospital to be built at David Grant Medical Center at Travis Air Force Base, the VA recommends capital funding for a project in northern California which consists of the following elements:

$48,000,000 to renovate and add to the existing McClellan Hospital at Mather Field, Sacramento, California, for VA inpatient and outpatient services.

$13,500,000 to construct a new VA outpatient clinic at Travis Air Force Base, Fairfield, California.

$3,100,000 to upgrade the existing outpatient clinic at the former Mare Island Naval Shipyard, Vallejo, California, for a VA outpatient clinic.

$3,200,000 to upgrade the existing VA outpatient clinic at Martinez, California, and

$3,000,000 to develop new VA outpatient clinics at Auburn, Chico, Eureka, and Merced, California.

In addition to these capital plans, the VA has reached agreement with the Department of Defense about the Air Force making available up to 100 beds at David Grant Medical Center to provide inpatient care associated with the VA outpatient clinic to be built there. The conferees understand that the VA will pursue contracting arrangements with community health care facilities in Martinez and Redding, California, to improve access to inpatient services for veterans in those areas.

The conferees agree with the utilization of the $70,800,000 in previously appropriated funds for the construction of facilities in northern California as proposed by the VA and outlined in this statement. The conferees agree with increasing to 100 the number of inpatient beds at Travis, and contracting the community health care facilities in Martinez and Redding for inpatient services. This plan will provide better access to health care services for the veterans in northern California and save funds.

The conferees recognize that the cost estimates are tentative and expect the VA to notify the Committees on Appropriations of any changes in the cost estimates for the individual components of this single project prior to proceeding to construction bid. The conferees also recognize that the majority of the plan requires authorization by the legislative committees, and anticipate that the construction authorization process will proceed in a timely manner so as to benefit veterans in northern California.

Deletes language proposed by the House and the Senate requiring the General Accounting Office to review and report on construction projects where obligations are not incurred within prescribed time limitations. The VA is still required to report all such delays in obligating major construction funds to the Committees on Appropriations.

CONSTRUCTION, MINOR PROJECTS

Appropriates $175,000,000 for construction, minor projects, instead of $176,500,000 as proposed by the House and $166,300,000 as proposed by the Senate. The amount provided includes funds for the following activities:

+$1,500,000 for the expansion of the existing National Cemetery in Mobile, Alabama.

+$1,500,000 to increase the number of niches at the columbarium at the National Memorial Cemetery of the Pacific by 5,000.

The conferees urge the VA to utilize the balance of the addition to increase funding for converting inpatient space to outpatient activities use.

The conferees note the recent request for approval of a reprogramming request of construction, major projects funds to complete the third floor of the Regional Office in Jackson, Mississippi. The proposed reprogramming request of $1,000,000 for the project in Jackson is approved.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

Appropriates $80,000,000 for grants for construction of State extended care facilities as proposed by the Senate, instead of $54,500,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS

Deletes language proposed by the House and stricken by the Senate in section 108 assuring that, upon enactment of legislation establishing the Medical Collection Fund, $579,000,000 shall be available for veterans medical care if a shortfall in recoveries in excess of $25,000,000 occurs. The enactment of authorizing legislation and language carried under the medical care appropriation provide such assurance. The committee of conference wishes to make clear that the VA is expected to take all actions necessary to meet or exceed the amount of funds projected to be collected.

Inserts language proposed by the Senate in section 108 restoring the authority of the VA to request waivers of the home residency requirement for doctors employed at VA medical facilities on J–1 visas.

Deletes language proposed by the Senate in section 109 limiting the use of the locality pay differential to provide a pay increase to an employee transferred as a result of charges of sexual harassment. The conferees wish to make clear that the VA Secretary is to take all appropriate steps to ensure that a ''zero tolerance'' policy toward sexual harassment is implemented in all VA facilities and offices, including the strongest possible sanctions against employees engaging in such practices.

Inserts language, section 109, extending the availability of previously appropriated funds for a capital lease. This administrative provision was not included in either the House or Senate bills. Without this language, certain funds for a multi-year capital lease would lapse and the VA would be required to, in effect, pay twice for the lease.

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

Appropriates $9,373,000,000 for the housing certificate fund instead of $10,393,000,000 as proposed by the House and $10,119,000,000 as proposed by the Senate. Of this amount, $8,180,000,000 is provided for expiring or terminated section 8 project-based and tenant-based subsidy contracts instead of $9,200,000,000 as proposed by the House and $8,666,000,000 as proposed by the Senate. Additionally, $850,000,000 is provided for section 8 amendments as proposed by the House instead of $1,110,000,000 as proposed by the Senate. Finally, $40,000,000 is earmarked for section 8 certificates and vouchers necessary to relocate any nonelderly, disabled persons and their families who choose to move from a project designated for elderly persons only, as proposed by the Senate, rather than $50,000,000 as proposed by the House. Language is included to make the requirements for using these funds more flexible. Additional language is included to clarify that eligible residents may receive section 8 enhanced vouchers, also known as ''sticky'' vouchers, if an owner of the property chooses to prepay the outstanding indebtedness as authorized under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (Preservation Program or LIHPRHA).

SECTION 8 RESERVE PRESERVATION ACCOUNT

The conferees agree to provide HUD with authority to maintain a section 8 Reserve Preservation Account for the purpose of collecting recaptured excess section 8 reserve funds.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The conferees agree to rescind $550,000,000 of recaptured section 8 reserve funds.

PUBLIC HOUSING CAPITAL FUND

The Senate proposed language setting aside funds for the Economic Development and Supportive Services (EDSS) program within the Public Housing Capital Fund. The conferees have instead included this language within the Community Development Block Grants (CDBG) account as proposed by the House. Language is added to the Public Housing Capital Fund account to clarify that HUD may spend up to $5,000,000 for the Tenant Opportunity Program as proposed by the Senate.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

Appropriates $310,000,000 for the Drug Elimination Grants program, including $20,000,000 for the ''New Approach Anti-Drug Program,'' instead of funding this new program with a $30,000,000 set-aside within the CDBG account, as proposed by the Senate. The House did not appropriate funds for this purpose.

The ''New Approach Anti-Drug Program'' authorizes HUD to make competitive grants to entities managing or operating public housing developments, federally assisted multifamily housing developments or other multifamily housing developments for low-income families supported by non-Federal governmental entities or nonprofits. The funds may be used to provide, augment, or assist in the investigation and/or prosecution of drug-related criminal activity in and around low-income housing, and to provide assistance for capital improvements directly related to security. The conferees note that none of the funds under this account should be used to reduce the local cost of and responsibility for law enforcement activities with Federal funding.

Appropriates $10,000,000 for the Office of Inspector General for Operation Safe Home as proposed by the House instead of $5,000,000 as proposed by the Senate.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

Appropriates $550,000,000 to revitalize severely distressed public housing as proposed by the Senate instead of $524,000,000 as proposed by the House. Of the total amount appropriated, $10,000,000 is provided for technical assistance as proposed by the Senate instead of $5,000,000 as proposed by the House. Additionally, as proposed by the Senate, a new demonstration to demolish obsolete elderly public housing projects is funded at $26,000,000 rather than $50,000,000 as proposed by the Senate, with a specific set-aside of up to $10,000,000 for Heritage House in Kansas City, Missouri.

The conferees direct HUD to provide an evaluation of the current status of the HOPE VI program and report to Congress by June 30, 1998. This report should identify and analyze public housing facilities which are eligible for funding as obsolete public housing under the new demonstration program, and should include recommendations on innovative approaches to revitalizing this housing so it meets the special needs of the elderly and the disabled. Finally, the conferees request HUD to advise the Congress on the current extent, status, and cost of deferred maintenance for the entire public housing stock, and to include recommendations on innovative ways for public housing agencies to address more effectively these maintenance needs through the Public Housing Capital Fund and through other funding sources and approaches.

NATIVE AMERICAN HOUSING BLOCK GRANTS

Appropriate $600,000,000 for Native American Housing Block Grants instead of $650,000,000 as proposed by the House and $485,000,000 as proposed by the Senate.

The conferees agree to provide $5,000,000 for the loan guarantee program authorized under section 601 of the Native American Housing Assistance and Self-Determination Act as proposed by the Senate. The House did not provide funds for this program. Like the Native American Housing Block Grants program, the section 601 program is less than one year old. The program was developed to provide Native Americans the ability to gain access to private investment and capital from financial institutions, builders, and nonprofits. This access is necessary if tribes are to improve their economic conditions and reduce housing shortages. At this time, however, few tribes have the financial expertise to utilize the section 601 program effectively. Therefore, for fiscal year 1998, HUD is directed to provide these funds on a demonstration basis to tribes that have experience with complex financial transactions and to study carefully their use so that lessons learned may be incorporated into regulations regarding implementation of this program throughout Indian areas.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

Appropriates $5,000,000 for the cost of guaranteed loans instead of $3,000,000 as proposed by the House and $6,000,000 as proposed by the Senate. This amount will subsidize total loan principal not to exceed $73,800,000.

CAPITAL GRANTS/CAPITAL LOANS PRESERVATION ACCOUNT

Appropriates $10,000,000 for Capital Grants/Capital Loans Preservation, instead of no funds, as proposed by the House. The Senate proposed to fund prepayments with any excess interest reduction payment funds and included additional reforms to the existing program.

To compensate organizations that incurred costs of appraisals and preparing plans of action, the conferees agree to provide $10,000,000. However, the conferees do not intend to imply that any costs associated with this program constitute an obligation of HUD. The award of close-out costs are to be determined in the sole discretion of the Secretary.

In addition, the conferees emphasize that adequate funding is provided under the section 8 contract renewal account to provide enhanced vouchers to eligible low- or moderate-income families residing in a federally-assisted project eligible for the Preservation program on the date of the prepayment of voluntary termination.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Includes language authorizing HUD to provide grants, of no more than $250,000, to nonprofit organizations that deliver meals to homebound persons who suffer from acquired immunodeficiency syndrome, as proposed by the House. The Senate did not include this provision.

COMMUNITY DEVELOPMENT BLOCK GRANTS

Appropriates $4,675,000,000 for the Community Development Black Grants program, instead of $4,600,000,000 as proposed by the House and Senate, to avert decreases in funding allocations that may be caused by the increased number of set-asides. For the Economic Development and Supportive Services Program, $55,000,000 is provided, including a set-aside of up to $5,000,000 for the Moving to Work program. Within the $55,000,000 provided for economic development and supportive services, the conferees have specified that no less than $7,000,000 shall be used for grant for service coordinators and congregate services for the elderly and disabled. The conferees understand this amount to be sufficient to renew all service coordinator and congregate services grants expiring in fiscal year 1998, and intend that all such grants be renewed except in cases where HUD has a specific reason (such as poor performance by the grantee or lack of continuing need) not to renew a particular grant. The conferees emphasize that the $7,000,000 is not a ceiling or target for spending on service coordinators and congregate services, but rather simply an absolute floor to ensure that sufficient funding is reserved for renewals before other allocations are made. The conferees consider service coordinators and other supportive services to be valuable tools for promoting self-sufficiency and improving the quality of life of elderly and disabled residents of public and assisted housing.

For grants pursuant to section 107, the conferees provide $32,000,000 instead of $25,100,000 as proposed by the House and $30,000,000 as proposed by the Senate, and $7,500,000 for the Community Outreach Partnership Program instead of $11,500,000 as proposed by the House and $12,500,000 as proposed by the Senate. Targeted set-asides within these accounts are moved to the Economic Development Initiative program.

Additionally, the conferees agree to appropriate $16,700,000 for grants to self-help housing provided pursuant to section 11 of the Housing Opportunity Program Extension Act of 1996, as proposed by the House; $35,000,000 for YouthBuild as proposed by the Senate rather than $30,000,000 as proposed by the House; and $15,000,000 for Capacity Building for Community Development and Affordable Housing, as authorized under section 4 of the HUD Demonstration Act of 1993, rather than $30,000,000 as proposed by the Senate. The House did not provide funds for this program. Language was included to limit these funds to the original grantees under section 4.

In providing $35,000,000 for YouthBuild, the conferees have demonstrated that they support the maintenance and expansion of the YouthBuild program. However, in order to promote a comprehensive approach for supporting and expanding YouthBuild, the Secretary is directed to coordinate with the Secretaries of Labor, Health and Human Services, and Education, and the Attorney General, as well as the Directors of School-to-Work Opportunities, the Corporation for National and Community Service, and the Job Corps, in conjunction with YouthBuild USA, in the development and implementation of a plan for expansion of YouthBuild. Youth Build is a comprehensive program that has relevance for all of these agencies.

Appropriates $138,000,000 for the Economic Development Initiative instead of $50,000,000 as proposed by the Senate and $40,000,000 as proposed by the House. Targeted grants are provided for the following special projects:

—$3,000,000 to the City of Highland, California, to redevelop the Fifth Street Bridge;

—$50,000 to the Cheltenham Township in Cheltenham, Pennsylvania, to restore the Cheltenham Park;

—$250,000 to the City of Jacksonville, Florida, for the Tallyrand Redevelopment Project;

—$15,000 to the Arab Police Department in Arab, Illinois, for the Multidepartmental Training Complex;

—$1,250,000 to the Stevens Institute of Business Technology in Hoboken, New Jersey, for the construction of the Laboratory for Business Innovation;

—$250,000 to the County of Inyo, California, to plan and design the Lower Ownes River project;

—$50,000 to Springfield Township, Pennsylvania, for the purpose of Springfield's park restoration;

—$400,000 for the National Center for Appropriate Technology in Butte, Montana, for the purpose of making improvements in the energy efficiency of low-income housing;

—$200,000 to Ohio Wesleyan University in Delaware, Ohio, for the purpose of renovating Edgar Hall;

—$1,000,000 to the Garden State Cancer Center in Belleville, New Jersey, for the purpose of diagnosis, detection, and treatment of cancer utilizing such radioimmunodetection and radioimmunotherapy technology;

—$250,000 to the County of San Bernardino, California, for economic development at Norton Air Force Base;

—$50,000 to the City of Norristown Borough in Norristown, Pennsylvania, for recreational park development and open space preservation;

—$500,000 to Olive Crest Homes and Services for Abused Children in Perris, California;

—$50,000 to Landsdale Borough in Landsdale, Pennsylvania, for recreational parks development and open space preservation;

—$200,000 to the National Afro-American Museum in Wilberforce, Ohio, for an educational training program;

—$150,000 to the City of San Diego, California, for the Beach Area Low Flow Storm Diversion program and safety needs;

—$1,000,000 to the World Congress on Information Technology in Fairfax, Virginia;

—$600,000 to the City of Kendleton, Fort Bend County, Texas, for the upgrading of the sewer and water system;

—$2,000,000 to the Long Island Jewish Medical Center in New Hyde Park, New York;

—$1,500,000 to the Southeastern Pennsylvania Consortium for Higher Education for the purpose of data collection applicable to social public policy;

—$50,000 to the Roslyn Boys and Girls Club in Roslyn, Pennsylvania, for the completion of renovations;

—$500,000 to the Clark County Heritage Center in Springfield, Ohio, for the purpose of acquiring, remodeling, and equipping the Old Marketplace;

—$1,350,000 to Buena Vista University in Buena Vista County, Iowa, for the Distance Learning Center for Community Outreach and Development;

—$1,000,000 to the City of Mandeville, Louisiana, to develop a trailhead along the Tammany Trace Rails-to-Trails;

—$2,000,000 to Goodwill Industries of Northeast Pennsylvania in Scranton, Pennsylvania, to renovate and convert the North Scranton Intermediate School into low-income elderly housing;

—$900,000 to the Museum of Science and Industry in Chicago, Illinois, for the purpose of restoring a U505 submarine;

—$1,750,000 to the Alliance Community Hospital in Alliance, Ohio, for the purpose of developing the Eldercare Complex;

—$250,000 to the Boys and Girls Club of Greater Washington, D.C., for the purpose of creating a Capitol Hill Youth Anti-Crime program;

—$450,000 to Rural Enterprises in the City of Durant, Oklahoma, for the purpose of assisting businesses in economically distressed rural areas;

—$350,000 to the Esperanza Community Housing Corporation, $250,000 to the Central American Resource Center, and $150,000 to the Little Tokyo Service Center in Los Angeles, California, for the purpose of implementing job training, career development, and affordable housing programs;

—$350,000 to the Plymouth Renewal Center in Louisville, Kentucky, for renovating and providing tutoring, counseling and training programs for at-risk youths;

—$500,000 to the City of Baldwinville, New York, for the purpose of participating in and revitalizing areas around the Canal Corridor Initiative;

—$1,000,000 for Pennsylvania Education and Telecommunications Exchange Network (PETE NET), for the purpose of developing a resource-sharing network;

—$2,000,000 to the Kentucky Highlands Investment Corporation in London, Laurel County, Kentucky, for the purpose of assisting start-up and expanding enterprises;

—$500,000 for Onondaga Community College, in Onondaga County, New York, for the Applied Technology Center;

—$1,500,000 to the Geyserville Visitors Center in Sonoma County, California, for the purpose of a visitors and intermodal transportation center;

—$1,135,000 to the Canaan Community Development Corporation in Louisville, Kentucky, for the purpose of promoting entrepreneurial opportunities in economically deprived areas;

—$500,000 for the Syracuse Community Health Center in Syracuse, New York, for the purpose of establishing accessible health care centers;

—$3,220,000 for enlarging and updating the Scarborough Library at Shepherd College in Shepherdstown, WV;

—$2,000,000 for the State of Maryland for brownfields activities in the Baltimore, MD metropolitan region;

—$2,000,000 for Ogden Utah, for the economic redevelopment of downtown Ogden, UT;

—$2,000,000 for the renovation of the Albright-Knox Art Gallery in Buffalo, NY;

—$400,000 for the completion of a regional landfill in Charles Mix County, SD;

—$2,500,000 for the construction of a building related to the Bushnell Theater in Hartford, CT;

—$2,500,000 for exhibit and program development at Discovery Place in Charlotte, NC;

—$600,000 for the development of the West Maui Community Resource Center in West Maui, HI;

—$1,350,000 for the renovation of the Paramount Theater in Rutland, VT;

—$250,000 for the Vermont Science Center in St. Albans, VT;

—$900,000 for the Lake Champlain Science Center in Burlington, VT;

—$350,000 for Rutland County Community Land Trust to restore low-income housing throughout the Rutland City, Vermont, area;

—$2,000,000 for the renovation of the Tapley Street Operations Center in Springfield, MA;

—$2,000,000 to develop abandoned industrial sites in the city of Perth Amboy, NJ;

—$2,500,000 to the New Mexico Office of Cultural Affairs for the New Mexico Hispanic Cultural Center;

—$400,000 for the Riverbend Research and Training Park in Post Falls, ID;

—$2,500,000 in total funding to the University of Missouri including $2,000,000 for the plant genetics research unit and $500,000 for the Delta Research Telecommunications Resource Center;

—$2,000,000 for the Cleveland Avenue YMCA in Montgomery, AL, to build a cultural arts center;

—$1,000,000 for Covenant House in Anchorage, AK;

—$80,000 to complete construction of the senior center in the city of East Providence, Rhode Island;

—$350,000 for Kids Bridge/New Jersey's Learning Museum to renovate a site in Red Bank, Monmouth County, New Jersey;

—$650,000 for the East Los Angeles Community Union (TELACU) to revitalize the economy of East Los Angeles, California;

—$1,000,000 to the Journey Museum in Rapid City, SD, for Native American and minority outreach program;

—$500,000 for infrastructure development in Puna, HI;

—$500,000 for a washeteria and related water facilities for Sheldon Point, Alaska;

—$1,500,000 for training facilities and equipment for Alaska One;

—$500,000 to Southwest Economic Development Community Development Corporation of Seattle, WA, for Rainer Valley Square;

—$500,000 for the completion of The CORE Center in Chicago, IL, a free-standing, specialized, outpatient, HIV and Infectious Disease Center;

—$1,000,000 for training facilities and equipment in the City of Jackson, Mississippi for a downtown multimodal transit center (phase II);

—$1,000,000 for the Carter County Chamber of Commerce for trade and development activities for Carter County, Montana;

—$500,000 for expansion of the community health center in Allendale, SC;

—$600,000 to University of New Orleans in New Orleans, LA, for Revitalization of Central Cities;

—$1,000,000 for Morgan State University in Baltimore, MD, for studies related to fields of science and mathematics;

—$2,000,000 for the expansion and start-up costs associated with the expansion of Hofstra University's Business Development Center;

—$1,000,000 for community development activities at LeClede Town in St. Louis, MO;

—$1,500,000 for the University of Colorado for its Health Sciences Center;

—$2,000,000 to the City of Compton, California, for revitalizing distressed areas;

—$700,000 for the Philadelphia Development Partnership for economic development in Philadelphia, PA;

—$700,000 for Lehigh Valley, PA, for the development of an aquatic and fitness center;

—$1,850,000 to Coastal Enterprises, Inc. of Wiscasset, Maine, for its economic development and rural housing programs;

—$550,000 to the Town of Easthampton, Massachusetts, for the purchase and refurbishment of a new senior center facility;

—$950,000 to Memorial Health Care, Inc. for establishment of the Community Health Care Center of Central Massachusetts in Worcester, Massachusetts;

—$950,000 to the Regional Center for Economic, Community, and Professional Development of the University of North Carolina at Pembroke, for construction of a centralized facility;

—$950,000 to the Turtle Mountain Community College in North Dakota, for completion of the Turtle Mountain Economic Development and Education Complex;

—$950,000 to the Ruskin Tropical Aquaculture Laboratory in Ruskin, Florida, for construction and equipment for a hatchery, nutrition laboratory and water quality laboratory;

—$500,000 to the to the City of Murfreesboro, Tennessee, for renovation work at the Bradley Academy;

—$450,000 to the City of Hobart, Indiana, for water and sewer line installation in the Green Acres subdivision;

—$2,400,000 to the Metropolitan Miami Action Plan to initiate the revitalization of the Overtown section of Miami, Florida;

—$1,400,000 to the City of Toledo, Ohio, for the continued revitalization of the downtown, near downtown corridor, and community service centers;

—$150,000 to ''Friends of George C. Marshall'' of Uniontown, Pennsylvania, for development of the George C. Marshall Memorial Plaza in Uniontown;

—$400,000 to the Eureka Coal Heritage Foundation, Inc. of Windber, Pennsylvania, for renovation of the Arcadia Theater;

—$200,000 to Barnesboro Borough, Pennsylvania, for construction of the West Branch Timber Pedestrian Bridge;

—$550,000 to the Indiana Free Library, Inc. of Indiana, Pennsylvania, to upgrade and renovate the Indiana Free Library;

—$1,200,000 to the Pacific Science Center in Seattle, Washington, for refurbishment and expansion;

—$500,000 to the California Science Museum Foundation in Los Angeles for planning and design of the Pacific Environmental Interactive Center;

—$400,000 to Chicanos Por La Causa for construction of a small business incubator facility in Phoenix, Arizona;

—$100,000 to the Urban League of Metropolitan St. Louis, Mo, for purchase and renovation of a building to house its Community Outreach Center;

—$50,000 to the Harambee Institute of St. Louis, Missouri, for purchase and renovation of an arts education facility;

—$100,000 to the St. Louis Black Repertory Company of St. Louis, Missouri, for purchase, expansion and renovation of a facility;

—$100,000 to Better Family Life, Inc. of St. Louis, Missouri, for construction of a new facility to expand existing school-based programs and cultural programs;

—$50,000 to the Portfolio Gallery and Educational Center of St. Louis, Missouri, renovation and expansion of its cultural arts training and education facility;

—$50,000 to the City of Wellston, Missouri, for revitalization of its city hall;

—$50,000 to the City of Kinloch, Missouri, to assist with the city's housing revitalization efforts;

—$400,000 to Columbia University in New York City for its Audubon Research Park;

—$100,000 to the Hebrew Academy for Special Children for its school in Rockland County, New York;

—$500,000 to Community Build, Inc. of Los Angeles, for development of a business incubator and technology center;

—$500,000 to Children's Hospital of Oakland, California, for construction of research and laboratory facilities as part of the Martin Luther King, Jr. Plaza project;

—$500,000 to Nazareth College of Rochester, New York, for library renovation, expansion and equipment;

—$500,000 to the to the Center for International Business Education at the University of San Francisco for a model program for training in international commerce, environmental management and business ethics;

—$500,000 for the Urban League of Greater Cleveland, Ohio, for programs in the area of employment, job training, education, housing, and/or elderly services;

—$500,000 for the Harvard Community Services Center of Cleveland, Ohio, to expand the intergenerational program involving youth and senior citizens;

—$300,000 to the Helen S. Brown Senior Citizens Center of East Cleveland, Ohio, to complete the renovation of the Center and for expansion of elderly services;

—$500,000 to Project East, Inc., DBA East Cleveland Straight Talk, of Shaker Heights, Ohio, for substance abuse counseling and prevention services;

—$500,000 to the Health and Education Institute of the Olivet Housing and Community Development Corporation of Cleveland, Ohio, for health and education initiatives and services;

—$600,000 to the City of Grafton, West Virginia, for economic development, community revitalization and housing-related activities;

—$350,000 to Preston County, West Virginia, to be distributed as follows: $175,000 for Arthurdale Heritage, Inc. and $175,000 for the Kingwood MainStreet program to pursue economic development, downtown revitalization, and historic preservation initiatives;

—$450,000 to the City of Parkersburg, West Virginia, for economic development and community revitalization efforts;

—$800,000 to the City of Lorain, Ohio, for health care conversion initiative at the site of the former St. Joseph's Hospital;

—$200,000 to the Hampton University Aviation Maintenance Training Learning Center of Hampton, Virginia, to continue the development of courseware central to the curriculum;

—$100,000 to the Diabetes Institute of Hampton, Virginia, to assist in the development of diagnostic and treatment protocols;

—$50,000 to the Hampton City Schools Achievable Dream Program in Hampton, Virginia; and

—$500,000 for the Callaway, Florida, Waste Water Expansion Program, to assist with the city's water separation and expansion plans.

Language is included providing that cleanup and redevelopment of areas deemed to be Brownfields are eligible activities under CDBG as proposed by the Senate, and to exempt a grant for Oglesby, Illinois, from the public comment waiting period for an environmental assessment as proposed by the House.

Language is included to create a new rural economic development program funded at $25,000,000 instead of $42,000,000 as proposed by the Senate. HUD is required to target up to $4,000,000 each to areas in Alaska, Missouri, and Iowa.

Additionally, $25,000,000 is included for a Neighborhood Initiative program to test whether housing benefits can be integrated more effectively with welfare reform initiatives. Of the amount made available, $15,000,000 is provided to the County of San Bernardino, California, to implement its neighborhood initiative program. The County of San Bernardino should work with the cities of San Bernardino, Highland, and Redlands in designing its initiative.

The conferees encourage HUD, when awarding the Neighborhood Initiative funds, to consider the following factors: 1) economic development strategies that utilize local community-based partnerships between businesses, non-profits and the public sector; 2) neighborhood revitalization efforts that integrate sustainable community and building design processes; 3) input by residents and other stakeholders; 4) creation of homeownership opportunities; 5) links between housing programs and welfare reform initiatives in the neighborhood; and 6) links between workforce development strategies and economic development strategies.

Finally, a new provision is included that limits the use of the $500,000,000 made available under the Community Development Block Grants account in the 1997 Emergency Supplemental Appropriations Act to not more than $3,500,000 for the non-Federal cost-share of a levee project at Devils Lake, North Dakota. The conferees direct that the remaining emergency CDBG funds originally allocated by HUD for this project be made available to the State of North Dakota for other emergency activities consistent with the intent of the Supplemental Appropriations and Rescissions Act of 1997 (Public Law 105–18). In addition, HUD is directed to provide the State of North Dakota with a waiver allowing it to use its annual CDBG allocation for any remaining portion of the non-Federal cost-share of this project. Finally, language is included that prohibits HUD from providing any additional waivers in excess of $100,000 in emergency CDBG funds for the non-Federal cost-share of projects funded by the Secretary of the Army through the Corps of Engineers.

This provision was added recognizing the serious risk of flooding facing the community of Devils Lake while addressing serious concerns that emergency CDBG funding has become an unregulated fund of Federal dollars which are allocated without regard to standard requirements or adequate oversight. The conferees are very concerned that the unregulated use of CDBG funds will lead to uses which are unintended and bear little relation to the broad requirements of the traditional CDBG program. The growth of costs and the increasingly broad uses for emergency activities associated with both the CDBG program and the Federal Emergency Management Agency programs are troubling to the conferees, especially because these costs threaten the ability of the VA/HUD Appropriations Subcommittees to fund adequately the other programs within their jurisdiction.

BROWNFIELDS REDEVELOPMENT

The conferees have included $25,000,000 to fund HUD's contribution to resolving Brownfields problems. This funding is to be used for activities eligible under the CDBG program. The conferees direct HUD to coordinate activities with other agencies responsible for environmental clean up activities and to provide the committees of jurisdiction with semi-annual reports describing coordinated efforts and an explanation of how this program, which has no specific authorization, will be implemented.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Appropriates $5,000,000 for empowerment zones and enterprise communities for planning purposes. The Senate proposed to fund the program at $25,000,000 and the House did not include funds for this purpose. The conferees expect HUD to develop guidelines for implementing this program.

Furthermore, HUD is directed to ensure that the ongoing evaluation by Abt Associates evaluates the performance of existing EZ/ECs. The study shall measure the success of existing EZ/ECs in meeting such objectives as job creation, reducing resident unemployment in the EZ/EC, and enhancing public safety. The study should provide recommendations for improving existing EZ/EC performance and crafting more effective guidelines for strategic plans for any possible future EZ/ECs.

HOME INVESTMENT PARTNERSHIPS PROGRAM

Appropriates $1,500,000,000 for the HOME program, as proposed by the House rather than $1,400,000,000 as proposed by the Senate. Of this amount, $20,000,000 is included for Housing Counseling as proposed by the Senate rather than $15,000,000 as proposed by the House, and $10,000,000 is included for a program to demonstrate ways to expand the secondary market for non-conforming loans as proposed by the House. The conferees underscore their intention that this demonstration focus solely on strategies to expand the secondary market for affordable home mortgage credit from private lenders. The conferees agree that participants in the demonstration should be selected on a competitive basis based on the criteria in the statute and contained in the House report. It is expected that the credibility and impact of the demonstration will be maximized to the extent that the Secretary awards priority in the selection process to organizations which have the following characteristics: 1) statewide or multi-state service areas; 2) sophisticated existing data collection capabilities, including adequate loan portfolio monitoring and analysis systems; 3) a demonstrated strong track record of leveraging public-sector funds for secondary market activities; and willingness to match funds awarded under this section with non-Federal funds; and 4) a mix between rural and urban loans.

HOMELESS ASSISTANCE GRANTS

Deletes language proposed by the Senate which allows HUD to transfer and merge any unobligated balances from Homeless programs into a consolidated account. This issue will be addressed when a consolidated homeless assistance program is authorized and enacted.

HOUSING PROGRAMS

HOUSING PROGRAMS FOR SPECIAL POPULATIONS

Includes language authorizing HUD to utilize amounts appropriated to these programs to provide supportive services as proposed by the Senate. The House did not include such language. The conferees believe it is appropriate that supportive services provided for persons who live in buildings financed with these funds should be paid for from these accounts rather than decreasing the scarce supportive services funds provided for families residing in public and assisted housing.

The conferees reaffirm report language contained in both House and Senate committee reports regarding the Office of Manufactured Housing, but have decided against providing a separate account for that program office.

FEDERAL HOUSING ADMINISTRATION

FHA-MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

Transfers not more than $12,112,000 from amounts derived from the FHA-MMI fund to the Office of Inspector General as proposed by the Senate instead of transferring $7,112,000 as proposed by the House.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

Appropriates $36,500,000 for research and technology related to housing issues instead of $39,000,000 as proposed by the House and $34,000,000 as proposed by the Senate.

The conferees have provided a set-aside of $500,000 from the Department's Research and Technology account for the National Academy of Public Administration (NAPA) to evaluate HUD's efforts to implement needed management systems and processes. Systems to be evaluated include contracting procedures, basic administrative organization, development of personnel requirements based on meaningful measures, and HUD's compliance with the Government Performance and Results Act. This set-aside augments $1,000,000 appropriated under the 1997 Emergency Supplemental Appropriations Act.

Currently, the General Accounting Office (GAO) and the HUD Inspector General (IG) are reviewing HUD's contracting requirements and implementation procedures; therefore, the conferees do not intend for NAPA to duplicate the GAO's and/or the IG's work. It is intended, however, that NAPA's study will complement the other reviews.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

Appropriates $30,000,000 for fair housing activities, $15,000,000 of which is for activities under the Fair Housing Initiatives Program (FHIP) as proposed by the House instead of $10,000,000 for FHIP as proposed by the Senate.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $1,000,826,000 for salaries and expenses instead of $1,005,826,000 as proposed by the House and $954,826,000 as proposed by the Senate. This modest decrease from the budget request is included to encourage the Secretary to be more forthcoming about providing information to Congress when it is requested.

HUD is undergoing Department-wide reorganization to improve delivery of services, management, and performance. The conferees agree that HUD must reorganize the manner in which it operates if it is to survive into the next century. It is the strongly held belief of the conferees that HUD must be in a position, both programmatically and operationally, to provide the highest level of opportunity for Americans to live in decent, safe and affordable homes.

The reorganization plan suggested by HUD involves consolidating offices and program functions. Additionally, the plan implements Congressional direction to decrease staff levels. Because these actions will change the manner in which HUD's services are provided, and where they are provided, Congress must be kept well-informed about how they are to be implemented, how they will impact Congressionally-mandated programs, and how they will affect services at a local level. Accordingly, the conferees direct HUD to provide the information listed below:

Submission Date:

January 15, 1998—1. Cost-benefit analysis of the newly created offices, including the Assessment Center, the Section 8 Center, and the Enforcement Center;

January 15, 1998—2. Schedule of events—rough estimate of dates for plan implementation, including when HUD will undertake and complete significant actions (i.e., new offices, staff moves);

Upon submission of President's Budget Request—3. Annualized funding projections needed to carry out the management plan;

January 15, 1998—4. Explanation of modernization and integration of financial/management information systems and how the systems will develop internal controls and improve HUD's ability to monitor and measure program performance;

January 15, 1998—5. Explanation of the resources (financial, information, staff) needed to effectively manage and operate HUD's core programs; and

Enactment of VA/HUD Appropriations Measure—6. Legal analysis of Dole Amendment applicability to HUD's reorganization plan.

The conferees support the emphasis and function of the Department's proposed Enforcement, Assessment, and Section 8 Centers and do not want to impede these much needed reforms. However, as the Management 2020 plan involves location decisions, including moving staff from Headquarters, until Congress is provided with the information listed above, and the committees of jurisdiction have had a reasonable opportunity to review and to comment upon this information, HUD is directed to take no significant actions that involve geographically relocating staff or entering into binding commitments for office space, as related to the three new proposed center locations: Namely, the Assessment Center, the Enforcement Center, and the Section 8 Center.

OFFICE OF INSPECTOR GENERAL

Appropriates $66,850,000 for the Office of Inspector General as proposed by the House instead of $57,850,000 as proposed by the Senate. Of this amount, $16,283,000 is transferred from various FHA funds as proposed by the Senate instead of $11,283,000 as proposed by the House and $10,000,000 is provided for Operation Safe Home as proposed by the House instead of $5,000,000 as proposed by the Senate.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

Appropriates $16,000,000 for the Office of Federal Housing Enterprise Oversight (OFHEO) rather than $16,312,000 as proposed by the House and $15,500,000 as proposed by the Senate. The conferees are concerned about OFHEO's growth as a bureaucracy instead of as an efficient regulatory office.

Additionally, the conferees encourage OFHEO to meet its primary statutory mission of establishing a balanced and effective risk-based capital standard for the Government Sponsored Enterprises (GSEs), as required under the Housing and Community Development Act of 1992.

ADMINISTRATIVE PROVISIONS

Several provisions included in either the House or Senate bills were not adopted by the conferees. Section numbers have been redesignated accordingly.

Section 201. Extends certain public and assisted housing reforms for this fiscal year, as proposed by the Senate. The House included language regarding minimum rents.

Section 203. Waives the requirement that the City of Oglesby, Illinois, have public hearings concerning an environmental assessment, under the Housing and Community Development Act of 1974, as proposed by the House.

Section 204. Extends a provision that provides an incentive for refinancing projects with FAF bonds to lower the cost of section 8 assistance, as proposed by the Senate.

Section 206. Reprograms $7,100,000 from an industrial park to be used for a Negro Leagues Baseball Museum and jazz museum, as proposed by the Senate.

Section 207. Prohibits prosecution of persons under the Fair Housing Act if the person is engaged in lawful activity, as proposed by the Senate.

Section 208. Requires HUD to maintain public notice and comment rulemaking, as proposed by the Senate.

Section 209. Authorizes cleanup and economic development of Brownfields as an eligible activity under the CDBG program, as proposed by the Senate.

Section 210. Permits partial payment of claims on hospital and health care facilities, as proposed by the Senate.

Section 211. Extends for one year the FHA single family streamlined downpayment program for Alaska and Hawaii as proposed by the Senate. In addition, the conferees direct HUD to study the proposal to streamline the FHA downpayment formula and to explain its impact on the continental United States. The study should examine how the proposed downpayment formula would favorably or adversely affect each State, how it would impact the FHA insurance fund, whether it would improve homeownership opportunities for low- and moderate-income families, and whether it would cause inappropriate competition by the FHA with mortgage insurance companies. The study should be completed by March 1, 1998.

Section 212. Includes language to provide flexibility for a HOPE VI project in New York, as proposed by the Senate.

Section 213. Includes language to provide HUD with flexibility to make rehabilitation grants and loans in disposing of HUD-owned and HUD-held properties, as proposed by the Senate.

Section 215. Includes language to provide financing alternatives to enhanced vouchers in certain section 236 projects.

Section 216. Includes language making a technical correction to the nursing home insurance program.

Section 217. Includes language to preserve funding for existing HOPWA grantees in the State of Wisconsin to correct an anomaly in the formula which can result in the loss of funds for a state when incidence of AIDS in a large city increases. The conferees reaffirm the direction included in the House report for HUD to examine all problems caused by the existing HOPWA formula and recommended improvements.

Section 218. Includes language to cancel the principal and interest due on HUD-guaranteed water and sewer bonds issued by the Village of Robbins, Illinois.

TITLE III—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

Appropriates $26,897,000 for salaries and expenses as proposed by the House, instead of $23,897,000 as proposed by the Senate.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

Appropriates $4,000,000 for the Chemical Safety and Hazard Investigation Board as proposed by the Senate. The House had provided no funding for the Board.

The funding provided for fiscal year 1998 will permit the Board to begin start-up operations, including the hiring of up to 20 employees through the fiscal year. While the conferees have agreed to provide funding for the Board, they nevertheless remain concerned that the operational costs not become excessive over the next few years. Rather, the conferees expect the Board to make careful, deliberate decisions with respect to the growth and expansion of both operations and staff. The conferees anticipate that a substantial increase in appropriations in the next few years will not be feasible.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

Appropriates $80,000,000 for the Community Development Financial Institutions Fund, instead of $125,000,000 as proposed by the House. The Senate did not provide an appropriation for this account. The conferees have also included in the bill, language restricting the rate of consultants hired by the Fund.

The conferees are aware of and share concerns raised regarding implementation of the

program. The conferees recognize and commend the Department of the Treasury for taking significant steps in recent months to improve systems, procedures, and policies. The conferees agree that action should be taken to ensure, among other things, that: (a) appropriate and timely documentation is provided for the awards process and the evaluation and selection of applicants to receive assistance; (b) all successful applicants are selected pursuant to uniform standards using an objective evaluation system; (c) no individual involved in the evaluation and selection of applicants has a conflict or apparent conflict of interest; (d) none of the funds provided for this program are used for contracts for management or policy consulting services, except for contracts entered into in accordance with federal acquisition regulations with firms having recognized management or policy consulting expertise, or with individuals or firms having recognized expertise in community development lending or investing or services related to review of applications for grants and other awards from the Fund; and (e) ensure sound and impartial administration. The conferees urge the Department to remain diligent in working on systems to ensure proper accountability and management of the Fund's programs.

In place of the General Accounting Office report requested by the Senate, the conferees agree that the GAO should conduct a review of the CDFI program and report to the Congress on the implementation and effectiveness of the program in achieving its goals and objectives.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

Appropriates $45,000,000 for the Consumer Product Safety Commission as proposed by the Senate instead of $44,000,000 as proposed by the House.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

Appropriates $425,500,000 for national and community service programs operating expenses, instead of $200,500,000 as proposed by the House and $420,500,000 as proposed by the Senate.

Limits funds for administrative expenses to not more than $27,000,000, instead of $29,000,000 as proposed by the House and $25,000,000 as proposed by the Senate. This amount includes funds necessary to administer the National Service Trust.

Limits funds for educational awards to not more than $70,000,000, of which not to exceed $5,000,000 shall be available for national service scholarships for high school students performing community service, instead of $69,000,000 and $10,000,000, respectively, as proposed by the House and $59,000,000 and zero, respectively, as proposed by the Senate. The amount for educational awards is higher than the amount in either the House or Senate bill and results from the increase in funding for AmeriCorps grants. The conferees request that the Corporation provide to the Committees on Appropriations a report by June 30, 1998, on the feasibility of privatizing the National Service Trust, including the costs of privatization and recommendations on how privatization could be implemented.

Limits funds for AmeriCorps grants to not more than $227,000,000, instead of $201,000,000 as proposed by the House and $215,000,000 as proposed by the Senate.

Inserts language limiting funds for national direct programs to not more than $40,000,000 as proposed by the Senate. The House did not propose a limitation on national direct programs.

Deletes language proposed by the Senate earmarking $20,000,000 of the appropriation for the America Reads Initiative. The House did not propose such an earmarking. The conference agreement includes $25,000,000 for literacy and mentoring activities.

Deletes language proposed by the Senate restricting other funds available to the Corporation from being used for personnel compensation and other administrative expenses of certain offices. The House did not propose such language. While the conferees are providing this additional flexibility, the Corporation is expected to provide a detailed explanation in the operating plan on how it plans to coordinate the use of administrative funds from any other agency, office or source to administer its operations.

OFFICE OF INSPECTOR GENERAL

Appropriates $3,000,000 for the office of Inspector General as proposed by the Senate, instead of $2,000,000 as proposed by the House.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Appropriates $9,319,000 for salaries and expenses as proposed by the House, instead of $9,320,000 as proposed by the Senate.

ENVIRONMENTAL PROTECTION AGENCY

Appropriates $7,363,046,000 for the Environmental Protection Agency for fiscal year 1998 instead of $7,205,077,000 as proposed by the House and $6,975,920,000 as proposed by the Senate. The conferees note that the budget agreement between the Congress and the Administration called for the ''operating programs'' of the Agency to be funded at a level totaling just over $3,400,000,000. The funding provided for these operating programs in this agreement totals nearly $3,350,000,000, thus meeting the spirit of this agreement.

As in past years, the conferees agree that the Agency must limit transfers of funds between programs and activities to not more than $500,000, except that for the Environmental Programs and Management account only, the Agency may transfer funds of not more than $500,000 between programs and activities without prior notice to the Committees, and of not more than $1,000,000 without prior approval of the Committees. No changes may be made to any account or program element, except as approved by the House and Senate Committees on Appropriations, if it is construed to be policy or a change in policy. Any activity or program cited in the joint explanatory statement of the committee of conference shall be construed as the position of the conferees and should not be subject to reduction or reprogramming without prior approval. It is the intent of the conferees that all carryover funds in the various appropriations accounts are subject to normal reprogramming requirements as defined herein.

SCIENCE AND TECHNOLOGY

Appropriates $631,000,000 for science and technology instead of $629,223,000 as provided by the House and $600,000,000 as provided by the Senate. The conferees have included new bill language which provides $49,600,000 for a particulate matter research program in lieu of language contained in the House bill.

The conferees have agreed to the following increases to the budget request:

1. $1,250,000 for continuation of the California Regional PM 10&2.5 air quality study.
2. $2,500,000 for EPSCoR.
3. $500,000 for continuation of a study of livestock and agricultural pollution abatement at Tarleton State University.
4. $3,000,000 for the Water Environment Research Foundation.
5. $2,000,000 for continued research on urban waste management at the University of New Orleans.
6. $1,300,000 for continued oil spill remediation research at the Louisiana Environmental Research Center at McNeese State University.
7. $2,000,000 for the Mickey Leland National Urban Air Toxics Research Center. The conferees recognize the value of the air toxics research supported by the Mickey Leland National Urban Air Toxics Research Center in Houston, Texas. However, the conferees are aware that the Center has developed its own method to fill vacancies on the Board of Directors. Because the appointment of the Board of Directors provides for Congressional oversight and assures the continued success of the Center and its undertakings, it is the intent of the conferees that the Leland Center immediately revise its method of appointment of Directors consistent with law and with the original Congressional intent regarding appointment of Directors.
8. $4,000,000 for the American Water Works Association Research Foundation, including $1,000,000 for continued research on arsenic.
9. $3,000,000 for the National Decentralized Water Resource Capacity Development Project, in coordination with EPA, for continued training and research and development.
10. $1,500,000 for the Integrated Petroleum Environmental Consortium project, to be cost-shared.
11. $1,750,000 for continued research at the Environmental Lung Center of the National Jewish Medical and Research Center in Denver.
12. $6,000,000 for continued research of the Salton Sea, including $1,000,000 to the University of Redlands and $5,000,000 for the Salton Sea Authority.
13. $2,000,000 for research on treatment technologies relating to perchlorate within the Crafton-Redlands Plume, to be conducted through the East Valley Water District, California.
14. $2,000,000 for the Lovelace Respiratory Institute to establish a National Environmental Respiratory Center to coordinate research and information transfer.
15. $1,000,000 for the Center for Air Toxic Metals at the Energy and Environmental Research Center.
16. $1,000,000 for the Texas Regional Institute for Environmental Studies to identify and test new cost-effective environmental restoration technologies.
17. $1,000,000 for the Institute for Environmental and Industrial Science to develop new technologies for controlling radioactive waste, solid waste, and other emissions.
18. $500,000 for the clean air status and trends network.
19. $1,500,000 for Johns Hopkins University's School of Hygiene and Public Health to establish a National Center for Environmental Toxicology and Epidemiology.
20. $1,000,000 to establish the Center for Estuarine and Coastal Ocean Environmental Research to coordinate and further ongoing coastal and environmental research being conducted at the University of South Alabama.
21. $2,000,000 for continuation of an initiative to transfer technology developed in the federal laboratories to meet the environmental needs of small companies in the Great Lakes region, to be accomplished through a NASA-sponsored Midwest regional technology center working in collaboration with an HBCU from the region.
22. $6,000,000 for the Mine Waste Technology Evaluation Program and Berkeley pit integrated demonstration activities through the National Waste Technology Testing and Evaluation Center.
23. $1,500,000 to support external research on Pfiesteria. The conferees are concerned about the recent rash of fish killings and

human sickness due to a marine biotoxic outbreak labeled Pfiesteria, in east coast waterways. In complementing current local and state efforts, the conferees direct a national research program that would evaluate competitive, peer-reviewed proposals to understand the causes, mechanisms, and health and environmental effects of Pfiesteria. Additional funding is appropriated in the environmental programs and management account.

The conferees have agreed to the following reductions from the budget request:

1. $5,078,000 from the Climate Change program.
2. $6,218,000 from the Global Change program.
3. $2,000,000 from the Advanced Measurement Initiative.
4. $8,000,000 from the new Environmental Monitoring for Public Access and Community Tracking program.
5. $5,000,000 from graduate academic fellowships.
6. $7,000,000 from advanced funding of a planned fiscal year 1998 lease requirement and savings due to a rate recalculation for the Working Capital Fund.
7. $21,273,400 as a general reduction.

The conferees are aware that orimulsion, a mixture of bitumen and water, is being considered for generating electricity in the United States. While orimulsion has been used in several countries including Japan, China, Italy and Canada's maritime provinces, it has not been utilized within the United States. Because little is known about the risks associated with the introduction of this new product, the conferees direct EPA to initiate a research activity to provide better scientific data on the qualities and characteristics of this product and the potential environmental impact of its introduction.

In addition to the funds specifically provided for perchlorate research within the Crafton-Redlands Plume, the conferees direct the Agency to work with the Department of Defense, the National Institute of Environmental Health Sciences, and other appropriate federal and state agencies to, (1) assess the state of the science on the health effects of perchlorates on humans and the environment and the extent of perchlorate contamination of our nation's drinking water supplies, and, (2) make recommendations to the House and Senate Committees on Appropriations within six months of enactment of this Act on how this emerging problem might be addressed.

The conferees note the important ongoing research activities at EPA to develop a comprehensive view of the air quality impacts resulting from swine confinement operations. The EPA is directed to coordinate these research activities working in conjunction with those efforts currently underway at the Agricultural Research Service and with other public and private research efforts.

Following consultation with the Environmental Protection Agency, the National Academy of Sciences, and numerous scientific and research and stakeholder groups, the conferees have developed a mechanism which, when implemented, will go far toward increasing the breadth of knowledge and filling research gaps regarding the potential health effects of fine particulate matter (PM). The recommendation of the conferees is meant to build on the research which has already been planned, is underway, or has been completed by EPA, NIEHS, NAS, HEI, and numerous other public and private entities, and its success will rely on the hard work and continued good will of all interested parties.

Although EPA recently issued a revised standard for PM, the Agency also indicated the standard will have no regulatory impact until after the next National Ambient Air Quality Standards (NAAQS) review, currently planned for 2002. The conferees believe a unique opportunity now exists to put into place the mechanism to establish a comprehensive, peer-reviewed, near- and long-term research program which will benefit both the Legislative and Executive branches in decision-making activities regarding PM in the coming years.

To this end, the conferees have included bill language which specifically provides $49,600,000 for particulate matter research, and further provides that within 30 days of enactment of this Act, EPA shall enter into a contract or cooperative agreement with the National Academy of Sciences (NAS) to develop a comprehensive, prioritized, near- and long-term particulate matter research program, as well as a plan to monitor how this research program is being carried out by all participants in the research effort. The conferees intend the NAS to develop a near-term research plan within four months of execution of the contract with EPA, and expect a long-term plan to be completed within twelve months of execution of the contract. Both plans should be developed on as close to a consensus basis as is practicable following consultation and comprehensive discussions with, but not limited to, representatives of the EPA, the National Institute of Environmental Health Sciences (NIEHS), the Department of Energy (DOE), and the National Oceanic and Atmospheric Administration (NOAA), as well as representatives from such organizations as the Health Effects Institute (HEI), the North American Research Strategy for Tropospheric Ozone (NARSTO), the Chemical Industry Institute of Technology (CIIT), the Lovelace Inhalation Toxicology Research Institute, the American Lung Association, the Electric Power Research Institute (EPRI), EPA's Science Advisory Board and Clean Air Scientific Advisory Committee, and other qualified personnel representing government, industry, and the environmental community. Upon completion of the research plans, the NAS shall simultaneously provide copies to the Congress, to EPA, and to all participating parties.

It is the intention of the conferees that the plan is to be the principal guideline for the Agency's particulate matter research program over the next several years. The conferees expect the Agency to implement the plan, including the conduct of appropriate peer review and the distribution of intramural and extramural funds, in a manner which assures that research as determined in the plan will proceed in an orderly and timely fashion, and according to the priority basis outlined by NAS. The conferees also expect the NAS to monitor the implementation of the research plan and periodically report to the Congress as to the progress of the NAS plan. Should EPA, after its own analysis, disagree with any research topic or priority ranking as determined in the plan, or with any other aspect of the plan, the conferees direct the Agency to provide the Congress with a detailed analysis of such a disagreement, as well as with a description of what the Agency proposes in lieu thereof. EPA is expected to move forward immediately with its PM research program as outlined in the fiscal year 1998 budget submission. Upon delivery of the NAS research plan, however, the conferees expect the Agency and other federal entities as listed above to review their ongoing particulate matter research activities and, where appropriate, re-focus such activities so as to be consistent with the NAS research plan. The funds provided above the budget request should be targeted to filing research gaps outlined by NAS and not already planned for fiscal year 1998.

In administering the research plan, the conferees expect the Agency to be responsible for the timely announcement of all requests for research proposals, for the thorough review of such proposals, and for the granting and auditing of all funds to conduct such research proposals. Given the importance of developing and publishing as much new research as possible prior to the next NAAQS review planned for PM, the Agency should take every step possible to expedite the delivery of available research funds for both intramural and extramural recipients. Moreover, in the making of specific grants or, in the case of other governmental agencies, a cooperative research agreement pursuant to the research plan, the Agency should be mindful of the various talents and expertise of each of the aforementioned organizations or other research grant applicants may have so as to maximize to the greatest extent possible the quality of the research that is to be conducted.

The conferees understand that the most immediate, or ''near-term'' PM research needs include, but are not limited to, topics such as toxicological and biological mechanisms, source apportionment, human exposure assessment and monitoring, ambient measurement methods, and epidemiology. NAS is thus expected to focus on these as well as other high priority topics as part of its near-term research plan.

In addition, up to $8,000,000 of the funds provided herein are to be used to create up to five university-based research centers focused on PM-related environmental and health effects. EPA will select these centers through a competitive peer review process and will ensure consistency with the final research plan formulated by the process outlined above. The centers program is intended to help address the most pressing unanswered questions involved in the air particulate field. A governing criterion for the selection of the proposed centers should be their ability to bring together bio-medical and public health scientists, engineers, environmental scientists, economists, and policy analysts as part of a coordinated and comprehensive data analysis and research effort.

The conferees direct that, prior to completion of the research plan, adequate funds be made available to support on ongoing effort to conduct a thorough inventory of all federal and non-federal research on particulate matter, to initiate key term research, and to conduct a thorough reanalysis of all key long-term studies relating to particulate matter. Priority in the award of grants as outlined in the preceding sentence should be given to organizations which are established independent research institutes funded in partnership with EPA.

Finally, the conferees expect that all research data resulting from this funding will become available to the public, with proper safeguards for researchers' first right of publication, for scientific integrity, for individuals participating in studies, for proprietary commercial interests, and to prevent scientific fraud and misconduct.

The issue of the new particulate matter standards as outlined by EPA in July of this year, and the potential regulations that may result from these new standards, has resulted in an emotional and politically charged debate principally on the potential economic impacts of regulations based on the new standard. What has unfortunately been diminished in these debates is the almost universal recognition that considerable scientific questions relative to particulate matter remain to be answered. The conferees recognize that while reasonable people may differ as to the interpretation of the facts and that different policy judgments may be arrived at, sufficient facts are not yet available to proceed with future regulations for a

new particulate standard. The conferees note that this may be the only realistic opportunity to enlist the support of both the public and private sectors to maximize the use of science so as to better determined the answers that will some day guide future regulatory actions regarding particulate matter.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

Appropriates $1,801,000,000 for environmental programs and management as proposed by the Senate instead of $1,763,352,000 as proposed by the House.

The conferees have agreed to the following increases to the budget request:

1. $2,500,000 for the Michigan Biotechnology Institute for continued development of viable cleanup technologies.

2. $900,000 for the Lake Wallenpaupack, Pennsylvania environmental restoration project.

3. $372,000 for the Saint Vincent watershed environmental restoration project.

4. $500,000 for continued activities of the Small Business Pollution Prevention Center at the University of Northern Iowa.

5. $1,000,000 for the National Estuary Program, including $400,000 for Barnegat Bay. In addition, the conferees note their support for the full budget request for the Agency's South Florida/Everglades initiative, including funding for the EPA office in South Florida.

6. $2,372,000 for the Great Lakes Program. Included in the total program level is $14,700,000 for the Great Lakes National Program Office.

7. $250,000 for design for a non-indigenous species dispersal barrier in the Chicago shipping and sanitary canal pursuant to Sec. 1202 of the National Invasive Species Act, to be cost-shared.

8. $500,000 for continued work on the Ohio River watershed pollutant reduction program, including a study of dioxin levels in the Basin, to be cost-shared.

9. $2,000,000 for continuation of the Sacramento River Toxic Pollution Control Project, to be cost-shared.

10. $2,500,000 for a water reuse demonstration project in Yucca Valley ($800,000) and a groundwater treatment demonstration project in 29 Palms ($1,700,000), California.

11. $700,000 for ongoing activities at the Canaan Valley Institute.

12. $3,000,000 for the Southwest Center for Environmental Research and Policy (SCERP).

13. $4,000,000 for the National Institute for Environmental Renewal to establish a regional environmental data center, and to develop an integrated, automated water quality monitoring and information system for watersheds impacting the Chesapeake Bay.

14. $500,000 for continuation of the Small Water Systems Institute at Montana State University.

15. $5,325,000 for rural water technical assistance activities and groundwater protection bringing the total program to $13,325,000 with distribution as follows: $8,200,000 for the National Rural Water Association; $2,100,000 for Rural Community Assistance Program; $400,000 for the Groundwater Protection Council; $1,550,000 for Small Flows Clearinghouse; $1,000,000 for the National Environmental Training Center; and $75,000 for the National Groundwater Foundation.

16. $2,000,000 for an environmental education center in Highland, California.

17. $3,000,000 for continuation of the New York and New Jersey dredge decontamination project.

18. $1,000,000 for continued work on the water quality management plan for the Skaneatles, Otisco and Owasco Lake watersheds.

19. $400,000 for continued work on the Cortland County, New York aquifer protection plan.

20. $300,000 for the NAS to conduct a study of the effectiveness of EPA's inspection and maintenance programs.

21. $400,000 for a non-profit organization to implement an action plan to accelerate the international phase-out of leaded gasoline.

22. $2,000,000 for the creation of five small public water system technology assistance centers pursuant to section 1420(f) of the Safe Drinking Water Act, as amended.

23. $500,000 for a waste water reuse study in the Victorville, California area.

24. $3,400,000 for Lake Weequahic cleanup efforts ($3,000,000) and water quality initiatives at Lake Hopatcong ($400,000), New Jersey.

25. $1,000,000 ($500,000 each) for small public water system technology centers at the University of Missouri-Columbia and at Western Kentucky University.

26. $3,000,000 to continue the demonstration project involving leaking fuel tanks in rural Alaska villages.

27. $250,000 for the Nature Conservancy of Alaska for protection of the Kenai River watershed.

28. $1,250,000 to continue the onsite wastewater treatment demonstration program through the Small Flows Clearinghouse, including efforts initiated last year in flood-ravaged areas.

29. $2,000,000 for the New York City watershed protection program.

30. $500,000 for the Treasure Valley hydrologic project.

31. $2,500,000 for the King County, Washington molten carbonate fuel cell demonstration project at the Renton wastewater treatment plant.

32. $$800,000 for the National Center for Vehicle Emissions Control and Safety to establish an On-Board Diagnostic Research Center.

33. $500,000 to continue the Compliance Assistance Center for Painting and Coating Technology.

34. $200,000 to complete the cleanup of Five Island Lake.

35. $500,000 for the Ala Wai Canal watershed improvement project.

36. $400,000 for the Maui algal bloom project.

37. $100,000 for the Design for the Environment for Farmers Program to address the unique environmental concerns of the American Pacific area and the need to develop and adopt sustainable agricultural practices for these fragile tropical ecosystems.

38. $1,500,000 for the Lake Champlain management plan.

39. $600,000 for the final year of funding for the solar aquatic wastewater treatment demonstration in Burlington, Vermont, to be cost-shared.

40. $1,000,000 for the Alabama Department of Environmental Management to coordinate a model water/wastewater operating training program.

41. $150,000 to establish a regional training center at the Kentucky Onsite Wastewater Center.

42. $550,000 for the Idaho water initiative.

43. $1,750,000 for the Three Rivers watershed protection demonstration project, to develop an overall master plan to eliminate more than 40 separate sanitary sewer overflows in the Three Rivers area of Allegheny County, Pennsylvania.

44. $750,000 to continue the Resource and Agricultural Policy Systems program.

45. $1,250,000 for the design of an innovative granular activated carbon water treatment project in Oahu.

46. $2,000,000 for the Food and Agricultural Policy Research Institute's Missouri Watershed Initiative project to link economic and environmental data with ambient water quality.

47. $1,500,000 for the National Alternative Fuels Training program.

48. $300,000 for the California Urban Environmental Research and Education Center.

49. $1,000,000 to continue the implementation of a wetlands-based potable water reuse program for the City of West Palm Beach.

50. $700,000 for the Long Island Sound office.

51. $2,000,000 for the University of Missouri Agroforestry Center to support the agroforestry floodplain initiative on a partnership basis.

52. $300,000 for the Northeast States for coordinated air use management.

53. $750,000 for the Chesapeake Bay Program to initiate a small watershed grants program for the implementation of cooperative tributary basic strategies that address the Bay's water quality and living resource needs.

54. $1,300,000 for environmental justice small community grants, bringing the total program to $2,000,000.

55. $240,000 for the water quality testing program along the New Jersey and New York shorelines.

56. $1,000,000 for the Soil Aquifer Treatment research program for indirect potable reuse of highly treated domestic wastewater being conducted in Arizona and California.

57. $1,500,000 for wastewater training grants under section 104(g) of the Clean Water Act.

58. $2,000,000 for the National Academy of Public Administration to design and manage a series of independent evaluations of recent EPA initiatives to improve the effectiveness and efficiency of EPA activities. These studies shall also assess how lessons learned can be built into ongoing agency programs. The conferees note that EPA has yet to develop a program evaluation capacity, a critical element of meeting the requirements of the Government Performance and Results Act and ensuring the most effective allocation of resources. EPA is to enter into an agreement with NAPA within 90 days, so that the reports may be made available to the Congress within two years.

59. $1,500,000 to support response and monitoring efforts, public information functions, and cross-Agency coordination and analysis to address the causes, mechanisms, and health and environmental effects of Pfiesteria, as described in the Science and Technology account.

60. $400,000 to continue efforts to ensure smooth implementation of notification of lead-based paint hazards during real estate transactions through the Alliance to End Childhood Lead Poisoning.

The conferees have agreed to the following decreases from the budget request:

1. $693,000 from managerial support within the Office of the Administrator.

2. $1,000,000 from GLOBE.

3. $9,000,000 from the Montreal Protocol Multilateral Fund.

4. $54,000,000 from Climate change action plan programs.

5. $5,500,000 from Office of Enforcement and Compliance Assurance programs. No reduction is to be applied to compliance assistance activities.

6. $1,734,000 from the Office of International Activities global and regulatory environmental risk reduction program.

7. $10,000,000 from the new environmental monitoring for public access and community tracking program.

8. $10,107,000 from specific reinvention programs.

9. $3,900,000 from the new Urban Livability program.

10. $10,000,000 from the increase requested for sustainable development challenge grants.

11. $2,000,000 from rental costs.

12. $55,115,900 as a general reduction.

The conferees note that full funding has been provided for the Chesapeake Bay Program including $833,000 for atmospheric deposition research activities.

The conferees are concerned with the Agency's perceived inflexibility regarding the implementation of the enhanced vehicle emissions and inspection programs in a number of states. Despite passage of the National Highway System Designation Act of 1995 which included language stating that, ''the Administration shall not require adoption or implementation by a state of a test-only I/M 240 enhanced vehicle inspection and maintenance program,'' EPA has until very recently required that states using equipment other than I/M 240 perform mass emission transient testing (METT) on 0.1% of their affected vehicles, yet has only approved I/M 240 equipment to conduct the METT. It was the intent of Congress to prohibit the mandating of I/M 240 for any purpose, whether for emission testing or evaluation testing. Therefore, it is expected that the Agency will resolve this issue with the affected states and develop a non-METT test consistent with Congressional intent. The Agency is urged to develop alternatives which, as required by the Clean Air Act, are based on data collected during inspection and repair of vehicles. The alternatives also should be seamless to the customer and not result in increased costs to the customer or service station owner, and also not result in a direct or indirect penalty to the state that is not using METT. In the event that the Agency does not develop a non-METT evaluation method, the conferees would expect to address this issue in legislation.

The conferees continue to note their serious concerns regarding the new National Pollutant Discharge Elimination System (NPDES) general permit recently proposed by EPA's Region IV. This issue was raised in the House Report accompanying H.R. 2158, and it appears the Agency has done little to address the concerns raised in that document. The conferees therefore direct EPA's Region IV to adopt an NPDES general permit for offshore oil and gas extraction which is substantially similar in its terms and conditions to that adopted and used successfully by EPA's Region VI.

The conferees are aware that recent testing conducted at Lake Tahoe has shown abnormal amounts of volatile compounds, including benzene, toluene, and xylene. The conferees recommend that EPA consider conducting an analysis and produce a report detailing the actual levels of contaminants, sources, and recommendations to protect this resource.

The conferees urge that EPA's recently announced stakeholder process for the section 313 program be expeditiously undertaken and that the recommendations be adopted prior to the filing of any reports required under the recent expansion of the program. EPA should dedicate the necessary resources to ensure this process can develop materials and procedures that will simplify the reporting burden, especially for small businesses, while also improving the ability to communicate information to the public.

The conferees direct the EPA Administrator to consider for funding the NUI proposal for a large-scale demonstration pilot project in correlation with the dredging contamination technology effort currently underway at Brookhaven National Laboratory.

OFFICE OF INSPECTOR GENERAL

Appropriates $28,501,000 for the office of inspector general as proposed by the House instead of $28,500,000 as proposed by the Senate.

BUILDINGS AND FACILITIES

Appropriates $109,420,000 for buildings and facilities instead of $182,120,000 as proposed by the House and $19,420,000 as proposed by the Senate.

For the new, consolidated research facility at Research Triangle Park, North Carolina, the conferees have agreed to an additional funding component for fiscal year 1998 of $90,000,000. The Agency has indicated this level of funding is sufficient to continue ongoing planning and construction as scheduled throughout the fiscal year. The conferees have also included bill language which raises the authorized construction cost ceiling for this project to $272,700,000. This level of authorization is necessary to permit the construction of the building—including the high bay facility, the computer center, and the child care center—as originally designed. Prior to the expenditure of funds relative to these three facilities, however, the Agency is directed to provide a cost/benefit analysis which justifies their inclusion as proposed in the original construction plan.

HAZARDOUS SUBSTANCE SUPERFUND

Appropriates $2,150,000,000 for hazardous substance superfund instead of $1,500,699,000 as proposed by the House and $1,400,000,000 as proposed by the Senate.

The conferees have agreed to the following fiscal year 1998 program levels:

$990,500,000 for the superfund response cleanup program, including the full budget request for the Brownfields program.

$174,000,000 for the enforcement program.

$129,000,000 for management and support, including $11,641,000 for transfer to the Office of Inspector General.

$35,000,000 for research and development activities, to be transferred to the Science and Technology account.

$58,000,000 for the National Institute of Environmental Health Sciences, including $23,000,000 for worker training and $35,000,000 for research activities.

$74,000,000 for the Agency for Toxic Substances and Disease Registry. The amount provided is intended to enable ATSDR to reduce significantly the backlog of more than 200 hazardous waste sites requiring public health activities and to conduct a child health initiative. Within 30 days of enactment of this Act, ATSDR is to provide a detailed operating plan to the Committees on Appropriations. In addition, ATSDR periodically is to keep the Committees apprised of progress in reducing the backlog, efforts related to the child health initiative, and proposed new activities. Within the funds provided herein, $4,000,000 is for minority health professions, $2,500,000 is for continuation of a health effects study on the consumption of Great lakes fish, and $2,000,000 is for continued work on the Toms River, New Jersey cancer evaluation and research project.

$39,500,000 for interagency activities.

The conferees note that $100,000,000 of the funds provided herein shall not become available for obligation until September 1, 1998. Further, $650,000,000 of the funds provided herein shall not become available until October 1, 1998, and shall be available for obligation only if specific reauthorization of the Superfund program occurs by May 15, 1998.

While the conferees have provided the full budget request for the Brownfields program, concerns remain regarding the Agency's legal authority to utilize Superfund dollars to establish revolving funds which in turn would be used to clean up sites which are neither emergency in nature nor eligible for NPL listing. Bill language has therefore been included which prohibits the use of funds under this heading for revolving loan funds unless specifically authorized in subsequent legislation.

Again this year, the conferees direct that all fiscal year 1997 carryover funds be used for additional response action/cleanup efforts. In addition, in order to enhance the fiscal year 1998 response action/cleanup program, the conferees direct the Agency to move expeditiously to deobligate and recapture as much unspent prior-year cleanup funds as possible.

The conferees reiterate the position of the House that strongly encourages the Agency to implement a fixed-price, at-risk contracting proposal for the clean-up of the Carolina Transformer Site in North Carolina.

With regard to the Agriculture Street Landfill Superfund site in New Orleans, the conferees are aware of the potential health risks associated with remediating the undeveloped property without permanent or temporary relocation of the nearby residents, or some other responsible mitigation effort. The conferees thus strongly urge the Agency to stay the remediation of the site, pursuant to its Record of Decision of September 2, 1997, until this matter can be satisfactorily resolved.

The conferees also reiterate the concern as expressed in the House Report accompanying H.R. 2158 regarding the EPA's response to certain ''emergencies.'' Questions of both legal authority and the excessive expenditure of funds outside the scope of the Agency's operating plan remain very troubling. The conferees therefore direct the EPA to notify the Committees on Appropriations within 72 hours of the Agency's undertaking an emergency response at non-NPL sites that is expected to exceed $5,000,000 in total cost.

Last year, the conferees included language directing the EPA Administrator to begin construction immediately at the Pepe Field Superfund site in Boonton, New Jersey. Due to a change in the remedy by the EPA, the construction has again been delayed. The conferees are concerned with this delay and direct the Administrator to begin construction immediately.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

Appropriates $65,000,000 for the leaking underground storage tank program as proposed by the Senate instead of $60,000,000 as proposed by the House. Language is also included which provides a maximum of $7,500,000 for the program's administrative costs as proposed by the Senate instead of $9,100,000 as proposed by the House.

The conferees direct that not less than 85 percent of the funds provided be allocated to the States.

OIL SPILL RESPONSE

Appropriates $15,000,000 for oil spill response as proposed by the House and the Senate. Bill language is also included which provides a maximum of $9,000,000 for the program's administrative costs as proposed by the House instead of $8,500,000 as proposed by the Senate.

STATE AND TRIBAL ASSISTANCE GRANTS

Appropriates $3,213,125,000 for state and tribal assistance grants instead of $3,026,182,000 as proposed by the House and $3,047,000,000 as proposed by the Senate.

Bill language provides the following program levels:

$1,350,000,000 for Clean Water Capitalization Grants.

$725,000,000 for Safe Drinking Water Capitalization Grants. The conferees note that amounts provided for drinking water state revolving funds are available for national set-asides outlined in section 1452; however, health effects research is funded in the Science and Technology account as proposed by the Administration.

$75,000,000 for the United States-Mexico Border Program.

$50,000,000 for colonias in Texas, including bill language which provides a 20% match for these funds. The match requirement may be fulfilled through the commitment of state funds for either loans or grants for construction of wastewater or water systems serving colonias and the match may also consist of payment on bond interest associated with loans or grants for construction of wastewater and water systems. With respect to prior appropriated funds for colonias, the match requirement may be fulfilled through the commitment of state funds for either loans or grants for construction of wastewater systems serving colonias and may also consist of payment on bond interest associated with loans or grants for construction of wastewater systems.

$15,000,000 for Alaska rural and Native Villages, to be cost-shared.

$745,000,000 for state and tribal categorical grants, including increases above the budget request of $24,743,000 for particulate matter monitoring and data collection and $5,000,000 for section 319 non-point source pollution grants. Language is included to direct that the PM monitoring and data collection grants be issued pursuant to section 103 of the Clean Air Act so as not to require a state, tribal, or local cost share. The conferees agree that performance partnership grants and statutorily authorized transfers between state revolving funds are both exempt from the Congressional reprogramming limitations. Finally, language is included which clarifies that, as provided in the authorizing statutes for the various program grants, eligible recipients have included since fiscal year 1996 interstate agencies, tribal consortia, and air pollution control agencies, as well as States and tribes.

$253,125,000 for grants for construction of ''special needs'' wastewater, water treatment and drinking water facilities, and for groundwater protection infrastructure.

Bill language has been included which: (1) authorizes cross collateralization of clean water and safe drinking water state revolving funds as security for bond issues; (2) authorizes the Administrator to make grants to federally recognized Indian governments for the development of multi-media environmental programs; (3) makes it possible for EPA to use funds under this account for specific programs and purposes in state and tribal areas when such state or tribe does not have an acceptable program in place; and (4) authorizes the Administrator to make a grant of deobligated FWPCA section 205 funds for wastewater treatment facilities in Monroe County, Florida.

Finally, bill language has been included which provides for an 80/20 cost share for the use of capitalization funds for the District of Columbia. The provision, which is intended to permit the District to move aggressively in making necessary repairs and upgrades in its wastewater treatment facilities, will sunset in two years.

The conferees agree that the special needs funds are provided as follows:

1. $50,000,000 for Boston Harbor wastewater needs.
2. $3,000,000 for continued wastewater needs in Bristol County, Massachusetts.
3. $8,000,000 for New Orleans wastewater needs.
4. $5,000,000 to implement drinking water facility improvements under Title IV and to implement combined sewer overflow (CSO) projects in Richmond ($2,500,000) and Lynchburg ($2,500,000), Virginia.
5. $14,000,000 for continuation of the Rouge River National Wet Weather Demonstration project.
6. $5,000,000 for wastewater and water system needs of the Omnalinda Water Association ($500,000); the Jenner Township Sewer Authority ($2,600,000), and the North Fayette County Municipal Authority ($1,900,000), Pennsylvania.
7. $13,000,000 for the Millcreek Tube Sewer upgrade/combined sewer overflow project.
8. $3,000,000 for phase one of Sacramento's wastewater treatment facility upgrade.
9. $10,000,000 for planning and implementation of a storm water abatement system in the Doan Brook Watershed Area, Ohio.
10. $6,900,000 for wastewater infrastructure needs for Kenner ($5,000,000) and Baton Rouge ($1,900,000), Louisiana.
11. $2,250,000 for Ogden, Utah's sanitary storm sewer and drinking water distribution systems.
12. $2,500,000 to assist the Bad Axe, Michigan water crisis.
13. $10,000,000 to complete the wastewater improvement program at the Clear Lake Sanitary District, Iowa.
14. $7,000,000 for combined sewer overflow requirements in Lycoming County ($4,000,000) and for wastewater needs of the Pocono/Jackson Township Joint Authority ($1,500,000) and Smithfield Township in Monroe County ($1,500,000), Pennsylvania.
15. $1,200,000 for phase two of the Geysers Effluent Project in Northern California.
16. $14,000,000 for continued clean water improvements of Onondaga Lake.
17. $5,000,000 for wastewater and drinking water system needs in Clearfield, Mifflin, Snyder and Fulton Counties ($1,250,000); Decatur Township ($150,000); Lawrenceville Township ($300,000); Lyleville ($300,000); Lewistown ($1,000,000); McVeytown ($500,000); Adams Township and Port Trevorton ($500,000); Middleburg ($500,000); and McConnellsburg ($500,000), Pennsylvania.
18. $10,000,000 for water supply and wastewater needs for the City of Burnside ($2,000,000); the City of Williamsburg ($3,000,000); the City of Wayland ($1,500,000); the City of Hyden ($1,500,000); and the Morgan County Water District ($2,000,000), Kentucky.
19. $1,275,000 for wastewater needs for East Mesa ($700,000), West Mesa ($500,000), and Lordsburg ($75,000), New Mexico.
20. $4,000,000 for an alternative water supply system in Jackson County, Mississippi.
21. $2,000,000 for wastewater facilities and improvements in Essex County, Massachusetts.
22. $2,000,000 for the Milwaukee Metropolitan Sewerage District urban watershed restoration project (Lincoln Creek).
23. $7,150,000 for export pipeline replacement to protect Lake Tahoe.
24. $7,000,000 for wastewater facility and sanitary system improvements in Burlington, Iowa.
25. $7,000,000 for the Ashley Valley, Utah sewer management board for wastewater improvements.
26. $5,000,000 for water systems improvements in the Virgin Valley Water District, Nevada.
27. $2,000,000 for the town of Epping, New Hampshire, for wastewater treatment upgrades.
28. $4,300,000 for wastewater improvements in Queen Anne's County, Maryland, ($2,300,000); and biological nutrient removal of sewage on the Pocomoke River, Maryland ($2,000,000).
29. $6,000,000 for water/wastewater improvements in the Moreland/Riverside area of Bingham County ($3,000,000); the City of Rupert ($2,000,000); and the Rosewell and Homedale areas ($1,000,000) of Idaho.
30. $5,000,000 for Missoula, Montana sewer system improvements.
31. $3,000,000 for the Milton, Vermont wastewater treatment plant project.
32. $5,000,000 for sewage infrastructure improvements for Connellsville and Bullskin Townships in Fayette, Pennsylvania ($2,500,000) and Fallowfield Township, Pennsylvania ($2,500,000).
33. $6,300,000 for wastewater treatment improvements in Pulaski County ($5,000,000) and Kingdom City ($1,300.000), Missouri.
34. $8,000,000 for the Upper Savannah Council of Governments for wastewater facility improvements for the Savannah Valley regional sewer project in Abbeville, McCormick, and Edgefield Counties, South Carolina.
35. $$3,300,000 for water system improvements in Jackson County ($800,000), Washington County ($2,000,000), and Cleburne County ($500,000), Alabama.
36. $1,800,000 for water treatment improvements in the Joshua Basin Water District.
37. $100,000 for wastewater infrastructure improvements in Ascension Parish, Louisiana.
38. $50,000 for water and sewer improvements in the City of Kinloch, Missouri.
39. $3,000,000 for alternative source projects in the St. Johns River, South Florida, and Southwest Florida Water Management Districts.

The conferees recognize the acute need for additional water treatment capacity in San Diego County, California. While limited funds prevent the conferees from providing fiscal year 1998 funds for the development of the Olivenhain Water Treatment Project, the conferees recognize the project's potential to demonstrate the environmental and health benefits associated with microfiltration technology. Also, with regard to San Diego's South Bay Water Reclamation Facility, the conferees are aware of the City's application for grant assistance through the United States-Mexico border projects program and that EPA and the NADBank have not rendered final judgment on the application. The conferees urge the Agency and the NADBank to review carefully this matter so as to provide any appropriate support. Should the application of the City be declined, the Agency is to provide a report to the Committees on Appropriations within 30 days of such action which explains in detail the decision of the Agencies.

Finally, the conferees note their support for construction of the Jonathan Rogers plant in El Paso, Texas and encourage the Agency to provide an appropriate amount from the border infrastructure fund to support the federal share of this project.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Appropriates $2,500,000 for the Council on Environmental Quality and Office of Environmental Quality instead of $2,506,000 as proposed by the House and $2,436,000 as proposed by the Senate.

The conferees have agreed to bill language proposed by the House which stipulates that, notwithstanding the provisions of the National Environmental Policy Act (NEPA), there will for fiscal year 1998 be just one member of the Council on Environmental Quality (instead of three), and that individual shall act as chairman.

The conferees have also agreed to language proposed by the Senate which prohibits CEQ from using funds other than those appropriated directly to CEQ under this heading. This language is intended to prevent CEQ from augmenting its staff through the use of employees detailed from other federal agencies. It is not intended to prevent CEQ from conducting activities authorized under NEPA, including the coordination of activities of federal agencies relative to environmental policy issues. Further, the language is not intended to bar the formation of interagency task forces or prevent requests for information from other federal agencies.

UNANTICIPATED NEEDS

Appropriates $1,000,000 for unanticipated needs within the Executive Office of the President. The conferees note that this funding was included in this legislation at the request of the Administration because it was excluded from another appropriation measure. The conferees do not anticipate funding this program in this Act in subsequent fiscal years.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

Appropriates $34,365,000 for the Office of Inspector General as proposed by the House instead of $34,265,000 as proposed by the Senate. Funds for this account are derived from the Bank Insurance Fund, the Savings and Loan Association Insurance Fund, and the FSLIC Resolution Fund, and are therefore not reflected in either the budget authority or budget outlay totals.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

Appropriates $320,000,000 for disaster relief as proposed by the Senate instead of $500,000,000 as proposed by the House.

The conferees are supportive of FEMA's initiative to establish a Federal Coordinating Officer cadre staffed by full-time employees and funded by the Disaster Relief Fund to support ongoing field operations. The Agency is expected to keep the Committees on Appropriations informed of its progress as it proceeds with its plans to enroll the 25 member cadre. If the Agency moves forward on this initiative, the fiscal year 1998 operating plan should reflect this activity.

While the conferees have not included language proposed by the Senate prohibiting the use of disaster relief funds in certain instances, the conferees support efforts to rein in disaster relief expenditures, which have grown exorbitantly in recent years. The conferees acknowledge that under current law, disaster relief payments have been made for such lower priority activities as refurbishing golf courses in certain high income communities. To offset the cost of growing disaster relief requirements, a series of supplemental appropriations bills in the past few years have included large rescissions of funds from other agencies' programs, principally low income housing. Earlier this year, FEMA proposed amendments to the Stafford Act which represent a modest first step in curbing disaster relief expenditures. The conferees strongly urge the communities of jurisdiction to take swift action to consider the proposed Stafford Act amendments, including holding hearings at the earliest possible time.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

Appropriates $243,546,000 for emergency management planning and assistance instead of $261,646,000 as proposed by the House and $207,146,000 as proposed by the Senate. Bill language is included which provides $30,000,000 for pre-disaster mitigation activities instead of $50,000,000 as proposed by the House and $5,000,000 as proposed by the Senate for pre-disaster mitigation grants to state and local governments.

The conferees have provided the following increases to the budget request:

$500,000 for the completion of a comprehensive analysis and plan of all evacuation alternatives for the New Orleans metropolitan area.

$5,000,000 for FEMA to continue the replacement and upgrade of emergency equipment and vehicles. The conferees expect to be informed in the operating plan as to how these funds are expected to be spent.

$3,000,000 for State and local assistance through comprehensive cooperative agreements.

$2,900,000 for the Dam Safety program, including $1,000,000 for research in dam safety; $1,000,000 for incentive grants to States to upgrade their dam safety program; $500,000 for training programs for State dam safety inspectors; and $400,000 for administration of the program.

The conferees have included bill language providing for a grant of $1,500,000 to resolve issues under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646, involving the City of Jackson, Mississippi. These issues were identified in a January 30, 1989 report of the United States Department of Housing and Urban Development.

Acknowledging the importance of pre-disaster mitigation in reducing the loss of human life, the costs and disruption caused by severe property damage, and the ever-growing cost to all taxpayers of government-backed disaster relief efforts, the conferees have provided $30,000,000 for program planning and implementation of pre-disaster mitigation efforts. The conferees acknowledge the potential value of various alternatives that have been suggested to achieve pre-disaster mitigation, including grants to state and local governments to conduct pilot demonstration projects as proposed by the Agency in their fiscal year 1998 budget submission, the HomeSaver Project proposed by The Partnership for Natural Disaster Reduction, the rapid deployment-technologies concept proposed by the Centers for Protection Against Natural Disasters (CPAND), and other research and applied engineering activities, particularly those jointly funded by the public and private sectors.

The conferees agree that up to $5,000,000 of the amount provided for pre-disaster mitigation is available immediately to fund up to seven pilot projects approved by the Director of FEMA. Prior to the expenditure of the remaining funds for any specific pre-disaster mitigation program or project, the conferees direct that the appropriate level of funding be used by the Agency to conduct a formal needs-based analysis and cost/benefit study of all of the various mitigation alternatives. The results of these analyses and studies, along with any relevant information learned from the aforementioned seven pilot projects, shall be incorporated into a comprehensive, long-term National Pre-disaster Mitigation Plan. The plan should be developed, independently peer-reviewed, and submitted to the Committees on Appropriations not later than March 31, 1998. FEMA is directed to involve in this planning effort participants which shall include, but are not limited to, representatives of FEMA and other federal agencies, state and local governments, industry, universities, professional societies, the National Academy of Sciences, The Partnership for Natural Disaster Reduction, and CPAND. The conferees intend that none of the remaining funds provided herein be obligated until the plan has been completed and submitted as outlined above. The conferees note that this approach is intended to be the foundation for providing the best and most cost-effective solution to reduce the tremendous human and financial costs associated with natural disasters.

The conferees believe that attention is warranted to minimize losses to existing steel frame structures during and following major earthquakes. Although many steel frame structures were designed and constructed in accordance with building codes in effect at the time of construction, experience in the 1994 Northridge, California earthquake and the 1995 Kobe, Japan earthquake suggests a heightened vulnerability of these structures. Accordingly, the conferees urge FEMA to consider a pilot pre-disaster mitigation project that would incorporate the greater use of new steel frame manufacturing and retrofitting technologies as a method to reduce disaster response costs.

The conferees are aware of proposals by the International Hurricane Center at Florida International University to apply advanced high-accuracy satellite laser altimeter surveying techniques to coastal and flood plain modeling and post natural disaster damage assessments. FEMA is urged to consider funding such proposals from discretionary funds to improve its modeling, mapping, damage assessment, and pre-disaster mitigation efforts.

The conferees understand that many scientists studying climate change have predicted a large-scale El Nino phenomenon this year. Many such experts who have monitored this phenomenon for decades project that this El Nino may cause extreme weather events far worse than others associated with El Nino events of past years. While it is impossible to prevent these extreme weather events, the conferees recognize that recently developed El Nino prediction capabilities can be utilized to mitigate loss of life, human dislocation, and property damages which may occur. The conferees encourage FEMA to work with other federal agencies, including NOAA, NASA, USDA, the Army Corps of Engineers, and the Department of the Interior to utilize El Nino prediction data for disaster planning and mitigation during fiscal year 1998 and explore opportunities to expand the use of this new predictive capability for long-term mitigation planning.

The conferees note that Pointe Coupee Parish, Louisiana faces the potential threat of multiple disasters, which include the fixed site storage and transportation of volatile chemicals, a nuclear power generating facility, and such weather related threats as hurricanes, floods, and tornadoes. Disaster mitigation and response requires rapid response by civil agencies, but this is not possible without a communications system with the capability to coordinate immediately the activities of all disaster response teams. The conferees urge FEMA to work closely with the Parish and provide appropriate support for the installation and testing of a prototype communications system. Disaster response officials from Pointe Coupee Parish are expected to work closely with FEMA to make available the results of the demonstration project to other local governments and law enforcement agencies.

NATIONAL FLOOD INSURANCE FUND

Bill language which extends the borrowing authority for the flood insurance program of $1,500,000,000 for fiscal year 1998 as proposed by the House has been included.

The conferees have also included new bill language which authorizes the National Flood Insurance Program for fiscal year 1998. Without this authorization, new flood insurance policies could not be written throughout the fiscal year.

Finally, language which permits the continuation of flood mapping activities of FEMA has been included.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The conferees note that the United States space launch industry has identified underutilized infrastructure at the Stennis Space Center for potential use in launch vehicle development activities. The conferees consider such proposed use of this infrastructure to be compatible with the Center's propulsion test programs and consistent with other efforts to optimize taxpayer investments while fostering U.S. competitiveness and commercial use of space. The conferees urge NASA to

pursue an appropriate method for making the underutilized Stennis infrastructure available under suitable terms and conditions, if so requested by industry, and to notify the Committees on Appropriations of the House and Senate if existing NASA authority is insufficient for this purpose.

HUMAN SPACE FLIGHT

Appropriates $5,506,500,000 for human space flight instead of $5,426,500,000 as proposed by the House and $5,326,500,000 as proposed by the Senate. Within this amount, the appropriation for space shuttle is $2,927,800,000, the appropriation for payload and utilization is $227,400,000, and the appropriation for space station and related activities is $2,351,300,000.

The conferees agree that the agency may provide $1,000,000 for the Neutral Buoyancy Simulator program, as was provided in the Senate bill. In addition, before providing funding for the program, the conferees request that NASA report on the potential viability of commercialization of the Neutral Buoyancy Simulator.

The conferees have agreed to an appropriation of $2,351,300,000 for Space Station activities in fiscal year 1998, including $80,000,000 from funds in the mission support account identified by the agency ($25,000,000 from TDRS, $20,000,000 from environmental programs, $30,000,000 from Research Operations Support, and $5,000,000 from facilities), $100,000,000 in addition to the agency's request, and $50,000,000 by reallocation from within the amounts requested in the Human Space Flight account.

Of the amount provided for space station activities, no more than $1,500,000,000 shall be available before March 31, 1998, as stated in the bill.

The conferees are troubled by the problems with the space station which include projected development cost overruns of $600,000,000–$800,000,000, the inability to hold critical hardware delivery and launch dates despite receiving the post re-design funding profile requested by the Administration, and failure to reduce the contractor team's development workforce in keeping with budget projections submitted with the 1997 and 1998 budgets.

Therefore, the conferees have agreed to provide only part of the funding and none of the transfer authority that NASA has identified as necessary for the program in fiscal year 1998, $230,000,000 above the Administration's budget request, rather than $430,000,000. In addition, the conferees have withheld about a third of the total space station funds, pending receipt of certain documents and information listed below. This gives NASA and the space station contractor the opportunity to reexamine the funding profile, schedule, content, and efficiency of the program.

The remaining $851,300,000 will be made available after March 31, 1998, if the Committees on Appropriations receive the Administration's fiscal year 1999 budget for NASA, including the annual run-out budget for the Station program through assembly complete, and also outyear projections for other NASA enterprises that retains funding levels for fiscal year 1999–2002 at levels no less than those assumed in the fiscal year 1998 budget. The conferees expect the outyear projections to reflect a balance among NASA's programs.

In addition to the requirement about the fiscal year 1999 NASA budget and bill language limiting the use of a portion of space station funds until March 31, 1998, the remaining $851,300,000 remains fenced until and unless NASA provides the following items to the Committees on Appropriations of the House and Senate, and the Committees subsequently approve the release of these funds:

1. A detailed plan, agreed jointly to by NASA and the prime contractor, for the contractor's monthly staffing levels through completion of development, and evidence that the contractor has held to the agreed-upon destaffing plan through the first four months of fiscal year 1998;

2. A detailed schedule, agreed jointly to by NASA and the prime contractor, for delivery of hardware, and NASA's plans for launching the hardware;

3. A detailed report on the status of negotiations between NASA and the prime contractor for changes to the contract for sustaining engineering and spares, with the expectation that NASA adhere to the self-imposed annual cap of $1,300,000,000 for operations after construction is complete; and

4. A detailed analysis by a qualified independent third party of the cost and schedule projections required in 1), 2), and 3) above, either verifying NASA's data or explaining reasons for lack of verification.

Given how severe the program's budget problems are, the conferees are also mindful that future NASA budgets must be funded within discretionary spending caps in the five-year balanced budget agreement, meaning that budget outlays in fiscal year 1999 for all discretionary spending will grow by just one percent. As a result, the conferees are concerned that future NASA budgets not force reductions in the current outyear projections for space science, earth science, aeronautics, and advanced space transportation because of the need to accommodate overruns in the space station budget.

SCIENCE AERONAUTICS AND TECHNOLOGY

Appropriates $5,690,000,000 for science, aeronautics and technology as proposed by the House instead of $5,642,000,000 as proposed by the Senate.

The conference agreement reflects the following changes from the budget request:

1. A general reduction of $66,000,000.

2. An increase of $1,000,000 for Multiple Sclerosis cooling therapy research.

3. An increase of $5,500,000 for the space radiation health program.

4. An increase of $1,000,000 for eye tracking technology miniaturization.

5. An increase of $10,000,000 for additional optical astronomy test beds as proposed in the Senate report (105–53). This amount represents the total NASA contribution to the capital costs for these efforts and operating costs are to be covered by the host activity.

6. An increase of $1,000,000 for the United States/Mexico Foundation for Science.

7. An increase of $5,000,000 for the lightning mapper sensor.

8. An increase of $450,000 for use of satellite imagery in urban planning and agricultural applications.

9. An increase of $15,000,000 for funding up to five consortia to develop regional application with the use of EOS data.

10. An increase of $5,800,000 for Commercial Technology Programs.

11. An increase of $6,000,000 for telecommunications technology infrastructure for K-12 schools.

12. An increase of $1,900,000 for the National Technology Transfer Center.

13. An increase of $1,750,000 for the Midwest Regional Technology Transfer Center.

14. An increase of $5,000,000 for a NASA business incubator program which is designed to foster partnerships between educational institutions and small high-technology businesses. The program is to be a nation-wide competitive program with successful applicants demonstrating at least 50 percent of total funds will be derived from non-federal sources.

15. An increase of $1,500,000 to restructure the Software Optimization and Reuse Technology program. The conferees are concerned that this program has not delivered expected results; the conferees expect NASA to restructure its current funding mechanism to allow for greater oversight and improved results. The conferees expect this funding to be expended over a two year period.

16. The conferees agree to provide an additional $20,000,000 only for post-cycle I activity on the Low Cost Booster Technology Demonstration. NASA is to proceed with cycle I awards, but no funds may be used for market analysis or development of business plans. In addition, the conferees agree that prior to any contract awards beyond cycle I, NASA, with the Marshall Space Flight Center as the lead center, is to convene a conference of all interested parties to determine the best program structure to achieve the goal of a space launch platform for a 150 kg payload to attain a 200 nautical mile, sun-synchronous orbit, in the range of less than $2,000,000 in recurring cost. Furthermore, the conferees agree that said conference shall conclude prior to the end of cycle I and that recommended changes to the program that materialize shall be presented to Congress prior to implementation by NASA.

17. An increase of $1,500,000 for MSE-Technology Applications, Western Environmental Technology Office.

18. An increase of $1,000,000 for a joint program with the Department of Defense.

19. An increase of $3,300,000 for replication of the SEMAA program.

20. An increase of $2,500,000 for a science learning center in Kenai, Alaska.

21. An increase of $1,000,000 for the Discover Science Center, Santa Ana, California.

22. An increase of $9,000,000 for expansion of the Partnership Awards program.

23. An increase of $2,000,000 for Daily Living Science Center in Kenner, Louisiana.

24. An increase of $5,800,000 for the Space Grant College and Fellowship program.

25. An increase of $1,500,000 for the Pennsylvania Educational Telecommunications Exchange Network.

26. An increase of $1,500,000 for academic and infrastructure needs at the Apple Valley, California science and technology center.

27. An increase of $3,000,000 for Solar-B.

28. An increase of $3,000,000 for solar stereo.

The conferees also agree that NASA should continue with its efforts to purchase Earth science data from private industry to the extent it is appropriate.

The conferees concur with the intent of the language in Senate report 105–53 with regard to the Earth Observing System Data Information System (EOSDIS). The conferees wish to make clear, however, that NASA should make any evaluation of the future of the ECS based not only upon delivery, but also successful performance demonstrated in the initial post-launch operational capabilities of EOSDIS as it relates to both the AM–1 and Landsat–7 spacecraft. Further, the conferees believe that NASA should proceed carefully with the federation of mission to planet earth, but ensure the earth science community should not in any way be prevented from participating in this endeavor. Therefore, issuance of any conflict of interest guidelines should be construed narrowly to apply only to immediate ESSAC members, and pertain simply to future eligibility for any cooperative agreement notices related exclusively to federated management funding, which is to be capped in fiscal year 1998 at $10,000,000.

The conferees concur with the direction of the Senate to promote competition in the award of advanced technology development (ATD) funds. To achieve this end, commencing with fiscal year 1998 and continuing in each year thereafter, NASA should consolidate all space science ATD activities into an

easily accessible consolidated budget line item and award not less than 75 percent of these funds through broadly distributed announcements of opportunity that solicit proposals from all categories of organizations, including educational institutions, industry, nonprofit institutions, NASA Centers, the Jet Propulsion Laboratory, and other Government agencies, and that allow partnerships among any combination of these entities, with evaluation, prioritization, and recommendations made by external peer review panels, consistent with the recommendations contained in the 1995 National Academy of Sciences report on managing the space sciences. In awarding ATD funds in this manner, the conferees wish to make clear that final selection of all proposals rests with NASA officials consistent with Office of Procurement Policy guidelines; and that setting technology requirements that are the foundation of the AO's rests with NASA program managers, consistent with guidance provided by advisory bodies of the at-large science community. In this fashion, NASA's technology investments will be managed in a manner parallel to that traditionally employed in implementing the agency's science program.

MISSION SUPPORT

Appropriates $2,433,200,000 for mission support instead of $2,513,200,000 as proposed by the House and $2,503,200,000 as proposed by the Senate. The conference agreement includes transfer of $80,000,000 from this appropriation to the Human Space Flight appropriation for the space station effort. The specific reductions to this appropriation are delineated in an earlier section of this statement. In addition, the conferees agree that $5,000,000 is to be provided for facilities enhancements at the Stennis Space Center.

The conferees concur with the direction of the Senate with respect to the NASA Wallops flight facility. The conferees wish to make clear that none of the funds appropriated or otherwise made available to the National Aeronautics and Space Administration by this Act, or any other Act enacted before the date of enactment of this Act, may be used by the Administrator of the National Aeronautics and Space Administration to relocate aircraft of the National Aeronautics and Space Administration based east of the Mississippi River to the Dryden Flight Research Center in California.

ADMINISTRATIVE PROVISIONS

The conferees have included an administrative provision as proposed by the Senate which directs NASA to use $400,000 for a study by the National Research Council which evaluates the engineering challenges posed by extravehicular activity requirements of space station construction/assembly.

The conferees have not included the administrative provision proposed by the House and stricken by the Senate which would have provided $150,000,000 of transfer authority.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

Appropriates $1,000,000 for the National Credit Union Administration for the Community Development Revolving Loan Program for credit unions as authorized by Public Law 103–325.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

Appropriates $2,545,700,000 for research and related activities, instead of $2,537,526,000 as proposed by the House and $2,524,700,000 as proposed by the Senate.

The conferees are in receipt of the Foundation's explanation of the programmatic areas of Knowledge and Distributed Intelligence in the Information Age and Life and Earth's Environment. The Foundation has not yet provided appropriate milestones and guideposts, to be accomplished in fiscal year 1998, and against which the agency can be measured in determining funding for fiscal year 1999. The conferees expect to receive such milestones and guideposts before the Foundation obligates any further funding for these programmatic areas.

Throug a cooperative agreement, the National Science Foundation has authorized the collection of fees for the registration of internet domain names. Under the terms of that agreement, a fund for the intellectual infrastructure of the internet has been established. For purposes of justifying the Foundation's requests for appropriations, the Foundation has included networking activities, such as the domain name registration activity, within its research facilities portfolio. The conferees concur that these activities should be considered research facilities.

Accordingly, the conferees direct the Foundation to credit up to $23,000,000 of the funds collected in the ''intellectual infrastructure'' fund to the Foundation's Research and Related Activities account for Next Generation Internet activities, pursuant to the authority to credit ''receipts for scientific support services and material furnished by National Science Foundation supported research facilities.''

The conferees are in agreement with the report of the Senate regarding participation by EPSCoR states in development of the Next Generation Internet. The conferees expect to receive the report by March 31, 1998.

At its March 1997 meeting, the National Science Board evaluated proposals for Partnerships with Advanced Computational Infrastructure (PACI). At that meeting, two partnership proposals from two existing supercomputing centers were not selected. The Board provided for the phase-out over a period of up to two years of the two centers not selected. This phase-out was designed to recognize the substantial investment made by the United States in these two centers and to keep their resources available to the user community during a period of transition to the new partnership structure.

The conferees are concerned that funding for the orderly phase-out of the two existing supercomputing centers, and the seamless transition of the user community to the new PACI program, be fully and fairly achieved in an expeditious and truly cooperative manner. Rather than providing additional funds for that purpose at this time, the conferees direct the Foundation to provide a report to the Committees on Appropriations of the House and Senate which details both the progress of the PACI program to date, and its further plans for the orderly phase-out and seamless transition of the Foundation's supercomputing program. This report should be submitted with the fiscal year 1999 budget and should focus particularly on how ''high-end'' users of the IBM SP supercomputing system will be fully serviced by the new partnerships, or, if necessary, by the new partnerships in close collaboration with the centers being phased-down.

The conferees have agreed to provide $40,000,000 in addition to the budget request for a competitive, peer-reviewed plant genome research program. The conferees are in agreement that the program established by the National Science Foundation should be accomplished after consultation with the National Science and Technology Council's Interagency Working Group on plant genome research.

The conferees have also agreed to provide $1,000,000 for the United States/Mexico Foundation for Science as proposed by the House.

Finally, the conferees encourage the National Science Foundation to study how it would establish and operate a National Institute for the Environment.

MAJOR RESEARCH EQUIPMENT

Appropriates $109,000,000 for major research equipment instead of $175,000,000 as proposed by the House and $85,000,000 as proposed by the Senate.

The conferees agree to provide $4,000,000 for technical enhancements to the Gemini telescope project and $70,000,000 for upgrades to Antarctic facilities. The amount provided for Antarctic facilities includes $35,000,000 to be made available immediately and the remaining $35,000,000 to be available on September 30, 1998. The conferees have not provided the budget request of $25,000,000 for the Polar Cap Observatory. The conferees direct the National Science Foundation to provide the Committees on Appropriations of the House and Senate an analysis of alternative sites for location of the observatory and a report on the scientific justification for the project.

EDUCATION AND HUMAN RESOURCES

Appropriates $632,500,000 for education and human resources, as proposed by the House instead of $625,500,000 as proposed by the Senate.

The conferees agree to provide $2,000,000 for Advanced Technology Education and $5,000,000 for an initiative to improve the production of science and engineering doctorates drawn from under-represented groups as proposed in the House report. In addition, the conferees agree that the Foundation should provide $6,000,000 for an undergraduate reform initiative to increase the numbers of under-represented populations in mathematics, engineering and the sciences as proposed in the Senate report.

SALARIES AND EXPENSES

Appropriates $136,950,000 for salaries and expenses, the same as provided by the House and the Senate. The conferees agree with the direction contained in the Senate report with regard to reporting total cost of administration and management.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD

REINVESTMENT CORPORATION

Appropriates $60,000,000 for the Neighborhood Reinvestment Corporation instead of $70,000,000 as proposed by the House and $50,000,000 as proposed by the Senate. As this is a 20 percent increase over the fiscal year 1997 funding level, the conferees request the Corporation to notify the Committees on Appropriations as to how this additional funding will be specifically utilized throughout the fiscal year.

TITLE IV—GENERAL PROVISIONS

Language as proposed by the Senate which will allow funds made available under section 320(g) of the Federal Water Pollution Act to be used for implementing comprehensive conservation and management plans is included as section 420.

Bill language regarding the Office of Consumer Affairs is included as section 421 as proposed by the Senate instead of as section 420 as proposed by the House.

Inserts language proposed by the Senate defining ''qualified student loan'' with respect to national service awards, modified to make the provision apply only to Alaska.

Deletes language proposed by the Senate expressing a sense of the Senate regarding funding of veterans discretionary programs in future years. The conferees are concerned with the budget projections for veterans medical spending assumed in the 1997 Balanced Budget Act. Veterans medical spending should be afforded the highest priority in the budget process in coming fiscal years to

ensure that high quality medical care is accessible and available to all eligible veterans. The conferees note that the highest priority was afforded to veterans medical spending in the conference agreement on this legislation, which makes available approximately $300,000,000 above the amount assumed in the budget agreement.

Deletes language proposed by the House which prohibits the expenditure of funds to implement regulations regarding the importation of PCBs and PCB items.

Deletes language proposed by the House which prohibits the expenditure of funds for grants or contracts to institutions of higher education which restrict ROTC activities.

Deletes without prejudice language proposed by the Senate requiring Senate hearings relating to compensation benefits for radiation exposure. The Senate conferees support the Senate provision regarding Senate hearings and a CBO cost study concerning the atomic veterans issue. The conferees are concerned that veterans who were exposed to ionizing radiation while serving on active duty may have contracted various diseases which currently are not on the presumptive list of disabilities for radiogenic diseases, and urge the Secretary to review this matter.

TITLE V—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PORTFOLIO REENGINEERING

Modifies S. 513, the ''Multifamily Assisted Housing Reform and Affordability Act of 1997,'' which was incorporated, by reference, by the Senate. The House-passed measure did not include a similar provision. The policies contained in this provision ensure the continued economic and physical vitality of the properties restructured under this title, protect the FHA insurance fund from excessive defaults, reduce the cost of rent subsidies paid to support insured projects, and guard against possible displacement of families who live in these buildings.

Title V of the Act is divided into four subtitles. Subtitle A establishes a ''mark-to-market'' program to reduce the costs of over-subsidized section 8 multifamily housing properties insured by the Federal Housing Administration (FHA). Subtitle B includes several miscellaneous provisions to reform and establish new authority for the Secretary to recapture interest reduction payment subsidies from section 236 insured multifamily housing properties for purposes of providing rehabilitation grants to properties suffering from deferred maintenance. Subtitle C of the bill contains a number of provisions to minimize the incidence of fraud and abuse with regard to Federally assisted housing programs. Subtitle D creates the Office of Multifamily Housings Assistance restructuring.

Under the ''mark-to-market'' program, FHA-insured section 8 housing properties with above market rents are eligible for debt restructuring to reduce rent levels to those of comparable market rate properties or to the minimum level necessary to support proper operations and maintenance. In response to limitations with the Department's capacity, the legislation shifts the administration and management of this portfolio from the Department to capable entities charged with protecting the affordable housing stock in a fiscally responsible manner. Additionally, the legislation terminates the government's relationship with owners who fail to comply with Federal requirements and ends the practice of subsidizing properties that are not economically viable.

SELECTING PARTICIPATING ADMINISTRATIVE ENTITIES

This legislation utilizes capable public entities, nonprofits, and for-profit entities to act as participating administrative entities (PAEs) on behalf of the Federal government. Priority consideration is provided to public agencies, namely State and local housing finance agencies. The Secretary is required to provide interested public agencies with an exclusive time period to determine if the entities are qualified to act as PAEs. During this time period, the Secretary is required to evaluate the public agencies' qualifications, based on clearly established criteria, and to notify the applicants regarding the status of their proposals. The Secretary is required to select a public agency if it meets the selection criteria. If the proposal is rejected, the Secretary is required to provide a written explanation and an opportunity for the applicant to respond. Even in situations where a public agency is rejected under the exclusive time period, the public agency is allowed to reapply when other non-public entities are allowed to apply for the program. The conferees expect the Secretary to utilize qualified housing finance agencies (HFAs) to the greatest extent possible because of the HFAs' experience and expertise in affordable housing and their ability to ensure that the affordable housing stock is protected in a fiscally responsible manner.

The conferees stress that the criteria established in the bill relate to a wide range of factors that are intended to assure that the PAE is capable of protecting the interests of residents, properties, and communities. Similarly, the conferees recognize that the participating administrative entities will be carrying out complex duties. In many cases, PAEs will be asked to determine, subject to guidelines established by the Secretary, appropriate rent levels for the project which will determine the section 8 subsidy cost and the amount of debt that will be refinanced into a second mortgage. As a result, they have the first responsibility for determining the appropriate subsidy costs borne by Federal taxpayers and the appropriate level of risk of nonpayment that Federal taxpayers shall bear.

The conferees intend that any costs of any fees paid to the participating administrative entities, under the portfolio restructuring agreement are mandatory expenses of the appropriate FHA fund.

Section 513(b) sets forth the process and criteria for selecting participating administrative entities. The conferees intend that these criteria and processes will result in the selection of participating administrative entities that are fully and unquestionably qualified to carry out these responsibilities on behalf of the American taxpayer. They should have the necessary expertise and capacity and the ability to ascertain the public interest both in reducing cost and risk and in maintaining the public purpose for which Federal support of this housing is provided.

In situations where an HFA or local housing agency is not selected at the PAE, the Secretary has the flexibility to choose those qualified nonprofit organizations and other entities that have affordable housing missions and experience to serve as PAEs. If no qualified public or nonprofit entities are selected, the Department is provided with authority to act as the PAE in conjunction with other entities. The conferees are concerned about the Department's capacity and expects the Department or its contractors to carry out the restructuring only where adequate capacity exists. Under no circumstances shall a decision that directly affects the residents and community be made without a public purpose entity involved. Public purpose entities, including the Department, will be involved in all critical functions such as developing the rental assistance assessment plan, screening owners and properties for mark-to-market and monitoring the portfolio after restructuring.

To facilitate optimal capacity for the restructuring program, interested public and nonprofit entities are encouraged to partner with various other entities. For example, public purpose entities could partner with public housing agencies, private financial institutions, mortgage services, nonprofit and for-profit housing organizations, Fannie Mae and Freddie Mac, the Federal Home Loan Banks, and other State or local mortgage insurance companies or bank lending consortia. Further, coordination or partnerships between different State and local housing entities are encouraged under this Act.

The Act envisions that the Department will compensate participating administrative entities and other third parties to accomplish the purpose of the Act. Other mechanisms, such as equity sharing partnerships, are expressly prohibited beginning in fiscal year 1999. (The demonstration authority continued during fiscal year 1998 permits structures such as the nonprofit joint venture structure already in use by the Department in fiscal year 1997.)

Specifically, section 713(b)(6)(B) of the Act prohibits any private entity from sharing, participating in, or otherwise benefiting from any equity created, received, or restructured as a result of the portfolio restructuring agreement. In addition, section 517(d) of the Act prohibits the Secretary from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project. These prohibitions were put in place because of concerns that equity sharing arrangements might skew the motivations of the participating administrative entities or the Department in ways counter to the public interest.

The conferees note, however, that one of the public purposes of this Act is to reduce the cost to the taxpayers of section 8 subsidies and losses to the FHA insurance fund. Moreover, during the savings and loan crisis, the Resolution Trust Corporation found that the use of equity sharing partnerships between the public sector and the private sector resulted in lower losses to the taxpayer while effectively achieving other public goals.

Likewise, the Department is using or is contemplating using such structures in a way that is consistent with the public interest. For example, under the FHA Mulifamily Housing Demonstration Program, the Department entered into a joint venture with a nonprofit organization selected through competitive bidding to restructure selected mortgages with assistance contracts that expired in fiscal year 1997. Similarly, the Department in contemplating selling notes on assisted projects to a partnership of state agencies and private investors, motivated to provide maximum return to the purchaser, and thus to the FHA fund, but with certain public policy decisions reserved to the state agency.

Therefore, the conferees direct the Department to report to the Committees of jurisdiction, no later than February 15, 1998, on the possible ways equity sharing partnerships might be incorporated into this framework as an optional alternative structure in implementing the Act, if the prohibitions in the Act were to be lifted. The report shall discuss the advantages and disadvantages of those structures in achieving public purposes. The report shall also consider what tax impact, if any, such structures would have on the owners of the projects.

FUNCTIONS OF PARTICIPATING ADMINISTRATIVE ENTITIES (PAES)

PAEs perform a variety of functions in order to reduce project rents, address troubled projects and correct management and

ownership problems. PAEs are provided with portfolio restructuring program responsibilities through a working agreement with the Secretary called ''Portfolio Restructuring Agreements.'' Under these agreements, PAEs are authorized to take a number of actions to fulfill the goals of this legislation. These actions include restructuring the project's debt, screening out bad projects and bad owners from the renewal and restructuring process, creating partnerships with other housing and financial entities and ensuring the project's long-term compliance with housing quality and management performance requirements.

Before an eligible property is allowed to enter the renewal and restructuring process, PAEs are required to carefully evaluate the project owner's record in operating the property and the property's physical condition. The Act specifies the criteria which PAEs use to determine which properties qualify for section 8 contract renewal and mortgage restructuring. These criteria focus on ownership, management performance and the economic viability of the properties. It is at this time that the Federal government is provided with the opportunity to cleanse the inventory of bad project owners and properties which hurt residents and communities, and threaten the financial interests of the American taxpayer. Owners or purchasers who have been rejected from the restructuring process have the right to dispute the basis for the rejection and are provided with an opportunity to remedy the problem. The Secretary or the PAE has the discretion to affirm, modify or reverse any rejection.

If the property owners are prohibited from restructuring, the Department is provided with authority to deal with the property in several ways, including to sell or transfer the project to a qualified purchaser. Preferences are provided to resident organizations and tenant-endorsed community-based nonprofit and public agency entities. If sales or transfers to qualified purchasers are accepted, the project becomes eligible to be restructured. In addition to sales and transfers, another option is partial or complete demolition of the project if the project is in such poor condition that rehabilitation is not cost-effective. The Department may exercise its foreclosure and property disposition powers to deal with troubled projects and owners. Under any of these scenarios, residents are protected from displacement with tenant-based assistance and reasonable moving expense funds.

RENT LEVELS

Properties eligible for restructuring have rents set at a reasonable level near or at market rates based on the rents of other comparable properties in the market. In the event comparable properties cannot be identified, the bill allows rents to be 90 percent of the fair market rent (FMR). Exception rents are allowed using the budget-based rent calculation method when no comparable property exists or where 90 percent of the FMR does not ensure the financial viability of the properties. Budget-based exception rents are capped at 120 percent of the FMR and only 20 percent of the inventory's units can receive these rents.

The conferees are sensitive to the reality that many of the properties which may require budget-based exception rents are concentrated in certain metropolitan or regional areas. In particular, a large portion of the properties in the upper Midwest are elderly facilities in rural areas, which are particularly disadvantaged under the Department's fair market rent system because these properties were built to a different standard compared to general rental properties, and the nature of the rental housing depresses the FMRs. To address these types of problems, the Act provides the Department with authority to waive the 20 percent limitation in any jurisdiction which can demonstrate a special need. The Secretary is also authorized to waive the 120 percent exception rent cap on up to five percent of the restructured units in a given year for unique situations. The conferees urge the Secretary to exercise these options to ensure that certain geographic areas are not adversely affected.

Likewise, in determining comparable rents, the participating administrative entity may take into account or may not take into account, as appropriate, units which are subject to rent control. The conferees are concerned that, if rent controlled units are excluded from the determination in every case, restructured rents could be too high in areas generally subject to rent controls. In that instance, taxpayers would pay more than necessary in section 8 subsidies.

However, the conferees recognize that there will be situations where rent controlled units may not be the most useful determinants of market rents. For example, if in determining comparable rents the participating administrative entity finds a mix of controlled and uncontrolled buildings similar to the subject property, there may be justification to use only the uncontrolled properties as indicative of market rents. In addition, a participating administrative entity determining comparable rents in an area which contains both controlled and uncontrolled properties may choose to use uncontrolled properties as the source of comparability for a project not subject to rent control and to use controlled properties for a property subject to rent control. Finally, the conferees believe that there may be instances in which the participating administrative entity may need to look at rents outside the jurisdiction to best determine comparable rents. The conferees request the Department to provide flexible program guidance on this matter to the participants.

TYPE OF RENTAL ASSISTANCE

The conference agreement mandates the continuation of project-based rental assistance for properties that predominantly serve elderly or disabled households and properties located in tight rental markets. The conferees expect the Department to develop regulations, in consultation with affected parties, that define what constitutes a ''predominantly elderly'' or ''disabled'' property and a ''tight'' rental market. In defining a tight rental vacancy market, the conferees believe that a six percent vacancy rate is reasonable. However, as stated previously, the conferees expect some flexibility in the regulations to account for local market variations. It is most likely that metropolitan areas such as New York City, Boston, Salt Lake City, and the San Francisco Bay area will be considered to be tight rental markets by most real estate experts and, therefore, covered under the mandatory renewal provisions.

For the remainder of the inventory, PAEs are permitted to either continue project-based assistance or can convert some or all assisted units in a property to tenant-based assistance pursuant to the rental assistance assessment plan. This decision is made only after the PAE consults with the project owner, local government officials and affected residents.

The conferees note that the Act establishes eight factors to be considered by the participating administrative entity in determining whether a section 8 contract should continue as project-based or be converted to tenant-based certificates and vouchers. Each of these factors is relevant to such determination. The Act, however, given no weight to one factor over another and the conferees have no predetermined expectation about how many projects will be converted.

Instead, the importance of each factor is to be determined in the context of each project. The conferees expect that the participating administrative entity will not make a numerical calculation of the number of factors weighing in favor of tenant-basing and the number of factors weighing in favor of project-basing, but instead will make a reasoned judgment about how, in each case, to achieve an appropriate balance of desired public policy goals as reflected by the factors. The PAE may take up to five years to convert the assistance to certificates and vouchers if the PAE decides the transition period is necessary and if such a transition period is necessary for the financial viability of the project.

MORTGAGE RESTRUCTURING AND TAX POLICY

On September 15, 1997, the House Committee on Banking, Subcommittee on Housing and Community Opportunity, held a hearing on the tax consequences of FHA-insured mortgage restructuring for project owners. The subcommittee heard testimony speculating that the Treasury Department, most likely, would review the restructuring transactions envisioned in the Act based on the individual facts and circumstances of each project. Consequently, definitive answers could not be provided about whether this restructuring proposal would result in tax consequences for participating project owners.

Moreover, the subcommittee heard testimony that, even if there was definitive guidance from the Treasury Department about the treatment of the restructuring transactions, some project owners could incur accelerated tax liabilities as a result of the restructuring and that, as a result, some project owners may not participate in the restructuring process. Finally, additional testimony suggested that Congress has no choice but to balance the budgetary cost of providing tax relief legislation with the budgetary savings that the restructuring proposals represent and with the program goal of maintaining the stock of low-income housing. Therefore, the conferees urge the committees of jurisdiction, early next year, to consider necessary legislation to ensure that the housing policy represented by this Act is not thwarted by owner concerns about tax liability.

PROPERTY REHABILITATION

The conference agreement provides rehabilitation assistance but limits the extent of rehabilitation to a non-luxury standard to prevent abuse. To further safeguard against excessive rehabilitation costs, a minimum 25 percent matching requirement from the owner is included in the Act. The purpose of this matching requirement is to encourage owners to invest their own funds in their properties and to reduce the risk to the Federal government. Rehabilitation assistance is provided either through project reserves, grants funded from acquired residual receipts, additional debt restructurings taken as part of the mortgage restructuring transaction, or from the rehabilitation grant program.

OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

The Act establishes an Office of Multifamily Housing Assistance Restructuring (OMHAR) within the Department, under the direction of the Secretary, to implement the Act, to oversee the multifamily housing restructuring process performed by participating administrative entities and, when necessary, to restructure the mortgage. The conferees intent that OMHAR be staffed with

expert employees and have access to private expertise to accomplish the purposes of the Act.

To do so, OMHAR must have or obtain expertise and skills in real estate development, in management and finance, in financial and market analysis, in auditing, evaluation and oversight, and in accounting and taxation. The conferees direct the Secretary to ensure that such expertise and skills are available to OMHAR. The Act gives the Secretary the flexibility to obtain competent personnel from other agencies and to contract for expert services. However, the conferees expect that these avenues, and the existing Departmental staff, may not be sufficient to obtain the necessary skills. Therefore, the conferees expect that the Secretary may be required to hire new employees for OMHAR to perform effectively.

SPECIAL CONSULTATION PROCEDURES

Section 522 of the Act requires the Department to develop final regulations within twelve months from the date of enactment. During that period, the Department is to collect and respond to numerous public comments on several issues. However, in order to focus special attention on two critical issues, the conferees have included special requirements for the Department to seek comment through three public fora at which specified parties may make recommendations on:

—the selection process for participating administrative entities; and

—the mandatory renewal of certain contracts with project-based assistance.

Regarding the selection of participating administrative entities, the conferees stated previously that entities fully qualified shall be selected to undertake the complex task of restructuring the debt and assistance for multifamily projects. To this end, the selection criteria are intended to assure competent and efficient participants. The conferees urge the Department to use the fora to elicit a wide range of concerns and recommendations from affected parties as to implementing the selection process to accomplish this end.

Section 522 also directs the Department to solicit views on how to implement the requirements that section 8 assistance be renewed as project-based assistance for tight markets (section 515(c)(1)(A)) and when ''a predominant number'' of the units are occupied by elderly and/or disabled families (section 515(c)(1)(B)). The conferees believe it would be helpful if interested parties address the extent to which a project must be occupied by elderly and/or disabled persons to qualify for mandatory renewal, particularly rural projects which house elderly and disabled persons, in light of the factors that must be assessed in the rental assistance assessment plan.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1998 recommended by the committee of conference, with comparisons to the fiscal year 1997 amount, the 1998 budget estimates, and the House and Senate bills for 1998 follow:

New budget (obligational) authority, fiscal year 1997	$85,895,503,442
Budget estimates of new (obligational) authority, fiscal year 1998	90,990,338,000
House bill, fiscal year 1998	91,461,593,000
Senate bill, fiscal year 1998	90,367,535,000
Conference agreement, fiscal year 1998	90,735,430,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1997	+4,839,926,558
Budget estimates of new (obligational) authority, fiscal year 1998	−254,908,000
House bill, fiscal year 1998	−726,163,000
Senate bill, fiscal year 1998	+367,895,000

JERRY LEWIS,
TOM DELAY,
JAMES T. WALSH,
DAVE HOBSON,
JOE KNOLLENBERG,
R.P. FRELINGHUYSEN,
ROGER F. WICKER,
BOB LIVINGSTON,
LOUIS STOKES,
ALAN B. MOLLOHAN,
MARCY KAPTUR,
CARRIE P. MEEK,
DAVID E. PRICE,
DAVE OBEY,
Managers on the Part of the House.

CHRISTOPHER S. BOND,
CONRAD BURNS,
TED STEVENS,
RICHARD SHELBY,
BEN NIGHTHORSE CAMPBELL,
LARRY E. CRAIG,
THAD COCHRAN,
BARBARA A. MIKULSKI,
PATRICK J. LEAHY,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA BOXER,
ROBERT C. BYRD,
Managers on the Part of the Senate.

REPORT ON H.R. 2607, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

Mr. LIVINGSTON, from the Committee on appropriations, submitted a privileged report (Rept. No. 105–298) on the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. All points of order are reserved on the bill.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure, which was read and, without objection, referred to the Committee on Appropriations.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, CONGRESS OF THE UNITED STATES, HOUSE OF REPRESENTATIVES,
Washington, DC, September 29, 1997.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of resolutions adopted on September 24, 1997 by the Committee on Transportation and Infrastructure. Copies of the resolutions are being transmitted to the Department of the Army.

With kind personal regards, I am

Sincerely,

BUD SHUSTER,
Chairman.

There was no objection.

DAVIS-BACON FRAUD IN OKLAHOMA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, I am sure you have heard by now about the Davis-Bacon fraud that was going on Oklahoma. After long investigations by the Oklahoma Department of Labor, the FBI indicted and a Federal judge convicted a labor union official for falsely submitting wage information to inflate wage rates on Federal projects. Last week an Oklahoma Federal judge upheld a conviction and denied the motion for a new trial or acquittal on 14 felony charges. The union official currently awaits sentencing.

The investigation by the Oklahoma Department of Labor uncovered just how easy it is to manipulate the system. The investigation uncovered inflated numbers of employees and inflated wage rates on projects that were never built. Unfortunately, this false wage information enormously skewed data that sets wages on Federal projects. This illustrates the poor quality of the Federal wage survey process and how antiquated this program really is.

I would like to close by thanking the officials who were involved in the investigation and who persisted on following through to the end results, even if the results sadly confirm the fact that the Davis-Bacon invites fraud and abuse.

THE IRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, asking the Congress to stay out of it, the IRS is promising to reform themselves. Like a wounded TV evangelist, the IRS is begging the American people for forgiveness. They said, ''This time we really mean it. Cross our hearts, hope to die.''

Spare me, Mr. Speaker. Who is kidding whom? Allowing the IRS to reform themselves would be like allowing Jeffrey Dahlmer to head up the Boy Scouts. The IRS is guilty, guilty, guilty, and every time they get caught with their fingers in our 1040's, they plead for forgiveness.

Enough is enough. I say it is time to kick these computer cowboys right up their hard drives. Pass H.R. 367 and change the burden of proof in a civil tax case. That will get it done.

With that, I yield back all those crocodile tears at the Internal Revenue Service.

IN OPPOSITION TO H.R. 1270

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, this week the Committee on Resources will mark up H.R. 1270, the Nuclear Waste Act of 1997. This bill tramples the Constitution and violates the basic fundamentals this great country was founded upon.

Whatever happened to States rights? Whatever happened to the tenth amendment? How can this body mandate upon the State of Nevada that it must accept nuclear industry waste when Nevada does not even have a nuclear power plant of its own?

What about private property rights? In New Mexico a man won a lawsuit which entitled him to $884,000 because nuclear waste was shipped next to his private property and devalued his land. Again, this garbage will travel through 43 States along the most heavily populated highways in this country. Guess who is going to pay off all these private property owners? The American taxpayer.

H.R. 1270 is an unfunded mandate, a tax increase, a dangerous idea and a very bad policy. Do not be misled by the nuclear industry lobby. Get the facts. Vote ''no'' on 1270.

ALLOWING SMOKING IN THE CHAMBER

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Madam Speaker, our decision to allow smoking in this Chamber, the Speaker's lobby and the cloakrooms impacts not just ourselves but hundreds of employees, many of whom are here on a regular basis. Reports from our employees that I have received indicate they suffer extreme discomfort in some cases, do not like it, but feel uncomfortable about speaking out.

We should care as much for our employees as for other Federal workers who do get a smoke-free environment. They deserve it. Executive Order 13058 protects employees of Federal agencies from tobacco in the workplace. Agencies must implement the smoking ban by August 9, 1998.

There has been much talk in this Chamber about playing by the same rules as everybody else. Unfortunately, there is rather a glaring gap between the rhetoric and action when it comes to providing a smoke-free workplace for our employees.

It is time for the House to catch up with the rest of America and move to protect the health of our employees. I urge my colleagues to support H.R. 247.

WHITE HOUSE REACTION TO IRS

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Madam Speaker, now the whole world knows what American taxpayers suspected for many years: While there are many good employees, the IRS as an organization is running amok, abusing its power, targeting citizens, and acting on a daily basis to run the word ''service'' straight out of town.

So what is the Clinton administration's reaction to this abuse after it comes to light? Denounce the abuses? Promise never to use the IRS for political purposes again? And here is a dream, take those responsible for the abuse and hold them accountable? Guess again. The White House instinctively reacts the way it does whenever any government bureaucracy comes under attack. It defends the IRS.

The IRS needs an overhaul. We should sunset the Internal Revenue Code and have a national debate on the direction of our tax system. It needs a breath of fresh air and acknowledgment that it needs to go in a new direction. That is what this debate would be about, if we sunset the Internal Revenue Code.

RENO PROTECTING WHITE HOUSE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, is it any wonder that the day after the Attorney General makes a supposedly impartial preliminary decision last Friday clearing President Clinton of criminal conduct, that the White House suddenly releases videotapes of fundraisers at the White House? It is no coincidence that these videotapes were released to congressional investigators and the Justice Department after the Attorney General's decision. Senate investigators had previously asked if these tapes existed. The White House said no, they did not even exist.

Also, Madam Speaker, who is to also believe that somehow a 60-second portion of audio is missing from the tape of a June 18, 1996, fund-raising coffee at which witnesses recall John Huang asking for campaign contributions in the presence of the President?

Madam Speaker, I think it is important that we go forward and call for a special independent prosecutor, to find out what is occurring here.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 5 p.m. today.

VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1997

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2206) to amend title 38, United States Code, to improve programs of the Department of Veterans Affairs for homeless veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2206

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 ''Veterans Health Programs Improvement Act of 1997''.

SEC. 2. TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.

(a) CODIFICATION AND REVISIONS OF VETERANS HOMELESS PROGRAMS.—Chapter 17 of title 38, United States Code, is amended by adding at the end the following new subchapter:

''SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

''§ 1771. General treatment

''In providing care and services under section 1710 of this title to veterans suffering from serious mental illness, including veterans who are homeless, the Secretary may provide (directly or in conjunction with a governmental or other entity)—

''(1) outreach services;

''(2) care, treatment, and rehabilitative services (directly or by contract in community-based treatment facilities, including halfway houses); and

''(3) therapeutic transitional housing assistance under section 1772 of this title, in conjunction with work therapy under section 1718(a) or (b) of this title and outpatient care.

''§ 1772. Therapeutic housing

''(a) The Secretary, in connection with the conduct of compensated work therapy programs, may operate residences and facilities as therapeutic housing.

''(b) The Secretary may use such procurement procedures for the purchase, lease, or other acquisition of residential housing for purposes of this section as the Secretary considers appropriate to expedite the opening and operation of transitional housing and to protect the interests of the United States.

''(c) A residence or other facility may be operated as transitional housing for veterans described in paragraphs (1) and (2) of section 1710(a) of this title under the following conditions:

''(1) Only veterans described in those paragraphs and a house manager may reside in the residence.

''(2) Each resident, other than the house manager, shall be required to make payments that contribute to covering the expenses of board and the operational costs of the residence for the period of residence in such housing.

''(3) In order to foster the therapeutic and rehabilitative objectives of such housing (A) residents shall be prohibited from using alcohol or any controlled substance or item, (B) any resident violating that prohibition may be expelled from the residence, and (C) each resident shall agree to undergo drug testing or such other measures as the Secretary shall prescribe to ensure compliance with that prohibition.

''(4) In the establishment and operation of housing under this section, the Secretary

shall consult with appropriate representatives of the community in which the housing is established and shall comply with zoning requirements, building permit requirements, and other similar requirements applicable to other real property used for similar purposes in the community.

''(5) The residence shall meet State and community fire and safety requirements applicable to other real property used for similar purposes in the community in which the transitional housing is located, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to such property.

''(d) The Secretary shall prescribe the qualifications for house managers for transitional housing units operated under this section. The Secretary may provide for free room and subsistence for house managers in addition to, or instead of payment of, a fee for such services.

''(e)(1) The Secretary may operate as transitional housing under this section—

''(A) any suitable residential property acquired by the Secretary as the result of a default on a loan made, guaranteed, or insured under chapter 37 of this title;

''(B) any suitable space in a facility under the jurisdiction of the Secretary that is no longer being used (i) to provide acute hospital care, or (ii) as housing for medical center employees; and

''(C) any other suitable residential property purchased, leased, or otherwise acquired by the Secretary.

''(2) In the case of any property referred to in paragraph (1)(A), the Secretary shall—

''(A) transfer administrative jurisdiction over such property within the Department from the Veterans Benefits Administration to the Veterans Health Administration; and

''(B) transfer from the General Post Fund of the Department of Veterans Affairs to the appropriate revolving fund under chapter 37 of this title an amount (not to exceed the amount the Secretary paid for the property) representing the amount the Secretary considers could be obtained by sale of such property to a nonprofit organization or a State for use as a shelter for homeless veterans.

''(3) In the case of any residential property obtained by the Secretary from the Department of Housing and Urban Development under this section, the amount paid by the Secretary to that Department for that property may not exceed the amount that the Secretary of Housing and Urban Development would charge for the sale of that property to a nonprofit organization or a State for use as a shelter for homeless persons. Funds for such charge shall be derived from the General Post Fund.

''(f) The Secretary shall prescribe—

''(1) a procedure for establishing reasonable payment rates for persons residing in transitional housing; and

''(2) appropriate limits on the period for which such persons may reside in transitional housing.

''(g) The Secretary may dispose of any property acquired for the purpose of this section. The proceeds of any such disposal shall be credited to the General Post Fund of the Department of Veterans Affairs.

''(h) Funds received by the Department under this section shall be deposited in the General Post Fund. The Secretary may distribute out of the fund such amounts as necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out such program. The Secretary shall manage the operation of this section so as to ensure that expenditures under this subsection for any fiscal year shall not exceed by more than $500,000 proceeds credited to the General Post Fund under this section. The operation of the program and funds received shall be separately accounted for, and shall be stated in the documents accompanying the President's budget for each fiscal year.

''§ 1773. Additional services at certain locations

''(a) Subject to the availability of appropriations, the Secretary shall operate a program under this section to expand and improve the provision of benefits and services by the Department to homeless veterans.

''(b) The program shall include the establishment of not fewer than eight programs (in addition to any existing programs providing similar services) at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of those specialized services which may be provided under existing law.

''(c) The program shall include the services of such employees of the Veterans Benefits Administration as the Secretary determines appropriate at sites under the jurisdiction of the Secretary at which services are provided to homeless veterans.

''§ 1774. Coordination with other agencies and organizations

''(a) In assisting homeless veterans, the Secretary shall coordinate with, and may provide services authorized under this title in conjunction with, State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations.

''(b)(1) The Secretary shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be.

''(2) Each such assessment shall be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

''(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

''(A) Health care.

''(B) Education and training.

''(C) Employment.

''(D) Shelter.

''(E) Counseling.

''(F) Outreach services.

''(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

''(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

''(c) In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility or office, to—

''(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned, together with a description of the services offered by those programs;

''(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans;

''(3) take appropriate action to meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

''(4) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (3) of the services available to such veterans within the area served by such center or office.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1720A of such title is amended—

(A) by striking out subsections (a), (e), (f), and (g); and

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

(2) The heading of such section is amended to read as follows:

''§ 1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency''.

(c) CONFORMING REPEALS.—The following provisions are repealed:

(1) Section 7 of Public Law 102–54 (38 U.S.C. 1718 note).

(2) Section 107 of the Veterans' Medical Programs Amendments of 1992 (38 U.S.C. 527 note).

(3) Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note).

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 17 of such title is amended—

(1) by striking out the item relating to section 1720A and inserting in lieu thereof the following:

''1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency.'';

and

(2) by adding at the end the following:

''SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

''1771. General treatment.

''1772. Therapeutic housing.

''1773. Additional services at certain locations.

''1774. Coordination with other agencies and organizations.''.

SEC. 3. EXTENSION OF HOMELESS VETERANS COMPREHENSIVE SERVICE GRANT PROGRAM.

(a) EXTENSION FOR TWO FISCAL YEARS.—Subsection (a)(2) of section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1999''.

(b) REPEAL OF LIMITATION ON NUMBER OF PROJECTS.—Subsection (b)(2) of such section is amended by striking out '', which shall'' and all that follows through ''paragraph (1)''.

(c) TECHNICAL CORRECTION.—Subsection (a)(1) of such section is amended by striking out '', during''.

SEC. 4. ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS.

Section 1001 of the Veterans' Benefits Improvements Act of 1994 (38 U.S.C. 7721 note) is amended—

(1) in subsection (a)(2)—

(A) by striking out ''and'' at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ''; and''; and

(C) by adding at the end the following new subparagraphs:

''(D) evaluate the effectiveness of the programs of the Department (including residential work-therapy programs, programs combining outreach, community-based residential treatment, and case-management, and contract care programs for alcohol and drug-dependence or abuse disabilities) in providing assistance to homeless veterans; and

''(E) evaluate the effectiveness of programs established by recipients of grants under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note), and describe the experience of such entities in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans.''; and

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 5. NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

Section 1720C of title 38, United States Code, is amended—

(1) in subsection (a), by striking out ''During'' and all that follows through ''furnishing of'' and inserting in lieu thereof ''The Secretary may furnish''; and

(2) in subsection (b)(1), by striking out ''pilot''.

SEC. 6. PERSIAN GULF WAR VETERANS.

(a) SCOPE OF COUNSELING.—Section 703 of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4976) is amended by adding at the end the following new subsection:

''(c) FORM OF COUNSELING.—Counseling provided in this section may not be provided through written materials only, but shall include verbal counseling.''.

(b) CRITERIA FOR PRIORITY HEALTH CARE.—(1) Subsection (a)(2)(F) of section 1710 of title 38, United States Code, is amended by striking out ''environmental hazard'' and inserting in lieu thereof ''other conditions''.

(2) Subsection (e)(1)(C) of such section is amended—

(A) by striking out ''the Secretary finds may have been exposed while serving'' and inserting in lieu thereof ''served'';

(B) by striking out ''to a toxic substance or environmental hazard''; and

(C) by striking out ''exposure'' and inserting in lieu thereof ''service''.

(3) Subsection (e)(2)(B) of such section is amended by striking out ''an exposure'' and inserting in lieu thereof ''the service''.

(c) DEMONSTRATION PROJECTS FOR TREATMENT OF PERSIAN GULF ILLNESS.—(1) The Secretary shall carry out a program of demonstration projects to test new approaches to treating, and improving the satisfaction with such treatment of, Persian Gulf veterans who suffer from undiagnosed and ill-defined disabilities. The program shall be established not later than July 1, 1998, and shall be carried out at up to 10 geographically dispersed medical centers of the Department of Veterans Affairs.

(2) At least one of each of the following models shall be used at no less than two of the demonstration projects:

(A) A specialized clinic which serves Persian Gulf veterans.

(B) Multidisciplinary treatment aimed at managing symptoms.

(C) Use of case managers.

(3) A demonstration project under this subsection may be undertaken in conjunction with another funding entity, including agreements under section 8111 of title 38, United States Code.

(4) The Secretary shall make available from appropriated funds (which have been retained for contingent funding) $5,000,000 to carry out the demonstrations projects.

(5) The Secretary may not approve a medical center as a location for a demonstration project under this subsection unless a peer review panel has determined that the proposal submitted by that medical center is among those proposals that have met the highest competitive standards of clinical merit and the Secretary has determined that the facility has the ability to—

(A) attract the participation of clinicians of outstanding caliber and innovation to the project; and

(B) effectively evaluate the activities of the project.

(6) In determining which medical centers to select as locations for demonstration projects under this subsection, the Secretary shall give special priority to medical centers that have demonstrated a capability to compete successfully for extramural funding support for research into the effectiveness and cost-effectiveness of the care provided under the demonstration project.

SEC. 7. PERSONNEL POLICY.

Section 7425 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) Notwithstanding any other provision of law, employees described in paragraph (2), and the personnel positions in which such employees are employed, are not subject to any reduction required by law or executive branch policy in the number or percentage of employees, or of personnel positions, within specified pay grades.

''(2) Paragraph (1) applies to employees, and personnel positions, of the Veterans Health Administration performing the following functions:

''(A) The provision of, or the supervision of the provision of, care and services to patients.

''(B) The conduct of research.''.

SEC. 8. PURCHASES OF PHARMACEUTICAL PRODUCTS.

Section 8125 of title 38, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

''(e)(1) A drug, pharmaceutical or biological product, or hematology-related product that is listed on the pharmaceutical supply schedule described in section 8126(a) of this title may only be procured or ordered from that supply schedule by or for any entity specified in paragraph (2), notwithstanding any other provision of law (whether enacted before, on, or after the date of the enactment of this subsection).

''(2) An entity specified in this paragraph is (A) any agency or instrumentality of the Federal Government, or (B) any other entity that is specified in Federal law or regulation, as in effect before July 1, 1997, as eligible to procure or order drugs, pharmaceutical or biological products, or hematology-related products from such pharmaceutical supply schedule.''.

SEC. 9. TECHNICAL AMENDMENTS.

(a) SECTION CROSS REFERENCE.—Section 1717(a)(2)(B) of title 38, United States Code, is amended by striking out ''section 1710(a)(2)'' and inserting in lieu thereof ''section 1710(a)''.

(b) REFERENCES TO MEDICAL CENTERS.—(1) Paragraphs (1) and (11) of section 7802 of such title are amended by striking out ''hospitals and homes'' and inserting in lieu thereof ''medical facilities''.

(2) Section 7803 of such title is amended—

(A) by striking out ''hospitals and homes'' each place it appears and inserting in lieu thereof ''medical facilities''; and

(B) by striking out ''hospital or home'' both places it appears and inserting in lieu thereof ''medical facility''.

(c) NAME OF MEDICAL CENTER.—The Wm. Jennings Bryan Dorn Veterans' Hospital in Columbia, South Carolina, shall hereafter be known and designated as the ''Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center''. Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS], each will control 20 minutes.

The Chair recognizes the gentleman from Arizona, [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on H.R. 2206.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

(Mr. STUMP asked and was given permission to revise and extend his remarks.)

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2206 is a bill to improve VA programs for homeless veterans and health care for Persian Gulf veterans. It also includes several other provisions designed to improve the administration of the veterans' health care system.

As a result of the concerns expressed by Members and after consulting with the gentleman from Illinois [Mr. EVANS], the ranking member of the Committee on Veterans' Affairs, we have decided to drop section 8 affecting the veterans canteen service from the bill under consideration this afternoon.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 2206, as amended, the Veterans Health Programs Improvement Act. The bill before us today extends several important authorities which are scheduled to expire and approves a number of programs critical to meeting the needs of veterans with health care problems.

Specifically, this measure takes important steps to address some of our most serious concerns about homelessness among our veterans in our country. On any given night in America, a third of those living in the streets of America are veterans. I find this hard to live with both as a veteran and as an American citizen. I believe we must do more to respond to this problem.

As the VA's health care system makes important changes, at a minimum we must assure that the VA maintains both the quality and quantity of services delivered to homeless veterans today. This proposal will ensure the VA is able to continue such worthwhile activities which are allowing veterans to become independent and restore dignity to their lives.

Importantly, this legislation makes Persian Gulf veterans eligible for VA health care by virtue of their service in the gulf rather than through a particular exposure. The medical literature has yet to pinpoint a single cause of the problem many veterans are facing and varies on its determinations of whether health differences exist between military service persons who served in the gulf and their peers who served elsewhere. The bill we are proposing today takes cognizance of the variation in the literature and gives veterans the benefit of the doubt.

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The VA exists to treat veterans with health problems related to their service to this country, and this bill will allow gulf war veterans with illnesses to access this care.

The measure also authorizes a grant program to improve health care provided to these veterans. The VA Health Administration is enthusiastic about using its competitive grants to encourage their care providers to be innovative in treating the symptoms veterans have related to their deployment to the gulf and in developing centers of excellence for this care.

Our Nation cannot forget these veterans as time marches on. We are obligated to investigate not only the causes of their illnesses but to find the best treatments for their symptoms for those people who honorably served in that war for our country.

Several years ago the VA realized a substantial increase in drug prices due to unanticipated changes in the Medicaid pharmaceutical pricing policies. Manufacturers' representatives have stated they would not hesitate to raise prices to the VA again if State and local purchasers are allowed to benefit from the prices that the VA negotiates on behalf of Federal purchasers. This would increase the prices VA and others who benefit from the negotiation pay for pharmaceuticals. Because of this response, we do not believe State and local purchasers should benefit from access to the Federal fee schedules.

Furthermore, our Committee on Veterans' Affairs believes because of the inadequate resources that we have, that as many as 50,000 veterans would lose their access to the health care system if the VA was required to pay more for their drugs. We cannot allow this to happen.

This bill is extremely important to America's veterans. I hope my colleagues from both sides of the aisle will join me in supporting this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. STUMP. Madam Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS], the chairman of the Subcommittee on Health.

Mr. STEARNS. Madam Speaker, I thank the gentleman from Arizona [Mr. STUMP], the chairman, and I rise to urge my colleagues to support H.R. 2206, the Veterans Health Programs Improvement Act of 1997.

While this bill includes a number of important measures, its key provisions would improve care for homeless veterans and Persian Gulf veterans. The bill, as amended and reported out of the full committee, also incorporates other pieces of legislation which have the strong support of the Committee on Veterans' Affairs and the veterans community.

First, H.R. 2206 would extend, consolidate, and strengthen VA programs which have proven effective in helping rehabilitate homeless veterans. One-third of homeless adults are veterans. Of that number, over 85 percent have a serious psychiatric or substance abuse disorder. Studies indicate that a substantial number of those who rely on VA care are homeless or at risk of becoming homeless.

Madam Speaker, this bill recognizes that assisting the homeless is not solely a Federal or VA responsibility. In fact, it specifically envisions a VA role that involves working in partnership with Government agencies and community providers. Nevertheless, the bill would give the VA clearer and less restrictive authority to provide care and rehabilitative services to the homeless, and particularly those suffering from chronic and mental illness. It would enable veterans to provide a full range of needed services to restore health, independence, and dignity to many previously homeless veterans.

Madam Speaker, other key aspects of this legislation reflect the high priority this committee has given during the 105th Congress to oversight and particularly to oversight of VA care and provisions of benefits to Persian Gulf veterans. The full committee and its subcommittees have held four oversight hearings this year devoted exclusively to Persian Gulf war issues. That record has certainly sent a strong, clear message to veterans as well as to the Department of Veterans Affairs that this committee will do everything in its power to ensure that the VA fulfill its obligation to these veterans.

In fact, the National Commander of the American Legion commended the committee last month for ''Convening the most comprehensive and important hearings on Gulf War veterans since the end of the Gulf War.''

Central to our concerns has been the large number of veterans with unexplained and ill-defined health problems. What has become apparent to our committee is not only that these problems have been difficult to diagnose but they have been difficult to treat. We are encouraged that VA officials have recognized the need for different approaches to treating some of these chronically ill veterans who suffer from poorly understood health problems.

Accordingly, this legislation requires the VA to establish and fund a competitive grant program under which participating VA facilities would develop and operate demonstration programs aimed at improving care to Persian Gulf war veterans with undiagnosed illnesses. Medical science has still not provided the answers so many gulf war veterans seek in understanding the nature and cause of their illness. This legislation, however, would make it clear that regardless of the nature of the cause or causes, and regardless of whether the problem can be linked to exposure to a toxic substance or environmental hazard, these veterans are eligible for VA health care.

Finally, Madam Speaker, I would like to express my regret that a provision of this bill, based upon H.R. 1687 relating to physician and dentist retirements, was dropped due to disagreements with the Congressional Budget Office regarding its cost implications.

Nevertheless, Madam Speaker, this is an excellent bill and I urge my colleagues to join with me in passing this most important piece of legislation.

Mr. EVANS. Madam Speaker, I yield 3 minutes to the gentleman from California [Mr. FILNER], a member of the committee.

Mr. FILNER. Madam Speaker, I thank the gentleman from Arizona [Mr. STUMP] and the ranking member of the committee, the gentleman from Illinois [Mr. EVANS] for bringing this to the floor in such a rapid fashion; and also thanks to the gentleman from Florida [Mr. STEARNS], the chairman of the subcommittee, and the gentleman from Illinois [Mr. GUTIERREZ], its ranking member, for their leadership on these issues.

Madam Speaker, homelessness among our Nation's veterans continues to be a significant and troubling problem across the country. Informal surveys indicate that up to 275,000 former members of our Armed Forces sleep on America's streets or in homeless shelters every night. H.R. 2206, as has been described, provides for the extension and improvement of programs administered by the Department of Veterans Affairs which have assisted thousands of these men and women.

I am proud to say that my city of San Diego was one of the first to reach out to its homeless veterans, originating the creative program of ''Stand Down.'' Also, the Vietnam vets of San Diego run an incredibly effective housing program. But no city has the resources to address the crisis without Federal assistance and cooperation.

The programs which are being extended under H.R. 2206 will enable the good and caring citizens of San Diego and every other American city to continue to provide shelter, transitional housing and other support critical to the survival and rehabilitation of homeless veterans.

Madam Speaker, I urge my colleagues to support this measure.

Mr. EVANS. Madam Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. DENNIS KUCINICH].

Mr. KUCINICH. I want to congratulate, first of all, Madam Speaker, the gentleman from Illinois [Mr. EVANS] and his counterpart on the other side of the aisle, the gentleman from Arizona [Mr. STUMP], for the concern which they have shown for homeless veterans and for veterans of all kinds across this country.

My father fought in World War II. I had a brother who fought in Vietnam, and he is in a veterans home today as a result of that service. I am familiar firsthand with the effect that service to a government can have on a family, and I appreciate very much the work that all the men and women have done in this country in serving America. That is why to stand here at this moment is very difficult.

I want to point out a provision in H.R. 2206, the Veterans Health Programs Improvement Act of 1997, which was put in there, and for some reason this provision, which really has nothing to do with veterans at all, this provision would punish rural and urban public hospitals and health clinics in districts across the country and be tantamount to a local tax increase. It makes a bill, which everyone should agree on, quite controversial.

Section 10 of this bill would prohibit State, county, and municipal health givers from getting lower prices for lifesaving pharmaceuticals which their patients need. Nursing homes and public hospitals would suffer, since they must purchase equipment, medical devices and lifesaving drugs for elderly citizens and the ill, especially people with AIDS.

Local public health institutions will not be allowed to operate more efficiently and less expensively, since they will be forbidden by law from purchasing many products and services at discounted prices, which would otherwise enable the taxpayers to save billions of dollars at a State and local level.

At the request of the National Performance Review and Vice President GORE, the 104th Congress intended to bring efficient practices to local and State government without onerous regulations or government mandates. The bottom line savings would be realized by local taxpayers who pay the bill of local government.

Although saving money for local taxpayers is a good idea, there are those who oppose it, and certain industry groups which benefit from Government inefficiency, would like nothing more than to have Congress pass this particular provision which is in H.R. 2206. These industry groups are trying to, in effect, interject their interest into a bill which should be, first and foremost, to support the interests of veterans but, instead, the bill has a provision which attacks public hospitals.

The pharmaceutical industry wants to see H.R. 2206 pass because they do not want public hospitals and AIDS clinics to benefit from significant savings or significant discounts on lifesaving drugs. Why sell AIDS drugs at a lifesaving discount when they can be sold at full price?

Therefore, this provision makes H.R. 2206 a tax increase on local taxpayers because it would deny State, county, and municipal hospitals and clinics from purchasing pharmaceuticals and medical equipment at the discounted prices the Federal Government negotiates.

The provision in this bill is objectionable, unfair, and controversial, and I would suggest that this provision is emblematic of what is wrong with Government. Here we all agree that our veterans need access to low cost drugs for their health, particularly those who are least able to care for themselves. And all of us could agree, I would hope, that our public hospitals and clinics need access to the lowest possible cost for pharmaceuticals. But this bill puts us in a conflict where it makes us have to separate those interests, which ought to be interests we agree on.

So we are asked to choose between those interests. I say that is a false choice; that we in the Congress should be supporting veterans and we should be supporting public hospitals in our districts. And for that reason, until we can clean up this particular provision, I am urging a ''no'' vote on this particular bill, and I do so only with the greatest reluctance because of the terrific respect that I have for my colleagues on both sides of the aisle who are dedicated to veterans, and I know they really care about veterans' concerns.

Mr. STUMP. Madam Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Madam Speaker, I thank the chairman for yielding me this time and, Madam Speaker, this is a stretch of circuitous logic to say that this bill is a tax increase.

As I recollect, this bill, and the ranking member, the gentleman from Illinois [Mr. EVANS] can point out, as I remember, this passed by unanimous consent, all the Democrats and Republicans. This has nothing to do with what the gentleman from Ohio is talking about.

In fact, there is nothing in this bill that prevents worthy institutions from negotiating favorable prices for themselves, individually or collectively. We simply say that this institution should not piggyback on the Federal supply schedule.

Remember, now, if we open up the Federal supply schedule and make it for everybody, then the price is going to go up for veterans, and that is why I think many of us in the committee were worried about. In fact, the General Accounting Office, I tell my colleague from Ohio, came to the committee and testified that the VA and other Federal agencies could experience price increases on almost 81 percent of all the drugs in the Federal supply schedule.

And what would that mean for veterans? Let us talk about that, because this is what we are talking about. We are talking about the Veterans Administration. We are talking about a bill that would benefit veterans. The result, the VA Administration, the Clinton administration, not Republicans in the House, not our committee, the VA Administration told us that about 50,000 veterans would lose access to care. So with that in mind, both the Democrats and Republicans unanimously passed this bill.

I think we have to remember that what we are trying to do is allow veterans, through the Committee on Veterans' Affairs, to have access and have discounted prices. If we want to have discounted programs for veterans hospitals and veterans, let us keep it there and not open it up so that they are in the final analysis hurt.

Mr. EVANS. Madam Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

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Mr. KUCINICH. Madam Speaker, the gentleman from Florida [Mr. STEARNS] and I are in agreement on the need to lower the cost of pharmaceuticals for veterans. To me, there is no question that this Congress ought to be doing more for our veterans.

Where we are in disagreement is that we should accept a provision in this bill which stops public hospitals from taking advantage of the lowest possible prices that might be available to them. When I say that it means a tax increase if this bill passes, here is what I mean, so we can understand this.

If public hospitals are able to get the lowest possible price for goods that they buy and for services, since they run on tax dollars, the longer they can carry that tax dollar, the more they can stretch it, the more value that is given for the tax dollar. But if the goods cost more, that means people have to pay more taxes to support it.

So that would qualify the statement that I made.

But I can see, it is difficult to be able to at once stand very firmly for veterans, as my colleague has done, for which I congratulate him, and at the same time take a stand which says, well, we cannot regard the interest of public hospitals.

So, Madam Speaker, I am very concerned that we need to let people know the effect this could have on public hospitals.

Mr. EVANS. Madam Speaker, I yield back the balance of my time.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Let me mention one or two things about the Committee on Veterans' Affairs' efforts to address the concerns of Persian Gulf war veterans. We have had four separate hearings on this subject this year. We have heard from veterans' organizations, scientists, officials from VA, DOD, and CIA, and from the Presidential Advisory Commission.

At our request, the General Accounting Office has reviewed how VA cares

for veterans with undiagnosed illnesses and is undertaking additional reviews of how well VA is responding to our benefits. I also want all Members to know that we continue to press for answers to these veterans' questions.

One word about what the gentleman from Ohio [Mr. KUCINICH] is speaking of. There is nothing to prevent health organizations from negotiating with pharmaceutical companies today. Our responsibility is to protect the veterans, and if in fact we did that, or did not try to protect them, we could lose up to $250 million a year.

The VA procures about $1 billion dollars in pharmaceuticals every year, and that is why we are so interested in protecting this provision. I would like to thank the gentleman from Florida [Mr. STEARNS] and the gentleman from Illinois [Mr. GUTIERREZ], the chairman and ranking member of the Subcommittee on Health, as well as the gentleman from Illinois [Mr. EVANS], the ranking member of the full committee, for their contributions on this bill and for their continuing efforts to improve veterans' health care administration.

Mr. GUTIERREZ. Mr. Speaker, I would like to thank Ranking Member EVANS and Chairman STUMP for their work on this important bill.

I would also like to thank Chairman STEARNS for his efforts to get this legislation reported out of the Veterans' Affairs Committee, Subcommittee on Health in a timely manner.

Today, Mr. Speaker, we reauthorize a number of vital programs that provide treatment and rehabilitation services for homeless and mentally ill veterans.

I am sure many of you are aware of the numbers of homeless veterans in our Nation. The National Coalition for Homeless Veterans [NCHV] estimates that nearly 40 percent of homeless men are veterans.

The percentage of homeless women who are veterans has also increased during the past decade.

Thousands of these men and women who served our Nation and risked their lives for our defense have not been offered the respect and care they earned and deserve.

By reauthorizing the provision of vital health and rehabilitative care to this vulnerable but deserving population we pay off a small portion of the debt we owe these courageous Americans.

The bill before us today would consolidate, clarify, and I believe improve the Department of Veterans Affairs [VA] programs for homeless and mentally ill veterans by enabling the VA to deal more effectively and directly with many of the ailments afflicting these brave individuals.

Homeless veterans suffer from substance abuse at disproportionate levels. Approximately 70 percent of homeless veterans currently treated by the VA suffer from substance abuse problems.

Community-based residential care, which this bill authorizes for homeless veterans, has been proven to help these men and women restore their lives and I am pleased that we have reinstated these programs in this bill.

Compensated work therapy is similarly vital to the rehabilitative needs of homeless and mentally ill veterans. Work therapy is inextricably linked to the success of patients in their fight against substance abuse.

The consolidated work therapy program reauthorized in H.R. 2206 should continue to provide this crucial link for veterans who are fighting addiction while rebuilding their lives and careers.

H.R. 2206 is important also because it gives the VA authority to create new and innovative treatments and services for Persian Gulf veterans.

We don't have all the answers regarding the illnesses afflicting the veterans of the Persian Gulf war.

Yet evidence that indicates that the symptoms Persian Gulf veterans are experiencing as a result of their service are real and not figments of their imagination continues to mount.

What we do know, is that these veterans have been suffering for too long without health care programs specifically geared to their needs.

So I am pleased that this bill creates a new program to fund demonstration projects at the VA that may lead to the development of new treatments for gulf war veterans with undiagnosed or ill-defined medical conditions.

This is a positive and long-overdue step toward addressing their unique needs.

Once again, I thank the leadership of the House Veterans' Affairs Committee for their thoughtful work on this important legislation.

I ask my colleagues to recognize this work and the importance of this bill for our veterans by voting your support for this measure.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 2206, the Veterans Health Programs Improvement Act of 1997.

This bill modifies several laws, that are set to expire, which authorize programs to assist and rehabilitate homeless veterans and those with chronic mental illness. It also moves to address some of the critical needs relating to Gulf War illnesses.

It is estimated that one-third of all homeless adults and 40 percent of homeless men are veterans. According to research conducted by the VA, most homeless veterans suffer from serious psychiatric or substance abuse disorders. This legislation require the VA to create at least eight centers to provide comprehensive services to homeless veterans and to coordinate such services with other agencies and departments. It also extends the Homeless Veterans Comprehensive Service Grant Program through fiscal year 1999 and eliminates current law limitations on the number of specified projects for which grants may be awarded.

Equally important, Mr. Speaker, is the VA's responsibility to its veterans from the Persian Gulf war. With recent evidence pointing more and more towards troops having been exposed to chemical or biological agents, we are morally obligated to provide our veterans with the best medical care available for the injuries they incurred in service to their country.

In addition, the Presidential Advisory Committee is expected to release its final recommendations to the administration in the near future. Among the recommendations is one that would extend general health care for those veterans with undiagnosed or difficult-to-diagnose conditions. While such a provision would be an enormous help to our Persian Gulf veterans suffering from mysterious ailments, many of them also would like to know the exact cause of their condition.

This bill establishes a $5 million grant program for 10 VA facilities to establish demonstration projects aimed at improving health care for Gulf War veterans with the aforementioned conditions that are difficult to diagnose or categorize. It also makes clear that Gulf War veterans are eligible for care for any health problem, and not just those related to exposure to toxic agents.

Accordingly, I ask my colleagues to join in supporting this worthy legislation.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise as a strong supporter of the Randolph-Sheppard Act which provides important work opportunities for the blind. I want to thank Mr. STUMP and Mr. EVANS for removing Section 8 from the Veterans' Health Programs Improvement Act of 1997, which would have weakened the Randolph-Sheppard Act. Section 8 of this bill would have granted the Veterans' Canteen Service sole authority to establish canteens, including vending facilities and vending machines at VA medical facilities. This provision would have negatively impacted the Randolph-Sheppard Act and I am pleased that it has been removed.

The Randolph-Sheppard Act, which was enacted in 1936, gives blind individuals a priority over other businesses in the operation of vending facilities and vending machine services on federal property. In 1995, I led a successful bipartisan effort which eliminated a provision to exempt the National Park Service, Bureau of Land Management and Bureau of Reclamation from the Randolph-Sheppard Act. Across the United States this program has provided employment opportunities for over 3,500 blind individuals, including over 30 blind men and women in my home state of Connecticut. In fact, it is the nation's most successful program to provide independence and work opportunities for blind people.

Blindness is often associated with adverse social and economic consequences. It is often difficult for blind individuals to find sustained employment or for that matter employment at all. The Randolph-Sheppard Act was created to eliminate dependence and its resultant cost to the taxpayer, and it remains successful in doing that. Perhaps most important, it creates entrepreneurial opportunities for blind people and promotes this nation's tradition of pride in self-reliance.

Mr. STUMP. Madam Speaker, I yield back the balance of my time.

Mr. EVANS. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 2206, as amended.

The question was taken.

Mr. STEARNS. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

DEPARTMENT OF VETERANS AFFAIRS—MAJOR MEDICAL CONSTRUCTION PROJECTS

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2571) to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1998, and for other purposes.

The Clerk read as follows:

H.R. 2571

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

SECTION 1. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Seismic corrections at the Department of Veterans Affairs medical center in Memphis, Tennessee, in an amount not to exceed $34,600,000.

(2) Seismic corrections and clinical and other improvements to the McClellan Hospital at Mather Field, Sacramento, California, in an amount not to exceed $48,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

(3) Outpatient improvements at Mare Island, Vallejo, California, and Martinez, California, in a total amount not to exceed $7,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) Lease of an information management field office, Birmingham, Alabama, in an amount not to exceed $595,000.

(2) Lease of a satellite outpatient clinic, Jacksonville, Florida, in an amount not to exceed $3,095,000.

(3) Lease of a satellite outpatient clinic, Boston, Massachusetts, in an amount not to exceed $5,215,000.

(4) Lease of a satellite outpatient clinic, Canton, Ohio, in an amount not to exceed $2,115,000.

(5) Lease of a satellite outpatient clinic, Portland, Oregon, in an amount not to exceed $1,919,000

(6) Lease of a satellite outpatient clinic, Tulsa, Oklahoma, in an amount not to exceed $2,112,000.

(7) Lease of an information resources management field office, Salt Lake City, in an amount not to exceed $652,000.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(2) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1998—

(1) for the Construction, Major Projects, account $34,600,000 for the project authorized in section 1(1); and

(2) for the Medical Care account, $15,703,000 for the leases authorized in section 2.

(b) LIMITATION.—The projects authorized in section 1 may only be carried out using—

(1) funds appropriated for fiscal year 1998 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1998 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1998 for a category of activity not specific to a project.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] each will control 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

(Mr. STUMP asked and was given permission to revise and extend his remarks.)

GENERAL LEAVE

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2571.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2571 authorizes appropriations for VA major medical construction and major medical leases. The measure includes all the projects requested by the Department of Veterans Affairs for fiscal year 1998.

Since the earthquake in California in 1991 that closed the hospital at Martinez, there has been uncertainty in the Congress about what the VA should do to serve veterans of northern California. This bill writes the conclusion of that debate by approving an approach which will recycle a closed air force hospital near Sacramento and a naval clinic near Vallejo for veterans' use, lead to expansion of veterans' use of community health care facilities throughout northern California, and improve existing VA outpatient clinics to better serve veterans who use them.

This approach will save the U.S. Government almost $140 million in construction costs and will make VA health care more convenient for tens of thousands of veterans. This is a real victory for common sense.

Madam Speaker, I yield as much time as he may consume to the gentleman from Florida [Mr. STEARNS], the chairman of the Subcommittee on Health, for any further explanation he may make.

Mr. STEARNS. Madam Speaker, I rise in strong support of H.R. 2571, the fiscal year 1998 VA major construction authorization bill, and urge my colleagues to join me in passing this legislation.

This bill authorizes several major medical construction projects as well as leases. First, this bill authorizes $34.6 million to complete seismic corrections begun earlier at the Memphis VA Medical Center. It is important that we authorize this project because the Memphis facility does not conform to current seismic standards and lies on a fault line which has a high probability for earthquake activity.

It is important to note that this is the only project in the bill for which new funding for major construction is recommended. The bill also authorizes the expenditure of previously appropriated construction funds for several interrelated projects in northern California. The bill would authorize VA to undertake seismic corrections and clinical and other improvements at the McClellan Hospital at Mather Field in Sacramento, CA, and to make outpatient improvements at two other sites in northern California.

The bill would authorize the VA to undertake these projects in lieu of previous plans to construct a 234-bed hospital at Travis Air Force Base. The proposed Travis project was intended as a replacement for the VA medical center in Martinez which was closed in 1991 because of earthquake damage.

Studies done by the General Accounting Office and Price Waterhouse recommended against proceeding with the replacement project. The committee concurs with the view that the veterans of northern California will be better served by a plan that does not rely on a single hospital site as a source of hospital care for this large region.

The McClellan Hospital, however, has the capacity to serve the Sacramento area effectively, and VA anticipates that the McClellan facility will be transferred at no cost from the Air Force under the BRAC process.

Madam Speaker, H.R. 2571 also authorizes some $15 million for the VA to enter into lease agreements for needed satellite outpatient clinics in Jacksonville, FL; Boston, MA; Canton, OH; Portland, OR; and Tulsa, OK; and information resources management field offices in Birmingham, AL, and Salt Lake City, UT.

H.R. 2571 is a sound, fiscally responsible bill. It defers further major construction spending authorizations until VA makes more progress on strategic planning requirements that have been initiated by our committee. VA itself has urged that the Congress authorize these projects, and I urge Members to support this measure.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to support H.R. 2571. This bill accommodates the administration's construction spending priorities as well as those projects for which our committee anticipates appropriations will be made.

The major construction projects require modest funding but are critical to provide access to veterans in areas where their needs cannot be met or in maintaining patient safety in existing facilities which are deficient in conforming to the earthquake code.

I am also pleased with the emphasis this bill places on outpatient projects and development of information resources management centers.

Leasing, rather than building, to meet VA's needs is also a move in the right direction. VA has sometimes been criticized for using bricks and mortar to meet its space requirements while facilities in the community stand vacant.

The leases this bill authorizes are more flexible than in the past, and the

VA can provide the capacity it needs not only for today but it may need maybe tomorrow. The authorizations for construction and for leases also allow the VHA to continue on its course of shifting the care to ambulatory settings and providing increased access to the health care needs of our veterans in 1998.

Madam Speaker, I reserve the balance of my time.

Mr. STUMP. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I would like to commend the gentleman from Illinois [Mr. EVANS] on his commitment on this bill and also to the gentleman from Florida [Mr. STEARNS] and the gentleman from Illinois [Mr. GUTIERREZ], again, the chairman and the ranking member of the subcommittee, for all their work on behalf of the veterans.

Madam Speaker, I yield back the balance of my time.

Mr. EVANS. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 2571.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DEPARTMENT OF VETERANS AFFAIRS EMPLOYMENT DISCRIMINATION RESOLUTION AND ADJUDICATION ACT

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1703) to amend title 38, United States Code, to provide for improved and expedited procedures for resolving complaints of unlawful employment discrimination arising within the Department of Veterans Affairs, as amended.

The Clerk read as follows:

H.R. 1703

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 ''Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act''.

SEC. 2. EQUAL EMPLOYMENT RESPONSIBILITIES IN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—(1) Chapter 5 of title 38, United States Code, is amended by inserting at the end of subchapter I the following new section:

''§516. Equal employment responsibilities

''(a) The Secretary shall provide that the employment discrimination complaint resolution system within the Department be established and administered so as to encourage timely and fair resolution of concerns and complaints. The Secretary shall take steps to ensure that the system is administered in an objective, fair, and effective manner and in a manner that is perceived by employees and other interested parties as being objective, fair, and effective.

''(b) The Secretary shall provide—

''(1) that employees responsible for counseling functions associated with employment discrimination and for receiving, investigating, and processing complaints of employment discrimination shall be supervised in those functions by, and report to, an Assistant Secretary or a Deputy Assistant Secretary for complaint resolution management; and

''(2) that employees performing employment discrimination complaint resolution functions at a facility of the Department shall not be subject to the authority, direction, and control of the Director of the facility with respect to those functions.

''(c) The Secretary shall ensure that all employees of the Department receive adequate education and training for the purposes of this section and section 319 of this title.

''(d) The Secretary shall impose appropriate disciplinary measures, as authorized by law, in the case of employees of the Department who engage in unlawful employment discrimination, including retaliation against an employee asserting rights under an equal employment opportunity law.

''(e) The number of employees of the Department whose duties include equal employment opportunity counseling functions as well as other, unrelated functions may not exceed 40 full-time equivalent employees. Any such employee may be assigned equal employment opportunity counseling functions only at Department facilities in remote geographic locations (as determined by the Secretary). The Secretary may waive the limitation in the preceding sentence in specific cases.

''(f) The provisions of this section shall be implemented in a manner consistent with procedures applicable under regulations prescribed by the Equal Employment Opportunity Commission.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 515 the following new item:

''516. Equal employment responsibilities.''.

(b) REPORTS ON IMPLEMENTATION.—The Secretary of Veterans Affairs shall submit to Congress reports on the implementation and operation of the equal employment opportunity system within the Department of Veterans Affairs. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000. Each such report shall set forth the actions taken by the Secretary to implement section 516 of title 38, United States Code, as added by subsection (a), and other actions taken by the Secretary in relation to the equal employment opportunity system within the Department of Veterans Affairs.

SEC. 3. DISCRIMINATION COMPLAINT ADJUDICATION AUTHORITY IN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—(1) Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

''§319. Office of Employment Discrimination Complaint Adjudication

''(a)(1) There is in the Department an Office of Employment Discrimination Complaint Adjudication. There is at the head of the Office a Director.

''(2) The Director shall be a career appointee in the Senior Executive Service.

''(3) The Director reports directly to the Secretary or the Deputy Secretary concerning matters within the responsibility of the Office.

''(b)(1) The Director is responsible for making the final agency decision within the Department on the merits of any employment discrimination complaint filed by an employee, or an applicant for employment, with the Department. The Director shall make such decisions in an impartial and objective manner.

''(2) No person may make any ex parte communication to the Director or to any employee of the Office with respect to a matter on which the Director has responsibility for making a final agency decision.

''(c) Whenever the Director has reason to believe that there has been retaliation against an employee by reason of the employee asserting rights under an equal employment opportunity law, the Director shall report the suspected retaliatory action directly to the Secretary or Deputy Secretary, who shall take appropriate action thereon.

''(d)(1) The Office shall employ a sufficient number of attorneys and other personnel as are necessary to carry out the functions of the Office. Attorneys shall be compensated at a level commensurate with attorneys employed by the Office of General Counsel.

''(2) The Secretary shall ensure that the Director is furnished sufficient resources in addition to personnel under paragraph (1) to enable the Director to carry out the functions of the Office in a timely manner.

''(3) The Secretary shall ensure that any performance appraisal of the Director of the Office of Employment Discrimination Complaint Adjudication or of any employee of the Office does not take into consideration the record of the Director or employee in deciding cases for or against the Department.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''319. Office of Employment Discrimination Complaint Adjudication.''.

(b) REPORTS ON IMPLEMENTATION.—The Director of the Office of Employment Discrimination Complaint Adjudication of the Department of Veterans Affairs (established by section 319 of title 38, United States Code, as added by subsection (a)) shall submit to the Secretary and to Congress reports on the implementation and the operation of that office. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.

SEC. 4. EFFECTIVE DATE.

Sections 516 and 319 of title 38, United States Code, as added by sections 2 and 3 of this Act, shall take effect 90 days after the date of the enactment of this Act.

SEC. 5. INDEPENDENT PANEL TO REVIEW EQUAL EMPLOYMENT OPPORTUNITY AND SEXUAL HARASSMENT PROCEDURES WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) ESTABLISHMENT.—There is hereby established a panel to review the equal employment opportunity and sexual harassment practices and procedures within the Department of Veterans Affairs and to make recommendations on improvements to those practices and procedures.

(b) PANEL FUNCTIONS RELATING TO EQUAL EMPLOYMENT OPPORTUNITY AND SEXUAL HARASSMENT.—The panel shall assess the culture of the Department of Veterans Affairs in relationship to the issues of equal employment opportunity and sexual harassment, determine the effect of that culture on the operation of the Department overall, and provide recommendations as necessary to change that culture. As part of the review, the panel shall do the following:

(1) Determine whether laws relating to equal employment opportunity and sexual harassment, as those laws apply to the Department of Veterans Affairs, and regulations and policy directives of the Department relating to equal employment opportunity and sexual harassment have been consistently and fairly applied throughout the Department and make recommendations to correct any disparities.

(2) Review practices of the Department of Veterans Affairs, relevant studies, and private sector training and reporting concepts as those practices, studies, and concepts pertain to equal employment opportunity, sexual misconduct, and sexual harassment policies and enforcement.

(3) Provide an independent assessment of the Report on the Equal Employment Opportunity Complaint Process Review Task Force of the Department.

(c) COMPOSITION.—(1) The panel shall be composed of six members, appointed as follows:

(A) Three members shall be appointed jointly by the chairman and ranking minority party member of the Committee on Veterans' Affairs of the House of Representatives.

(B) Three members shall be appointed jointly by the chairman and ranking minority party member of the Committee on Veterans' Affairs of the Senate.

(2) The members of the panel shall choose one of the members to chair the panel.

(d) QUALIFICATIONS.—Members of the panel shall be appointed from among private United States citizens with knowledge and expertise in one or more of the following:

(1) Extensive prior military experience, particularly in the area of personnel policy management.

(2) Extensive experience with equal employment opportunity complaint procedures, either within Federal or State government or in the private sector.

(3) Extensive knowledge of the Department of Veterans Affairs, and particularly knowledge of personnel practices within the Department.

(e) REPORTS.—(1) Not later than six months after the members of the panel are appointed, the panel shall submit an interim report on its findings and conclusions to the Committees on Veterans' Affairs of the Senate and House of Representatives.

(2) Not later than one year after establishment of the panel, the panel shall submit a final report to the Committees on Veterans' Affairs of the Senate and House of Representatives. The final report shall include an assessment of the equal employment opportunity system and the culture within the Department of Veterans Affairs, with particular emphasis on sexual harassment. The panel shall include in the report recommendations to improve the culture within the Department.

(f) PAY AND EXPENSES OF MEMBERS.—(1) Each member of the panel shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the panel.

(2) The members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel.

(g) ADMINISTRATIVE SUPPORT.—The Chairman may hire such staff as necessary to accomplish the duties outlined under this title.

(h) FUNDING.—The Secretary of Veterans Affairs shall, upon the request of the panel, make available to the panel such amounts as the panel may require, not to exceed $400,000, to carry out its duties under this title.

(i) TERMINATION OF PANEL.—The panel shall terminate 60 days after the date on which it submits its final report under subsection (e)(2).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] each will control 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

(Mr. STUMP asked and was given permission to revise and extend his remarks.)

GENERAL LEAVE

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1703.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 1703 is the bipartisan equal employment opportunity reform bill for the VA. Many committee members from both sides of the aisle contributed to this bill.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as my colleagues know, the problem of sexual harassment is not new to our society or our Federal work force. It has only been in the past decade or so, however, that Congress has begun to truly recognize the depths of the problem and attempted to eliminate it from our workplace.

Recent testimony before the House Veterans' Affairs Subcommittee on Oversight and Investigations has shown that sexual harassment has been far too commonplace at the VA over the past few years. Despite what I consider to be sincere efforts of VA Secretary Jesse Brown and his successor, Hershel Gober, VA's ''zero tolerance'' policy against sexual harassment has failed.

VA's zero tolerance policy was placed in effect in 1993 after the Subcommittee on Oversight's hearings showed a seriously flawed EEO process and a culture of tolerance toward sexual harassment at the VA. I chaired those hearings back then, and I also fought to overhaul the EEO process within the VA at that time.

Thanks to the collective efforts of our past chairman, Sonny Montgomery, the gentleman from Arizona [Mr. STUMP], our current chairman, the gentleman from North Carolina [Mr. CLYBURN], the subcommittee chairman, and the gentleman from Florida [Mr. BILIRAKIS], and others, the House passed legislation during the 103d Congress that is nearly identical to the bill that we are considering today.

Given the promises of comprehensive Government-wide EEO reform, however, the Senate did not act on this piece of legislation. Nearly 5 years later, there has been no Government-wide reform of this process, there have been no major overhauls of the VA's administrative process, and VA's well-intentioned zero tolerance policy has proven to be ineffective.

But thanks to the leadership of VA's Oversight Subcommittee Chairman, TERRY EVERETT, the Committee on Veterans' Affairs has continued to keep a watchful eye on the VA's efforts to eliminate sexual harassment in the workplace. Joined by the gentleman from North Carolina [Mr. CLYBURN] and Republicans, the gentleman from Florida [Mr. BILIRAKIS], the gentleman from Indiana [Mr. BUYER], and the gentleman from Arizona [Mr. STUMP], TERRY and I introduced this bipartisan legislation that we are considering today on the floor of the House.

I commend the gentleman from Alabama, [Mr. EVERETT], for fighting the good fight, and I look forward to the passage of this legislation this afternoon.

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No one should think that we in Congress will be able to completely end sexual harassment, discrimination and abuse at the VA or anywhere else. Still, we can play a significant role in bringing renewed professionalism, independence and objectivity to the EEO process at the VA, and that is exactly what we will do by enacting H.R. 1703.

By removing the EEO complaint process from the facility where the discrimination allegedly occurred, this legislation limits the ability of heavy-handed facility directors to unfairly influence the discrimination complaint process. By removing the final agency decision-making authority from the VA's office, this legislation eliminates the obvious conflict of interest created when the general counsel is expected to be an advocate for the VA on one hand, and to decide the merits of discrimination complaints against the department on the other hand.

By enacting this bill, we can address these serious flaws and bring renewed independence, objectivity and professionalism to the EEO process at the VA.

I am pleased to say that VA Secretary Hershel Gober has acknowledged that the VA's current EEO process is flawed and in need of reform. In anticipation of this legislation and similar legislation in the Senate, Mr. Gober has already initiated administrative changes to the EEO process which would bring the department much of the way toward achieving the reforms originally proposed in 1993. I applaud his leadership and his demonstrated level of commitment on this issue, but it is still up to Congress to make sure that the VA does all the work it needs to do for this issue to be addressed.

The Congress cannot and should not be expected to wait any longer for meaningful reform of the EEO process within the VA. More importantly, this Nation's veterans and the VA employees dedicated to serving them cannot be expected to wait any longer for meaningful action and honest reform to come to the EEO process at the VA.

By enacting H.R. 1703, we in Congress can help put the VA back on the path toward restoring employee trust and eradicating discrimination in the workplace. Our veterans and VA employees deserve no less.

Madam Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. EVERETT], the chairman of the Subcommittee on Oversight and Investigations.

(Mr. EVERETT asked and was given permission to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, I rise in strong support of H.R. 1703, as amended, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

This legislation has grown out of oversight activities of the Committee on Veterans' Affairs Subcommittee on Oversight and Investigations which was reestablished at the beginning of this session. I will outline the bill shortly, but first I want to give my colleagues some background on issues which led to it.

In 1993, as a result of committee hearings led by the gentleman from Illinois [Mr. EVANS] on serious sexual harassment cases at the Atlanta VA Medical Center and elsewhere, the House passed a bipartisan bill, H.R. 1032, to strengthen the VA's EEO system. The gentleman from Illinois [Mr. EVANS], now our committee's ranking Democrat, was one of the authors of that bill.

The VA opposed the bill and it died in the Senate, as the gentleman from Illinois has indicated. Nevertheless, the VA promised to address the EEO problems the committee had identified. To make a long story short, it did not happen.

Then came Fayetteville earlier this year. This past April 17, the Subcommittee on Oversight and Investigations, at the request of the gentleman from Florida [Mr. BILIRAKIS], an active member of our committee, held a hearing on allegations of sexual harassment and other abusive treatment of employees at the Fayetteville VA Medical Center in North Carolina. Five courageous women came before the subcommittee to tell us, under oath, what had happened there. It of course differed in details, but essentially it was Atlanta all over again.

The testimony showed that the influence and control the former director at Fayetteville had over EEO complaint processing had discouraged VA employees from filing complaints and had prevented those who did from getting a fair hearing. Mr. Speaker, we heard testimony that the women, one of the women involved actually heard the EEO officer, who was the director, laugh at the complaints that had been filed. Obviously, the problems that the Atlanta case have revealed in the VA EEO system still remain.

As a consequence, the gentleman from Illinois [Mr. EVANS]; the gentleman from South Carolina [Mr. CLYBURN], the subcommittee's ranking Democrat; the gentleman from Arizona [Mr. STUMP], the chairman of the full committee; the gentleman from Florida [Mr. BILIRAKIS]; and the gentleman from Indiana [Mr. BUYER] have joined me in introducing H.R. 1703, a virtually identical bill to H.R. 1032. Down in Alabama we have a saying: ''Fool me once, shame on you; fool me twice, shame on me,'' and that is the reason we feel this legislation ought to go into law. I feel I speak for the cosponsors of the bill when I say we firmly believe that the needed EEO reforms at the VA should be a matter of law.

Mr. Speaker, H.R. 1703, as amended, will require the VA to establish a new EEO complaint resolution system separate from the facility management. It would also require the VA to establish a new, independent final decision-making office for the EEO cases. The director of the office will report directly to the VA's Secretary or Deputy Secretary. The bill would obligate the VA to report regularly to Congress on its progress in implementing the new provisions and on the operation of the new EEO system.

Finally, the bill would establish an independent panel to determine the extent of VA's hostile working environment for women and other VA employees.

Mr. Speaker, before concluding, I want to thank our distinguished Committee on Veterans Affairs chairman, the gentleman from Arizona [Mr. STUMP], for his support and vigorous oversight of the VA, for giving H.R. 1703, as amended, a high priority, and for bringing it so quickly to the floor. Also, I particularly want to mention the gentleman from Illinois [Mr. EVANS] and the gentleman from South Carolina [Mr. CLYBURN] for their hard work and personal involvement in this legislation. I want to commend the gentleman from Indiana [Mr. BUYER] for his leadership on both the Committee on Veterans Affairs and the Committee on National Security on this issue. The gentleman from Florida [Mr. BILIRAKIS], as well, has been tireless in his efforts to promote these reforms the VA needs so much for its employees.

Our bipartisan bill will not solve every EEO problem, but I believe it will go a long way toward restoring competence of VA employees in the Department's EEO system. Therefore, I strongly urge my colleagues to act favorably on H.R. 1703, as amended.

Mr. Speaker, I just received word that the VA has just announced that the administration has no objection to the House passage of H.R. 1703.

Mr. Speaker, I rise in support of H.R. 1703, as amended, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

This legislation has grown out of the oversight activities of the Veterans' Affairs Subcommittee on Oversight and Investigations, which was reestablished at the beginning of this season. I will outline the bill shortly, but first I want to give my colleagues some background on the issues which led to it.

In 1993, as the result of committee hearings on serious sexual harassment cases at the Atlanta VA Medical Center and elsewhere, the House passed a bipartisan bill, H.R. 1032, to strengthen the VA's equal employment opportunity [EEO] system. Mr. EVANS, now our committee's ranking Democrat, was one of the authors of that bill.

The VA opposed the bill and it died in the Senate. Nonetheless, the VA promised to address the EEO problems the committee had identified, but, to make a long story short, it did not.

Then came Fayetteville earlier this year. This past April 17, the Subcommittee on Oversight and Investigations, at the request of Mr. BILIRAKIS, an active member of our committee, held a hearing on allegations of sexual harassment and other abusive treatment of employees at the Fayetteville VA Medical Center in North Carolina. Five courageous women came before the subcommittee to tell us under oath what had happened there.

It of course differed in the details, but essentially it was Atlanta all over again. And to make matters even worse, the VA had not disciplined the medical center's former director, against whom the allegations were made. Instead, he had been allowed to transfer at the taxpayer's expense to a VA hospital in Florida, Bay Pines, near where he owned a home and where a nonsupervisory job has been created especially for him at a slightly higher salary than he had as a hospital director. This ''Club Med'' treatment for an abusive boss understandably outraged many employees at Fayetteville.

The subcommittee believed, based on the testimony it heard, that there were probably more cases of harassment or abusive treatment of employees, both women and men, at Fayetteville. As the chairman, I asked the VA to do a more thorough investigation, which it did. Unfortunately, our concerns proved well founded, and many additional cases came to light. While Fayetteville has new management, we are still monitoring VA's efforts to make the affected employees whole and to restore morale. Some employees had actually been driven into retirement under what amounted to duress in order to escape unbearable working conditions.

When we asked employees at Fayetteville with sexual harassment cases why they did not file discrimination complaints with the VA's EEO system, they asked, ''How could we? The director was the hospital's EEO officer and we had no confidence that anything would be done.'' One witness testified that the director and the EEO manager would meet after hours, discuss the EEO cases and laugh about them.

The testimony showed that the influence and control the former director at Fayetteville had over EEO complaint processing was discouraging VA employees from filing complaints and preventing those who did from getting fair treatment. Obviously, the problems the Atlanta cases had revealed in the VA's EEO system still remained.

As a consequence, Mr. EVANS, Mr. CLYBURN, the subcommittee's ranking Democrat, Chairman STUMP, Mr. BILIRAKIS and Mr. BUYER joined me in introducing H.R. 1703, a virtually identical bill to H.R. 1032. Down in Alabama, we have a saying, ''Fool me once, shame on you; fool me twice, shame on me.''

Since we introduced the bill and before the follow up hearing we held on July 17, the VA has taken significant administrative steps to do much of what our bill would accomplish. We have had serious discussions with the VA about their objections to various features of the bill and have completely redrafted the bill without changing its objectives. The Administration now has no objection to passage of the bill. I think I speak for the bill's cosponsors when I say we firmly believe that the needed EEO reforms at VA should be a matter of law.

Mr. Speaker, H.R. 1703, as amended, would require the VA to establish a new EEO complaint resolution system separated from facility management. It would also require the VA to establish a new, quasi-independent final decision-making office of EEO cases. The director of the office would report directly to the VA Secretary or Deputy Secretary. The bill would obligate the VA to report back regularly to Congress on its progress in implementing the new provisions and on the operations of its new EEO system.

Finally, the bill would establish an independent panel to asses the extent of this current problem within the VA.

Our bill is cost neutral. It requires changes in the way the VA processes and decides EEO cases, but the VA has assured the committee that it can accomplish these changes within its current budgetary resources. Furthermore, the Congressional Budget Office estimates no significant additional costs for a reformed EEO system at the VA.

Mr. Speaker, before concluding, I want to thank our distinguished Veterans' Affairs Committee Chairman, BOB STUMP, for his support of vigorous oversight of the VA in order to ensure that our Nation's veterans receive the benefits and services Congress has mandated, and for giving H.R. 1703, as amended, a high priority and bringing it to the floor so quickly.

Also, I particularly want to commend Mr. EVANS and Mr. CLYBURN for their hard work and personal involvement in this legislation. I want to commend Mr. BUYER for his leadership on both the Veterans' Affairs and National Security Committees on these issues. Mr. BILIRAKIS as well has been tireless in his efforts to promote the reforms needed so much too improve the workplace for VA employees.

Our bipartisan bill would not solve every EEO problem, but I believe it would go a long way toward restoring the confidence of VA employees in the department's EEO system. Therefore, I strongly urge my colleagues to act favorably on H.R. 1703, as amended.

Mr. EVANS. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina [Mr. CLYBURN], the ranking Democrat on the Subcommittee on Oversight and Investigations.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of H.R. 1703, as amended, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

The veterans oversight hearings chaired by the gentleman from Alabama [Mr. EVERETT], my distinguished Republican colleague, have demonstrated an extremely sensitive and serious problem of sexual harassment within the Department of Veterans Affairs. The gentleman from Illinois [Mr. EVANS] and I were original cosponsors of legislation nearly identical to H.R. 1703 back in 1993. At that time, we were told that changes were in the works regarding the EEO process at the VA and throughout the Federal Government, and that there would be no need for this legislation.

This expected Government-wide solution never happened. The Senate never acted on the bill we passed in 1993, and here we are again almost 5 years later dealing with sexual harassment problems that continue to fester at the VA.

It is a tribute to the gentleman from Alabama [Mr. EVERETT] that he has recognized the continuing need for legislation to improve the EEO process at VA. This May, with bipartisan support, the gentleman from Alabama [Mr. EVERETT] introduced H.R. 1703, legislation derived from the bill that was first introduced in 1993.

It is also a tribute to Secretary Hershel Gober that he has recognized a serious problem with the EEO process at VA, and that he has proposed administrative changes that draw in large part from the bill we have introduced in this Congress.

The VA's proposals do not go far enough, and there is still the need for legislation in this area. That is why we need to pass H.R. 1703 today, and that is why we need to do all we can to make sure our colleagues in the Senate quickly act on their version of this legislation.

By voting in favor of H.R. 1703, we in Congress can do our part to bring professionalism and independence to the EEO process at the VA, and to help restore the faith and trust in the process that has been so lacking through the last few years.

Mr. EVANS. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, I am very gratified that this legislation is being offered today. The bill is nearly identical to legislation that I sponsored during my first term in Congress in 1993, along with the gentleman from Illinois [Mr. EVANS], the gentleman from Massachusetts [Mr. KENNEDY], and others.

The problem of employment discrimination within the VA, particularly of sexual harassment within the department, is a problem that cannot be tolerated. The changes called for by this bill should make a major difference in ensuring that cases of discrimination or other improper behavior are handled in a proper manner.

Rather than having local VA officials police their own, a situation which invites personal relationships to interfere in an investigation, this bill offers us a better solution. Setting up an office of employment discrimination within the VA central office will enable a fair and more accurate system for dealing with complaints of harassment and discrimination.

In addition, I am hopeful that this bill will prove to be a step in the right direction, and encourage us to take action to develop proper care and treatment within the VA for Armed Forces personnel who have been sexually abused or harassed during their service in our military. This body's interest in addressing the problem of sexual harassment should not end today.

The VA's function is to serve veterans, and at present, it is doing an inadequate job of serving veterans who have been the victims of sexual abuse or harassment.

I introduced legislation earlier this year that would improve such care. I have been alarmed to learn that despite the high-profile cases that we have heard about this year at Aberdeen and other military installations and bases, the opportunity for a woman to receive care and treatment within the VA for those incidents of abuse is very rare.

I am gratified that more than 50 Members have agreed to cosponsor H.R. 2253. I would ask that any Members of this House who are voting with me to expand the investigation of sexual harassment within the VA will likewise join with me to pass legislation that will treat former military personnel, and I want to underscore this, that will treat former military personnel who seek help within the VA as a result of such abuse.

I want to thank the gentleman from Arizona [Mr. STUMP], the gentleman from Illinois [Mr. EVANS], the gentleman from Alabama [Mr. EVERETT], and the gentleman from South Carolina [Mr. CLYBURN] for their work on this important legislation. It should be supported by all Members of this House.

Mr. EVANS. Mr. Speaker, I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

A lot of people put a lot of time in achieving this bill, and I especially want to thank the gentleman from Alabama [Mr. EVERETT], the chairman of the Subcommittee on Oversight and Investigations, and the gentleman from South Carolina [Mr. CLYBURN] for all of the effort that he put forth on this bill, as well as the ranking member of the full committee; and of course the gentleman from Indiana [Mr. BUYER] and the gentleman from Florida [Mr. BILIRAKIS], who originally asked for a meeting, and the gentleman from Illinois [Mr. GUTIERREZ], who just made a statement. As I mentioned before, this is a very bipartisan bill and I urge the Members to support it.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H.R. 1703, Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

Over the past several months, incidents of sexual harassment by several of the VA's senior career managers have come to my attention. This greatly disturbs me because Congress investigated similar problems several years ago. In fact, when I served as the ranking minority member of the Oversight and Investigation Subcommittee, we conducted a hearing on sexual harassment in the VA workplace in 1992.

At that time, we heard from several VA employees who had been the victims of sexual harassment. It took a great deal of courage for these women to come forward and share their experiences with our committee. Many of these women were also subjected to acts of retaliation by their abusers and other VA employees.

Their perception, which was shared by many other employees, was that the VA did not take sexual harassment complaints seriously. There was a great deal of suspicion and distrust caused by too many years of apparent toleration of unacceptable behavior.

Without question, our 1992 hearing revealed that the process in place at the VA for investigating sexual harassment complaints was seriously flawed. Consequently, the Veterans' Affairs Committee unanimously approved legislation, which was later passed by the House, to address the problems at the VA. H.R. 1032 would have provided for improved and expedited procedures for resolving complaints of employment discrimination, including sexual harassment complaints.

When we considered H.R. 1032, VA Secretary Brown opposed the passage of this legislation because he preferred to take administrative action instead. The Senate did not act on H.R. 1032, and the bill was never enacted into law.

Secretary Brown established a policy of zero tolerance of sexual harassment and other forms of discrimination within the Department of Veterans Affairs early in his tenure as Secretary. Unfortunately, it appears that this policy of zero tolerance is not being enforced.

Almost 5 years after our first hearing, we are faced with a similar situation at the VA. This matter was brought to my attention again when the director of the Fayetteville VA Medical Center was found to have sexually harassed one female employee. He also engaged in abusive, threatening and inappropriate behavior toward other female employees. This director was transferred to the Bay Pines VA Medical Center which serves many of the veterans in my congressional district. He was allowed to retain a salary of more than $100,000 in a position created specifically for him.

I heard from my constituents, particularly female veterans and VA employees, who were outraged by the Department's actions on this matter. They do not believe that the VA took any punitive action against this senior VA employee.

At my request, the Veterans' Affairs Oversight Subcommittee held a hearing on this latest incident of sexual harassment on April 17, 1997. We heard from several VA employees who were subjected to abusive treatment while working in the Fayetteville Medical Center. Sadly, their stories mirror those that we first heard in 1992. Despite the Secretary's zero tolerance policy, it appears that the VA has failed to adequately implement sufficient administrative procedures to deal with sexual harassment complaints.

Our witnesses believed that their harasser was not properly or adequately punished. In fact, they felt that he was rewarded for his actions ''by being sent to the place he wanted to be with a raise in salary.'' This certainly appears to be the case. Consequently, I am greatly concerned that the VA's policy of zero tolerance has, at best, not been implemented uniformly, and at worst, has been ignored.

In 1992, I said that ''Everyone has the right to live and to go to work without fear of harassment of any sort * * * we owe all female veterans and all female VA employees the assurance that we will not tolerate sexual harassment at any level.'' This statement is just as relevant today as it was 5 years ago.

Our 1992 hearing revealed that the process in place at the VA for investigating sexual harassment complaints was seriously flawed. Our 1997 hearing showed that the process is still flawed. Although I wish it were not necessary, I am pleased to be an original cosponsor of Chairman EVERETT's legislation, H.R. 1703.

We cannot defer legislative action again. I certainly do not want to find out 5 years from now that the VA's EEO process is still broken. Victims of sexual harassment and other types of employment discrimination deserve a sympathetic and effective response from their employer. The legislation before us is essential to assure employees that mistreatment will be dealt with fairly.

I urge my colleagues to support H.R. 1703.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 1703, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act of 1997.

In recent years, we have heard of numerous cases where individuals within the Department of Veterans Affairs who were subjected to sexual harassment and other unlawful employment discrimination. As a result, the Department has established a zero-tolerance policy on sexual harassment and has promised to improve its equal opportunity system.

This legislation would assist the Department in meeting that goal by establishing a new Office of Resolution Management [ORM] to carry out such responsibilities. The number of full time professional EEO counselors and investigators is increased under this legislation.

Furthermore, H.R. 1703 mandates that the VA Secretary establish an Office of Employment Discrimination Complaint Adjudication [OEDCA] to issue final decisions on the merits of discrimination claims within the Department. The director of OEDCA will report directly to the VA Secretary and will have sole responsibility within the VA for resolving complaints of sexual harassment and other unlawful employment practices.

Accordingly, I urge my colleagues to join me in support of this legislation, which will help to reduce the level of unlawful employment incidents in the VA and allow those who were victims of such practices to continue to move forward in helping our veterans.

Mr. FARR of California. Mr. Speaker, I rise in support of two important veterans bills being considered on the floor today. H.R. 1703, the Veterans' Affairs Employment Discrimination Prevention Act, would establish a new VA office to resolve employment discrimination claims by veterans. Too often, our Nation's veterans are the victims of discrimination in the workplace, and this legislation would help ensure that their concerns are heard and resolved.

H.R. 2206, the Veterans Health Programs Improvement Act, will provide needed help to homeless veterans and veterans of the gulf war. The legislation would reauthorize a number of important Federal programs for homeless veterans, and allow the VA to operate more care facilities for veterans suffering from drug and alcohol abuse.

In addition, H.R. 2206 would expand medical care eligibility for gulf war veterans, so that any veteran with gulf war illnesses could receive health care from the VA—whether or not their illness can be proven as caused by exposure to toxins. The bill also authorizes $5 million in funds for researching new forms of treatment of gulf war syndrome.

I represent both veterans and veterans' families who continue to suffer from gulf war illnesses, with no end in sight. Unfortunately, many suffering veterans don't get medical care because they cannot prove the cause of their illness. This legislation will ensure medical help is available for those gulf war veterans who need it.

I am glad to see these two bills come to the floor, and I urge my colleagues to support them.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP), that the House suspend the rules and pass the bill, H.R. 1703, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A bill to amend title 38, United States Code, to provide for improvements in the system of the Department of Veterans Affairs for resolution and adjudication of complaints of employment discrimination.''

A motion to reconsider was laid on the table.

☐ 1500

REAUTHORIZATION OF THE EXPORT-IMPORT BANK

The SPEAKER pro tempore (Mr. STEARNS). Pursuant to House Resolution 255 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1370.

☐ 1500

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States, with Mrs. EMERSON, Chairman pro tempore in the chair.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 30, 1997, amendment No. 3 printed in House Report 105–282 offered by the gentleman from New York [Mr. LAFALCE] had been disposed of.

It is now in order to consider amendment No. 4 printed in House report 105–282.

AMENDMENT NO. 4 OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ROHRABACHER:

At the end of the bill, add the following:

SEC. 10. PROHIBITION AGAINST ASSISTANCE TO COMPANIES THAT ARE AT LEAST 50 PERCENT OWNED BY A FOREIGN GOVERNMENT OR MILITARY.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

''(12) PROHIBITION AGAINST ASSISTANCE TO COMPANIES THAT ARE AT LEAST 50 PERCENT OWNED BY A FOREIGN GOVERNMENT OR MILITARY.—

''(A) DETERMINATION OF OWNERSHIP.—On application for assistance involving a transaction in connection with the import or export of any good or service, the Bank shall determine whether any company involved in the transaction is at least 50 percent owned by the government or military of a foreign country.

''(B) PROHIBITION.—The Bank shall not insure, guarantee, extend credit, or participate in an extension of credit involving any transaction in connection with the import or export of any good or service if any company involved in the transaction is at least 50 percent owned by the government or military of a foreign country.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, the gentleman from California [Mr. ROHRABACHER] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. CASTLE. Madam Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Delaware.

Mr. CASTLE. Madam Chairman, I ask unanimous consent that the time for debate on the two Rohrabacher amendments be extended to 20 minutes from the 10 minutes allocated from the rule, to be equally divided between the proponents and opponents. We have discussed this, and it is in everyone's interest to do this.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. ROHRABACHER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, my amendment to H.R. 1370 would prohibit the Export-Import Bank from providing assistance for transactions involving the import or export of goods or services with companies that are at least 50 percent owned by a foreign government or the military of a foreign government. My amendment will also prohibit the bank from insuring, extending credit, or participating in an extension of credit with such a company.

Numerous studies show that the largest percentage of Export-Import Bank transactions benefit a small number of mega private corporations at the expense of small business and/or the taxpaying citizenry. It is ridiculous that while other U.S. agencies, such as the Agency for International Development, and multinational-multilateral banks are spending billions of U.S. tax dollars on privatization efforts, that the Export-Import Bank subsidizes transactions with State or military-owned companies. Often these are the vestiges of failed socialist state-planned political and economic systems.

Even worse, some of these subsidized firms may be owned by the military arm of dictatorial regimes; for example, the Peoples Liberation Army in China, Communist China.

I have heard concern that my amendment would prevent companies from participating in large infrastructure, power generation, communications, and transportation projects in developing countries. Clearly this amendment does not prevent American companies from being involved in such projects.

What it specifies is that the U.S. taxpayers should not be put at risk with guaranteeing or loaning hundreds of millions of dollars for ventures with state- or military-owned companies that are shunned by private lenders.

This is in fact corporate welfare that subsidizes imports over exports. For example, in China, where U.S. airline companies are receiving export-import funding, those deals, more often than not, involve the transfer of American technology and the development of Chinese assembly lines that in a few short years will be in direct competition with United States workers. This is the worst kind of short-sightedness, not only on the part of the companies involved, but on the part of the U.S. Government. We are subsidizing the creation of our own high-tech competition in dictatorships like China.

Will my amendment really deter the creation of new American jobs? According to the Congressional Research Institute, and I quote, Most economists doubt that a nation can improve its welfare over the long run by subsidizing exports. At the national level, export financing merely shifts production among sectors within the economy, rather than adding to the overall level of economic activity, and subsidizes foreign consumption at the expense of the domestic economy.

In addition to sustaining the American job base, this amendment will encourage our trading partners to expedite the privatization of state-owned and military-owned companies, and to reduce the power of foreign businesses that are controlled by government apparatchiks, military brass, and other anti-democratic cronies. This is in the long-term interest of our people, it is in the long-term interest of our economy, instead of having some clique, some what they call crony capitalism, some clique of capitalists in our country being given resources that should be going out to the small businessmen and women of our country, and it also protects our own workers from subsidizing their competition.

Madam Chairman, I reserve the balance of my time.

Mr. FLAKE. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from New York [Mr. FLAKE] is recognized for 10 minutes.

Mr. FLAKE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this particular amendment and its sponsor I tend to believe does not understand what the Eximbank really does. It is completely unilateral, this amendment, and would significantly damage the ability of U.S. companies to compete for infrastructure projects in most of the regions of the world. No other government will follow suit, so this amendment simply gives foreign companies a big advantage over U.S. firms and our workers.

The amendment applies worldwide, preventing Eximbank financing in most of the lucrative and most fast-growing markets in the world, where Exim's financing is essential to U.S. companies to compete in these various marketplaces.

I think we need to understand that in the countries where Exim is operating, that those countries that are participating with these small, developing nations are in fact countries that provide subsistence to their various companies, and if we do not do that we will not be in a competitive posture with them.

U.S. industries hurt most under this amendment include power plant equipment makers, aircraft makers, oil and gas service companies, construction and engineering firms, communications equipment makers, water treatment equipment makers, et cetera.

By undercutting American exporters in these markets, this amendment would directly cut American exports and export-related jobs. These exports and jobs would go to foreign countries which would still have their government's full financial backing. I believe that this puts us in a competitive posture that takes away from our ability to be able to function appropriately in these marketplaces.

By cutting U.S. exports, this amendment will worsen our already dismal record of trade deficit. The amendment is based on the false notion that it is wrong for U.S. Governments to help American exporters sell our goods and services to government-owned companies anywhere in the world. Since no other government will follow this policy, foreign government-owned companies will simply buy from Europe, Japanese, Korean, and other competitors. It will have no impact on foreign governments, nor will it hasten privatization.

Foreign corporations and their workers are the only ones who will benefit from this amendment, because they will get the business that American exporters will lose by the denial of Exim financing.

Madam Chairman, I reserve the balance of my time.

Mr. FLAKE. Madam Chairman, I yield the balance of my time to the gentleman from Delaware [Mr. CASTLE], the distinguished chairman of the subcommittee.

The CHAIRMAN pro tempore. Without objection, the gentleman from Delaware [Mr. CASTLE] will control the remainder of the time, and is recognized for 7½ minutes.

There was no objection.

Mr. CASTLE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am in firm opposition to this amendment. I know it means well, but we do not have time to go through that. But essentially it would severely damage U.S. exports to developing economies, developing markets, and post-Communist foreign countries by prohibiting Exim financing for the purchasing of U.S. goods and services to any foreign buyer that is at least 50 percent owned by a foreign government or military.

It is ill-conceived, and frankly it is counterproductive. It guts Eximbank's ability to effectively support U.S. exporters and their workers, our workers, throughout much of the world. It is plainly contrary to the national interests and the economic well-being of American workers.

It is opposed by the Department of State, which has starkly warned that the amendment could do great damage to U.S. commercial interests. It is opposed by the Department of Treasury, which points out that most buyers in the developing world are public sector entities. It is just a fact. A prohibition on sales to such entities will put Eximbank out of business and cede export sales to our competitors.

The U.S. Chamber of Commerce has come out in strong opposition to this particular amendment, while at the same time strongly supporting H.R. 1370, the Export-Import Bank.

The National Association of Manufacturers states that the Rohrabacher amendments would reduce U.S. exports or public works projects in every region of the country, and block U.S. exports to government-owned customers. These amendments would hand over billions of dollars of contracts to our major competitors in Germany, Japan, and France, among others.

According to Exim, had this amendment been in effect since 1987, it would have cost the United States $8.7 billion in aircraft sales alone. It would directly jeopardize more than $11 billion in future aircraft sales.

Why would it wound us so much? Very simply, it would cut off Exim financing for the export of U.S. goods and services to any public sector economy anywhere around the world, period. For example, if a United States company is competing on a public power project in South Africa against a Japanese firm being financed by JEXIM, Japan's export credit agency, this amendment would concede that sale to the Japanese. That is why we need a strong Eximbank, to level the playing field for American exporters and their workers.

Let us be clear about the effects of this amendment. It would penalize U.S. businesses and their workers trying to compete and win in the global marketplace. It would lose billions in U.S. export sales. It would lose hundreds of thousands of good, high-paying American jobs. The amendment misperceives the purpose of Exim. It operates on commercial principles to support U.S. exporters. It operates as a lender of last resort. It finances the purchase of U.S. exports by foreign buyers at market rates. It does not subsidize foreign governments or militaries.

A vote for this amendment is a vote to impose sanctions on United States businesses and United States workers because it prohibits Exim from assisting United States exports to the fastest growing emerging markets of virtually every continent around the world: Argentina, Brazil, Central Asia, Chile, India, Mexico, Russia, South Africa and the Ukraine. A vote for this amendment is tantamount to closing down the Eximbank. I would encourage all of us to rise in opposition to this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Madam Chairman, I yield myself 1 minute.

Madam Chairman, first of all, let us just note that when we subsidize someone who is doing business overseas, that money comes from a pool of money that is not available for our own small businessmen, for everybody else who wants to do that kind of business here in the United States.

There is no reason that I see that we should provide huge American corporations with loans that are taken right out of the pockets of these small businesses that would like to maybe expand their little shop by a little bit in their hometown. That is where that money is coming from. It is no magic wand that is coming out of nowhere. It is coming from our pockets, and it is subsidizing, as I say, some of the largest companies in this country to do business where? In the developing world. Many times that is a euphemism for vicious, ugly dictatorships that cannot get loans because they are too risky for private owners to loan this money. And $8 billion in aircraft loans? What accompanies those $8 billion in loans has been mandates that we set up manufacturing units in those other ''developing countries,'' not in the long run but in the medium run. That means we are setting up competition for our own aerospace industry. It is ridiculous. Vote against this.

Mr. CASTLE. Madam Chairman, if the gentleman will yield, I agree with voting against it.

Mr. ROHRABACHER. Vote in support of the amendment.

Mr. CASTLE. Madam Chairman, I yield 10 seconds to the gentleman from New York [Mr. FLAKE].

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Mr. FLAKE. Madam Chairman, I think the gentleman from California [Mr. ROHRABACHER] does not quite understand how the Exim works. These are American companies that are doing business in countries where other countries allow for some type of subsidy for the companies that are operating there. I think the gentleman is correct in stating, though, that we should vote against the amendment.

Mr. CASTLE. Madam Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Madam Chairman, let me stress the issue of airplane sales has been raised. That professionals tell us that if this policy had been in effect over the last decade, it would have cost about $8.7 billion in U.S. aircraft sales and in the immediate future about $11 billion in aircraft sales.

Yes, it is true that some of our aircraft manufacturers have made certain agreements with countries around the world to produce parts of crafts there. On the other hand, so has Airbus. So the question becomes whether the United States wants to become a part of these markets or not. If we support this amendment, the United States will be blocked out of these markets, and once we are blocked out of certain markets, that ends up having a literally cyclonic effect for other markets. It is not as if one market stands alone.

Madam Chairman, in terms of what it means for jobs, it has been estimated that in just eight key emerging markets the approach contained in this amendment would lose about $16 billion of U.S. export sales. That is 227,000 jobs, or about 521 jobs per congressional district. I think that is a pretty difficult thing to suggest that we ought to be eliminating.

Finally, the issue is not whether Exim as an institution is forced to be closed down. The issue is whether we cede markets to other countries, whether we embargo United States exports, whether we give up United States jobs.

Madam Chairman, this is a case of unilateral economic disarmament. It is well-intended, but it is clearly counterproductive. I urge in no uncertain terms the defeat of this amendment.

Mr. ROHRABACHER. Madam Chairman, I yield myself 1½ minutes.

Madam Chairman, the only economic disarmament that is going on is the billions of dollars that we are taking out of our country and shipping manufacturing units to other countries, ''developing'' countries, and dictatorships like Vietnam and China.

Yes, this is put under the guise of being exports, but, more often than not, we are not talking about somebody selling refrigerators over in China or Vietnam, we are talking about companies getting subsidies from the U.S. Government in order to set up a manufacturing unit in those countries.

Like these airline deals that we are talking about, yes, we are selling some airplanes, but part of the deal is, we are setting up an aerospace industry to compete against our own aerospace industry a few years down the line.

Madam Chairman, this is so shortsighted, and we are not talking about exports here, we are talking about setting up temporary sales, some short-run sales, manufacturing units that

will import into the United States. This is a disaster in the medium run. But, again, we have the special interests trying to get their hands on the taxpayers' dollars for a short-term, cut-and-run philosophy on profit.

Madam Chairman, this is not going to be in the long-term interest of the American taxpayers or the American people. After they set up their companies in these countries, they are going to come back and put our own working people out of business.

Madam Chairman, I urge my colleagues to vote for this amendment and let us get on to privatization in the Third World, in the developing world, and let us not subsidize these companies like the People's Liberation Army in China.

Mr. CASTLE. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Madam Chairman, I know it is not intended, but I believe underlying this amendment is a certain arrogance. That is that every other country in the world and company in the world must be and do as we in the United States are, that they cannot have their own system. And if they do, we will not sell them products or services with any Eximbank assistance.

I really think that that is shortsighted. As a matter of fact, were we to closely examine the United States, for example, New York State, we have a New York State Power Authority. It is a governmental entity that provides power in New York State. We have in western New York the Niagara Frontier Transportation Authority, a governmental entity providing public transportation.

Under the Rohrabacher amendment, their counterparts in foreign countries would be excluded from participating with American businessmen and women in the purchase of goods, products, and services if Eximbank were to attempt to be of assistance.

Madam Chairman, I really think that is rather foolish and narrowminded, and I think the amendment should be rejected.

Mr. ROHRABACHER. Madam Chairman, I yield myself 1 minute.

Madam Chairman, I am not suggesting, and this amendment is not suggesting, that American businesses cannot go any place in the world, whether it is dictatorships or nondictatorships, developing world or developed world, and do business. They are welcome to do so. The major question is whether or not the taxpayers of this country should be subsidizing these enterprisers who go overseas, should be subsidizing them and offering them loan guarantees, et cetera, and direct loans, through the Export-Import Bank.

Madam Chairman, these people still can go to the private sector and get their loans, they can still participate in whatever project they want, but they cannot expect the American taxpayer to subsidize ongoing socialist projects overseas or ongoing projects in these dictatorships where they own the enterprises, and so it becomes a bolstering of the regime rather than just a business enterprise.

Madam Chairman, this amendment would exclude no one from doing business overseas; it would end the taxpayer subsidy of this type of business.

Mr. CASTLE. Madam Chairman, I yield 45 seconds to the gentleman from Illinois [Mr. MANZULLO].

(Mr. MANZULLO asked and was given permission to revise and extend his remarks.)

Mr. MANZULLO. Madam Chairman, with all deference to the gentleman from California, the Eximbank has nothing to do with projects overseas. All Eximbank does is make otherwise unavailable financing to companies, such as Beloit Corporation, which is one of three worldwide manufacturers of papermaking machines and has 2,900 subcontractors, hundreds of thousands of jobs. These are blue-collar workers. The purpose of Eximbank is to allow blue-collar workers to keep their jobs in the United States. Eximbank does not subsidize projects outside of the United States.

Madam Chairman, that is the problem with people attacking Eximbank thinking it is corporate welfare when they do not even understand what this bank does.

Mr. ROHRABACHER. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, the gentleman from Illinois [Mr. MANZULLO], my good friend, has demonstrated for me exactly why my amendment is so important. I do not want us to be subsidizing sending papermaking machines to another country to then compete with our own people who are involved with the paper manufacturing industry in the United States of America.

If people want to sell cardboard boxes or whatever type of machines we are talking about overseas, more power to them. Let them go out and sell those cardboard boxes to Vietnam or China or a dictatorship, democracy, we do not care.

Madam Chairman, I do not need anyone to tell me that the American taxpayer wants us to sell manufacturing units overseas to compete with their own jobs, especially when we are talking about the subsidization here, which is what this amendment does, prevents us from subsidizing all of these state-run enterprises.

Madam Chairman, what we have got is, fine, my amendment would not affect people who want to go out and export and be involved in enterprises overseas whatsoever if they do so at their own risk and they get private capital. But the private capital will not subsidize these enterprises overseas in risky situations or in dealing with companies overseas like the People's Liberation Army where there is a political risk.

Why in the world are we having the American taxpayer subsidize this for these big corporations, whether it is a paper manufacturing company setting up a paper manufacturing company overseas or whether it is a refrigeration unit?

Motorola set up a chip manufacturing unit in China. They ended up in China using the chips from that company to develop land mines that will explode on anyone who is trying to defuse the land mine. I am not sure if they have an Export-Import Bank loan on that, but if they did, they should not have.

So, Madam Chairman, I would say let us keep the taxpayers' dollars here. Let that stay in the pool of money that is available to our own small business rather than subsidizing these enterprises overseas which in the end compete with the American jobs.

Madam Chairman, I call for the support of my amendment.

Mr. CASTLE. Madam Chairman, I yield the balance of my time to the gentleman from Florida [Mr. MICA].

Mr. MICA. Madam Chairman, Exim does not ship any money or set up any manufacturing overseas. What it does is exactly what the opponent of Exim has said: It helps American businesses finance the sale of American goods and products overseas where no one else will touch the financing. That is the whole purpose of Exim, to help create U.S. jobs, U.S. opportunities, in the sale of U.S. goods where they cannot obtain financing in any other market or by any other means.

Madam Chairman, I urge my colleagues to oppose the amendment.

Mr. KIM. Mr. Chairman, I rise in opposition to the Rohrabacher amendment. While I appreciate the intent of the amendment, it is simply too broad and makes no distinction between America's friends and foes. If adopted, this amendment could result in the loss of billions of dollars of American export sales and tens of thousands of American jobs, including those of my constituents who work in the commercial aerospace industry.

Here's just one example of the damage this amendment could do to American exports. In many developing countries, the only source strong enough to support a national airline is the government. Like airlines all over the world these national airlines continue to expand and modernize. As part of this process, many of these government-owned airlines utilize the Ex-Im Bank as a key source of financing for the American-built commercial aircraft they buy. However, if Boeing or Douglas aircraft are denied access to Ex-Im financing for sales to these airlines, as this amendment would do, that won't stop these airlines from modernizing their fleets. Instead, they will turn to the Europeans who offer Ex-Im type financing and these airlines will buy Airbus products. That means many more jobs in Germany and France and fewer in America.

This is not a minor example. The list of airlines owned by a government or in which a government holds the majority of shares that have bought or could buy Boeing or Douglas aircraft is extensive. This amounts to well over 1000 recent or current aircraft orders. Of these, some 200 are for Douglas aircraft which are built in Long Beach, CA. Each order sustains hundreds of California jobs.

Among the major airlines that could be prohibited from utilizing Ex-Im financing by this amendment are:

Aer Lingus—the national airline of Ireland; Air Afrique—the joint airline of eleven different African states; Air France; Air India; Air Malta; air Zimbabwe, Alitalia—the national airline of Italy; Balkan—the Bulgarian airlines; Biman, the national airline of Bangladesh; Cyprus Airways; Egyptair; El Al—Israel airlines; Ethiopian Airlines; Finnair of Finland; Gulf Air—the joint airline of the Bahrain, Qatar, the United Arab Emirates and Oman; Garuda of Indonesia; Indian Airlines—the domestic airline of India; Kuwait Airways; Lithuanian Airlines; Lot—the national airline of Poland; Malev, the national airline of Hungary; Nigeria Airways; Olympic Airways—the national airline of Greece; Royal Air Maroc of Morocco; Royal Jordanian Airlines; Saudia—the national airline of Saudi Arabia; Singapore Airlines; South African Airways; TAP/Air Portugal; Tarom Romanian Airlines; China Airlines; Aeroflot Russian Airlines and Turkish Airlines.

Of course, Boeing and Douglas do not have to approach the Ex-Im Bank for financing sales to all of these airlines. But, they have for many. And, American airplanes have been bought.

Mr. Chairman, Israel, Ireland, Portugal, Italy, Bangladesh, Lithuania, Poland, Romania, Bulgaria, South Africa, India, France, Greece, Finland, Malta, and Hungary are all democracies and friends of the United States. Some, like Israel, are strategic allies of the United States. Yet, this amendment treats aircraft purchases for their national airlines no different than those of dictatorships like Syria, Iran, Libya, and Cuba. There are already laws on the books that prevent U.S. commercial aircraft sales to these countries. If there are specific countries that the authors of the amendment want to target, then they should offer an amendment targeting only those countries, not the significant list of friends I have noted.

I am also concerned that in the course of this debate, the charge has been made that the Ex-Im Bank uses American tax dollars to subsidize foreign businesses that compete against American industry. This is wrong. The Ex-Im Bank provides financing, loan guarantees and insurance programs like many other banks. While these guarantees are backed up by the taxpayer, so too are many domestic housing, education and other loan guarantees. Full repayment is required. In fact, the Ex-Im Bank is specifically prohibited from providing financing to U.S. exporters unless there is a reasonable assurance of repayment. Furthermore, Ex-Im Bank financing can only be used to help export American products.

The bottom line is that this amendment, if adopted, could result in the loss of billions of dollars of aircraft sales for no apparent positive reason. I cannot explain such action to an aerospace worker in my district who watches the sale of a new MD–95 or MD–11 vanish and be replaced by a European Airbus order. I urge my colleagues to support American jobs and defeat this amendment.

The CHAIRMAN pro tempore (Mrs. EMERSON). All time for debate on the amendment has expired.

The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ROHRABACHER. Madam Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, further proceedings on the amendment offered by the gentleman from California [Mr. ROHRABACHER] will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 5 printed in House Report 105–282.

AMENDMENT NO. 5 OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. ROHRABACHER:

At the end of the bill, add the following:

SEC. 10. PROHIBITION AGAINST ASSISTANCE TO ENTITY OWNED BY A GOVERNMENT WHICH IS NOT CHOSEN THROUGH FREE AND FAIR DEMOCRATIC ELECTIONS OF WHICH LACKS AN INDEPENDENT JUDICIARY, OR FOR IMPORT FROM OR EXPORT TO A COUNTRY WITH SUCH A GOVERNMENT.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

''(12) PROHIBITION AGAINST ASSISTANCE TO ENTITY OWNED BY A GOVERNMENT WHICH IS NOT CHOSEN THROUGH FREE AND FAIR DEMOCRATIC ELECTIONS OR WHICH LACKS AN INDEPENDENT JUDICIARY, OR FOR IMPORT FROM OR EXPORT TO A COUNTRY WITH SUCH A GOVERNMENT.—The Bank shall not insure, guarantee, extend credit, or participate in an extension of credit in connection with—

''(A) a transaction by an entity which is owned by a government that—

''(i) is not chosen through free and fair democratic elections, as certified by the President of the United States; or

''(ii) lacks a independent judicial system; or

''(B) the import of any good or service from, or export of any good or service to, a country with a government described in subparagraph (A).''.

The CHAIRMAN pro tempore. Pursuant to the order of the Committee, the gentleman from California [Mr. ROHRABACHER] and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, my amendment to H.R. 1370 would prohibit the Export-Import Bank from providing assistance for transactions within a country ruled by a government which is not chosen through free and fair elections, as certified by the President of the United States, or which lacks an independent judiciary. This amendment will also prohibit Export-Import Bank transactions for import from or export to a country with a nondemocratic government.

While supporters of an unrestricted Export-Import Bank argue that the Bank's role is to provide support for transactions that cannot find private support, let me note that in countries where private international banks are reluctant to fund business transactions, the Export-Import Bank's subsidized lending and guarantees often reward bad economic policies and relieve nondemocratic governments of the need to create a free market environment that genuinely attracts sound foreign capital investment.

Madam Chairman, worse than that, these loans reinforce these dictatorial governments, and, basically, these governments that deny their people their basic civil liberties and economic freedoms are being told that they can be subsidized, even though they have these restrictions on their own people and it takes away their pressure then to democratize.

Opponents of my amendment also claim that Export-Import Bank transactions primarily assist small businesses in this country. To the contrary. A recent study by the CRS, that is, Congressional Research Service, shows that small businesses account for only 12 to 15 percent of the Export-Import Bank's total authorization.

CRS also emphasizes that, quote, subsidized export financing raises financial costs for all borrowers by drawing financial resources that otherwise would be available for other uses, thereby crowding some buyers from the financial markets.

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This crowding-out effect might nullify any positive impacts subsidizing export financing may have on the economy. In other words, we are crowding out the little guy in this country in order to give some big megacorporations the money they need to set up some company in a dictatorship, and that money is no longer available to be loaned to our small businessmen and women throughout the country. End of quote from the Congressional Research Service.

It is our responsibility in Congress to appropriate America's taxpayers' dollars wisely. It makes no sense to subsidize American companies for doing business with largely corrupt and inefficient, basically antidemocratic and socialist governments who are too risky for these people to get loans from other sources in the private sector. Our international business policy should be based on reinforcing free markets and democratic institutions where these people could get private sector loans. This is especially true when the business being subsidized is building manufacturing units abroad, which means U.S. working people, taxpayers, are subsidizing the building of factories in dictatorships to produce goods in competition with their own jobs.

Most of the investment that has gone into many of these countries, and much of it into China, we are not selling refrigerators there. We are selling people who are exporting what? Manufacturing units of refrigerators which

end up being sold in the United States and putting our own people out of work. This is immoral. It is wrong, especially wrong when we are dealing with a dictatorship that is the recipient of this business activity.

My amendment will help protect U.S. taxpayers by preventing the Export-Import Bank from providing corporate welfare to risky ventures by megacorporations who should not be investing in these antidemocratic societies in the first place. But if they do, they can do it at their own risk. And it will keep us moral by preventing the taxpayers from subsidizing and propping up those regimes.

This is in fact corporate welfare that subsidizes imports actually to a higher degree than exports. For example, in China, where the United States airline companies, which we have heard today, have sold their products subsidized by the Export-Import Bank, we, as part of those agreements, have set up an aerospace industry or are in the process of setting up an aerospace industry that will put my people out of work in the medium term, not the long term but the medium term. It is ridiculous. If the dictatorships are making those sorts of demands, the last thing we should do is subsidize it with the Export-Import Bank.

I would call on my colleagues to support my amendment and let us stop this subsidization of providing manufacturing units for dictatorships.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore [Mrs. EMERSON]. Does the gentleman from Delaware [Mr. CASTLE] rise in opposition to the amendment?

Mr. CASTLE. Madam Chairman, I do rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Delaware [Mr. CASTLE] is recognized for 10 minutes.

Mr. CASTLE. Madam Chairman, I yield myself such time as I may consume. Last time I looked the American government was not a dictatorship. These are American businesses and American workers which we are helping. Virtually nobody else is being helped at the same level. We are helping them compete with other countries.

I do rise in very strong opposition to this amendment. This is a debate about means and ends. The sponsor of the amendment seeks to promote democracy and the rule of law abroad. So does this Member and every Member of this body. There is no disagreement about the objective, but there is disagreement about the means.

The amendment's sponsor evidently believes that the United States should express its repugnance for undemocratic governments by enacting sweeping, unprecedented global sanctions against ourselves by cutting off trade, by unilaterally embargoing American exports and sacrificing good, high-paying American jobs. I do not. The United States does not advance its interest in democracy and the rule of law by punishing ourselves by telling foreign purchasers of United States goods and services to buy their industrial machinery, power equipment, telecommunications and aircraft from European or Japanese companies.

The Department of State is opposed to this amendment. The Department of the Treasury is also opposed to the amendment because Eximbank is the most effective tool in the Treasury-led international negotiations to reduce foreign export financing subsidies. The Export-Import Bank itself is opposed to this and states very explicitly that their business would be decimated by the Rohrabacher amendment. I will include their letter for the RECORD.

The effect of this amendment would be to cut off Exim financing of all export transactions in any country anywhere around the world with an unelected government, such as in the Persian Gulf, Sub-Saharan Africa, Central Asia and Southeast Asia. Likewise, the amendment would also shut off Exim financing in any country around the world which does not have an independent judiciary. This would include many countries in the newly independent states, the Middle East and Southeast Asia. Exim financing is cut off regardless of whether or not the U.S. exporter is facing government-financed competition.

The amendment therefore shifts export sales and the jobs they support from U.S. exporters all across the country to the exporters of our competitors. How can this be in the national interest?

This amendment would leave U.S. exporters defenseless in the face of foreign-government-financed competition for export contracts throughout much of the developing world. I cannot imagine a more unsound and ill-conceived basis for United States economic policy.

I urge my colleagues to reject this ill-conceived amendment.

Madam Chairman, I include for the RECORD the letter to which I referred:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, DC, October 6, 1997.

Hon. MIKE CASTLE,
Chairman, Subcommittee on Domestic and International Monetary Policy, House of Representatives, Washington, DC.

DEAR CHAIRMAN CASTLE: I am writing to express my great concern about two amendments being offered by Congressman Rohrabacher that seriously undermine the ability of U.S. exporters to sell goods and services into emerging markets and cost U.S. jobs. Simply stated, these two amendments put Ex-Im Bank ''out of business''.

The Rohrabacher amendments cost U.S. jobs by preventing U.S. companies from competing against Airbus and other European and Japanese supported competitor companies. Had these amendments been in effect during the past five years, Ex-Im Bank would have been unable to support approximately $50 billion out of $77 billion in U.S. exports that went forward during this period. The loss of these exports would have resulted in the loss of hundreds of thousands of jobs in each of the five years.

Small business programs at Ex-Im Bank will be decimated by the Rohrabacher amendments. Ex-Im Bank has worked diligently over the last four years to simplify its small business programs and make them accessible through delegated authority arrangements. Last year alone, Ex-Im Bank directly supported $2.4 billion in small business exports. Ex-Im Bank would be unable to finance these U.S. small business exports under the Rohrabacher amendments.

In short, these two amendments would prevent the Bank from fulfilling its mission to support U.S. exports and thereby create and sustain U.S. jobs. Without Ex-Im Bank, U.S. companies and U.S. workers will be unable to compete in emerging markets.

Sincerely,

JAMES A. HARMON.

Madam Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Madam Chairman, I reserve the balance of my time.

Mr. CASTLE. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Madam Chairman, I rise in opposition to the amendment.

It seems to me that a part of our responsibility is obviously to create U.S. jobs wherever that possibility exists for us. Indeed, what we have done through Exim cannot be duplicated from any other source that we have in America.

It seems to me that as we look at the letter that James Harmon has sent and that the gentleman from Delaware [Mr. CASTLE] has asked to be included in the RECORD, we would have lost a great deal of money and a great number of jobs had we not had the Eximbank support for those American companies who are doing business abroad over the last 5 years. As a matter of fact, he estimates that we would have lost $50 billion out of $777 billion in exports. That is not, it seems to me, the direction that we ought to be going.

The gentleman who is the sponsor of the amendment seems to be moving in a direction that takes out of hand the possibility for us to be able to create jobs for American companies and for American citizens. I tend to think that we cannot afford to support this amendment. It is completely unilateral. No other government would adopt such restrictions. It means that we have basically given this market over to other countries and to other companies. That does not provide any kind of creation of jobs for American citizens.

I would hope that as our colleagues come to vote on this particular amendment, that they would vote against it and that we would continue to provide the level of support for the Exim that we have in the past.

Mr. CASTLE. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. LEACH], chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Madam Chairman, I thank my colleague for yielding me the time. Let me just say this amendment not only defies rational explication today, it defies our history. For half a century the United States of America

has set a model around the world of active engagement with many different societies, even when we disagree with what is happening in those societies.

What this amendment says is, if we do not like what is happening in another society, we are going to express our differences by hitting ourselves in the face. It is patently counterproductive. I would say to my distinguished friend that while he has certain premises and certain concerns which we all share, by the same token he has a solution that I think is a countersolution.

The great question is, is this country going to be better off to constructively engage even with those with whom we differ, or are we better off going through some sort of economic isolation that amounts not only to unilateral economic disarmament but amounts to harming ourselves by giving markets to others, by allowing them to build up their export capacity in direct competition with us?

I think the answer has to be that this is an amendment that is very dicey and something that this Congress should would be ill-served to adopt.

Mr. ROHRABACHER. Madam Chairman, I yield myself 3 minutes.

Just to reflect on what my colleague, the gentleman from Iowa [Mr. LEACH] has just said, this is not unilateral disarmament. This is refraining from arming our adversaries. Yes, we have been engaged for the last half century, since World War II, the United States has been the sucker of the world most of that time. But we had to defend the world against international communism.

We do not have to take American taxpayers' dollars anymore and subsidize business deals in foreign lands, taking that money directly out of the pool of money that is available for our own people, the small business men and women of every community throughout our country. They have to take money from that same pool in order to do business in their communities, and instead we are decreasing the amount of money in that pool to give to large corporations to do what? To do business in some communist or some fascist dictatorship overseas. It is not only immoral, it is bad economics.

Yes, Red China has been a big market for our airplanes and other things, they are setting up an aerospace industry at our expense, but they have a $40 billion trade deficit with the United States. Let them finance their own business deals. They have got the money. They have got the capital.

The fact is that no private companies will finance that because it is risky, because you are dealing with a dictatorship. So what do we do? We take the pressure off them to liberalize and become a freer society by giving them the loans and guaranteeing the loans anyway.

Who are the benefactors in the Three Gorge Dam project in China, $30–$40 billion? Yes, there are some American companies over here that would like to sell the equipment to do the $30–$40 billion Three Gorge Dam project in China. We have got some public works projects here in our own country. Why are we taking money from the pool of money that is available to do things in the United States and transferring it overseas? We can buy the tractors and we can buy the equipment to do those projects right here in the United States.

We do not need to drain our own pool of capital dry in order so a few big corporations can show a profit at the end of this year, while what we are really doing is subsidizing projects in vicious and ugly dictatorships around the world, especially Red China; Red China, which now has such an unfair trading relationship with the United States that when we try to send our goods and services in, they are taxed, they are tariffed at 30–40 percent.

What do we do? We subsidize somebody who wants to set up a company over there. They set up the company and then, because we only charge them 3–4 percent tariffs on their goods coming back, that company begins exporting to the United States. In the medium run, yes, a few jobs are created in the short run, but in the long run we are destroying the economic base of our own country. We are destroying the working people of our own country, subsidizing with taxpayers' dollars. Vote for my amendment.

Mr. CASTLE. Madam Chairman, I yield myself 15 seconds.

I would like to make a couple points. First is, this is the Eximbank, not OPIC. Exim is not financing the Three Gorges project in China because of environmental concerns.

Mr. Harmon, talking about small businesses and their involvement in this, says the small business programs at Eximbank will be decimated by the Rohrabacher amendments. He is the head of Eximbank. Exim has worked diligently over the last 4 years to simplify its small business programs. It has $2.4 billion in small business exports.

Madam Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Madam Chairman, I would think that the governments of Japan, the governments of Germany, the governments of France would favor the Rohrabacher amendment. But I would think that the people of the United States and the exporters in the United States would strongly oppose it because if his amendment passes, we will be at a competitive disadvantage.

The argument has been made, and I agree with it, that we would lose money, lose jobs, to be sure, but even more important than that in my judgment, we would lose influence over those governments. The gentleman from California [Mr. ROHRABACHER] used the word ''adversaries,'' why are we financing United States exporters who want to sell their goods or services to our adversaries. I do not view them as adversaries simply because they have a form of government that is not a clone of the United States or is not the form of government that we have. I think that we have more influence over the Chiles of this world, the Argentinas, the Brazils, the Mexicos, the central European countries, Russia, Saudi Arabia, et cetera, when we trade with them and promote trade with them rather than when we build a wall of isolation between ourselves and those countries.

Mr. CASTLE. Madam Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. MANZULLO].

(Mr. MANZULLO asked and was given permission to revise and extend his remarks.)

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Mr. MANZULLO. Madam Chairman, the Eximbank, to my dear colleague from the State of California, does not build factories overseas. That is not what the Eximbank does. What the Eximbank does is make loans to foreign companies so that they can buy goods that are manufactured by American companies. That is what this is about.

I met with two gentlemen from the Republic of Georgia; perhaps the George Masons and James Madisons who are in the process of writing the Constitution to set up an independent judiciary. They do not have one yet, they are working on it. The gentleman from California would draw this arbitrary line and say, well, if their government does not meet our standards of running a government, they cannot be involved in buying American goods.

Eximbank is about allowing people in foreign countries to buy goods manufactured in the United States, because Eximbank has a rule that most of the content of that which is financed has to be American products. That is what Eximbank is all about. It is very, very simple.

The gentleman from California would cut off sales to China, cut off sales to Saudi Arabia, even cut off sales to Peru, where ultimately the independent judiciary there is the military triumvirate.

Mr. ROHRABACHER. Madam Chairman, I yield myself the balance of my time.

I do not believe in economic isolation. I applaud those enterprisers of the United States who want to go out and take risks. Let them take their own risks. Let them take their own risks. They will reap the profit. If they reap the profit, they can take the risk.

Yes, if someone wants to do business in red China, where Christians are being tortured, where the Dalai Lama's followers are being victims of genocide in Tibet, where they are wiping out Muslims in East Turkestan. Let those businessmen who want to do business in that situation take their risk, get their own loans.

Let us not deplete the limited amount of money available to create

new business from our country and ship it to those people who are trying to do business over there. Let us let the mom and pops continue to have the money available from that pool of resources for us.

If the Saudis, and they have been our friends during the cold war, but if they want to buy something, let them finance it. Let the Red Chinese finance it. Let us not take this from the American taxpayers' pockets.

And if we were following the logic I have heard in this debate, we would never have ended farm subsidies in this Congress. We would have said, well, other countries have farm subsidies so we have to continue. Other countries have socialism and government controls and government subsidies to other people, thus we have to do it and follow those same countries down the drain of collectivism, which has destroyed the standard of living of so many other countries. We do not need to do that. We can lead the way.

And, in fact, the risks that are taken overseas, we do not say that these people are going to be isolated, we just say we are not going to subsidize it with taxpayers' dollars.

And again we keep hearing the refrain of selling American products overseas. Let us note that many of these projects that are being financed by mega corporations are the export of manufacturing units, which only in the short term look like exports but in the long term become a huge force for imports to overwhelm our own manufacturing jobs in the United States of America.

Let us vote for this amendment. Vote against subsidizing dictatorships.

Mr. CASTLE. Madam Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. METCALF].

Mr. METCALF. Madam Chairman, I rise in opposition to the amendment.

In simple terms, the United States has a trade deficit. The only major component doing poorly in the total economy is exports. The only strong tool we have to fend off foreign nations that subsidize their exports is the U.S. Export Import Bank.

This amendment will hurt American exporters and American jobs. It does not target the perpetrator of the problem—that being the foreign nation who we disagree with. The effect of this amendment is handing over billions of dollars of contract to foreign countries.

Surely this amendment will hurt large corporations, but let us not forget that EXIM is vital to small business exporters. Approximately 81 percent, let me repeat, 81 percent of EXIM transactions go to small exporters. Last year EXIM extended nearly $378 million in guarantees to support small business exporters which have supported 200,000 jobs annually and over 2,000 communities.

Export transactions supported by EXIM ripple through the economy to hundreds of suppliers. Thus, EXIM is not some financial boutique merely for the Fortune 500. United States Manufacturers, small and large, only go to EXIM when they have to, which is when foreign government financing is being offered on behalf of our competitors. It would be nice to live in a world where agencies such as the Export-Import Bank were not needed. Until we do this disbanding EXIM would be tantamount to unilateral economic disarmament.

The effect of this amendment will place the burden on U.S. companies and will hurt the American Worker.

Mr. CASTLE. Madam Chairman, I yield the balance of my time to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Madam Chairman, we have heard the statement, let U.S. businesses get their own financing. The whole purpose of Exim is for U.S. businesses, small, medium and large, to obtain financing to sell U.S.-produced goods overseas where there is no financing. That is the whole purpose.

There is no money that goes overseas with Exim. It is U.S.-produced products only. There is no building of factories with this money. It is U.S. goods with the government assisting and financing small, medium and large U.S. companies to sell those goods where they cannot get financing. Only U.S. contractors would be financed under this program.

We have heard about the plea for small businesses. Over 80 percent of Exim assistance goes to medium and small U.S. firms who cannot find financing to sell these U.S.-made products overseas in these difficult markets.

Exim is not corporate welfare. Exim is not a giveaway program. Exim is not a business subsidy. Exim creates thousands of jobs for American workers.

The CHAIRMAN pro tempore (Mrs. EMERSON). The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ROHRABACHER. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, further proceedings on the amendment offered by the gentleman from California [Mr. ROHRABACHER] will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 6 printed in House Report 105–282.

AMENDMENT NO. 6 OFFERED BY MR. SOLOMON

Mr. SOLOMON. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SOLOMON: At the end of the bill, add the following:

SEC. 10. PROHIBITION AGAINST ASSISTANCE TO RUSSIA IF RUSSIA TRANSFERS CERTAIN MISSILE SYSTEMS TO THE PEOPLE'S REPUBLIC OF CHINA.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

''(12) PROHIBITION AGAINST ASSISTANCE TO RUSSIA IF RUSSIA TRANSFERS CERTAIN MISSILE SYSTEMS TO THE PEOPLE'S REPUBLIC OF CHINA.—If the President of the United States is made aware that Russia has transferred or delivered to the People's Republic of China an SS–N–22 or SS–N–26 missile system, the President of the United States shall notify the Bank of the transfer or delivery. Upon receipt of the notification, the Bank shall not insure, guarantee, extend credit or participate in an extension of credit with respect to, or otherwise subsidize the export of any good or service to Russia.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, the gentleman from New York [Mr. SOLOMON] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, my amendment simply would prohibit further Export-Import Bank subsidies of transactions involving Russian firms if, and this is so important, if Russia transfers either the SS-N–26 Sunburn missile or the SS-N–26 Yakhont missile to Communist China.

As all my colleagues will recall, this amendment passed on the State Department authorization bill, which covers Freedom Support Act aid to Russia, in June with over 240 votes at that time.

Madam Chairman, over the past 5 or 6 years, America has been engaged in an extraordinary act of generosity toward the Russian people. I have monitored all of that aid as it has gone to the former Soviet Union, now the country called Russia. Together with our allies, we have provided tens of billions of dollars in assistance for Russia's transformation toward a free market democracy, including over $2 billion in Eximbank assistance.

That is a lot of money, my colleagues. It is a lot of taxpayers' money. And yet we have seen instances over the years where Russia has shown a very alarming disregard for the legitimate security interests of the United States of America in return for this assistance. And that puts America's soldiers and sailors at risk wherever they may serve in other foreign ports of this world. In the hands of the Communist government in Beijing, these missiles pose a direct threat to U.S. ships and U.S. sailors in the Pacific Theatre.

My colleagues, the Sunburn, and in case Members do not know, they should listen closely, the Sunburn is a supersonic sea-skimming missile designed specifically for what purpose, for the purpose to attack American ships equipped with the Aegis radar system. That is what the thing was developed for in the first place. That is right, let me say it again. The Sunburn was designed specifically to take out American ships and kill American sailors. One noted Russian defense analyst has called the Sunburn the most vicious antiship missile in the world.

The Chinese Government began shopping for this missile. Why? In direct response to the deployment of the United

States aircraft carrier last year to the Strait of Taiwan, after China began lobbing missiles at Taiwan. That is true. Because of the Taiwan Relations Act we have to defend Taiwan, one of our greatest allies in the history of this world, and they were having missiles lobbed at them.

We have put American sailors at risk in those Taiwan straits and we have learned recently, Madam Chairman, that the Russians are readying to export another advanced cruise missile. This one is the SS-N–26, called the Yakhont, that travels at more than Mach II speed and has a range of 200 miles. Do my colleagues know what kind of damage that can do to American personnel serving overseas?

It would be nothing short of irresponsible, Madam Chairman, if we did not take every step possible to prevent Communist China from acquiring these missiles, and we still have time to do it. Though the Sunburn missile sale has been in the work for some time now, it is not final yet. And there are forces in Russia I have spoken to that are opposed to it. There are good people over there. There are even people like Yeltsin who want good democracy in that country and they say, ''Block that sale.''

We can give those positive forces in Russia some help by using our considerable aid, including Export-Import Bank subsidies, as leverage.

Madam Chairman, this amendment is about deterrence. It does not cut off Eximbank subsidies to Russia unless and until a transfer of these missile systems to China take place. If we pass it, the ball is in the Russian court.

All we want to do is to help Russia succeed, Madam Chairman. But if our aid cannot induce the Russian Government to refrain from making a sale that poses such a direct threat to our security interests, then the return on our investment is very low indeed.

If this is the case, then we owe it to the taxpayers and we owe it to our military personnel in the Pacific and in other parts of the world to terminate our aid to Russia, and that is why I urge support of this amendment. It is a very reasonable amendment, and I urge the managers of the bill from both sides of the aisle to accept the amendment.

Madam Chairman, I reserve the balance of my time.

Mr. CASTLE. Madam Chairman, I do not rise in opposition but, if there is no Member in opposition, I ask unanimous consent to control the time.

The CHAIRMAN pro tempore. Without objection, the Chair recognizes the gentleman from Delaware [Mr. CASTLE] for 5 minutes.

There was no objection.

Mr. CASTLE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this amendment prohibits Exim financing of exports to Russia if Russia transfers two sea-launched cruise missile systems to China, which is obviously a worthwhile goal.

The background to the gentleman's amendment is a concern with China's international security policy, particularly with the perception that Beijing is believed to be focused on obtaining a greater power projection capability, in part through an enhanced naval capability.

In addition, sales to China of advanced missile technology from Russia poses concerns for United States policymakers, as it does this gentleman, in part because of the potential for retransfer to buyers of Chinese supplies.

In this context, the gentleman has raised a very serious issue and the committee will not oppose his amendment.

Having said that, let me just highlight a number of concerns that will have to be addressed at some point later as the legislative process wends its way through here.

It is very broad in scope. It would impose an automatic shutoff of all Exim financing to Russia if the transfer occurs. The cutoff would apply to any transaction involving a Russian interest, whether or not the export is to Russia or involves a project in Russia.

By contrast, other United States nonproliferation legislation more narrowly targets foreign persons, including individuals and entities responsible for the arms transfer. The amendment, in its current form, also provides no waiver authority or discretionary flexibility to the executive branch.

In addition, the committee is notified that the Department of State is opposed to the amendment, noting that current law does not proscribe or sanction arms transfer by third countries to the PRC.

Nevertheless, the committee will not object to the amendment from the distinguished chairman of the Committee on Rules and, hopefully, we can work through what may or may not be problems as stated here.

Madam Chairman, I reserve the balance of my time.

Mr. SOLOMON. Madam Chairman, I yield myself the balance of my time.

Mr. FLAKE. Madam Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York, one of the outstanding, distinguished Members of this House.

Mr. FLAKE. Madam Chairman, we are prepared to accept the amendment.

Ms. HARMAN. Mr. Chairman, I move to strike the requisite number of words.

As a Californian, I understand the value of the Ex-Im Bank, which supports 737 small and large businesses in my state, with a total export value of $4 billion.

But not all exports have commendable objectives, and for this reason, I rise in support of the amendment offered by my friend, the gentleman from New York [Mr. SOLOMON].

Like him, I am especially concerned about the proliferation of technologies related to weapons of mass destruction out of the former Soviet Union. Despite reassurances from top Russian leaders that these technologies and materials are under lock and key, evidence is mounting to the contrary.

An area of particular concern to me and a bipartisan group of my colleagues, including Mr. SOLOMON, is that Russia has failed to halt the sale of ballistic missile technology to Iran.

Mr. Chairman, these Russian transactions are in violation to the Missile Control Technology Regime (MTCR) of which Russia has been a member since 1995.

The Administration is working through diplomatic channels to address this problem, but the response of the Russian government so far is not satisfactory. Further, the clock is ticking, and I have very credible evidence suggesting that this problem may be getting worse.

Together with 76 colleagues from the House, including the gentleman from New York, Mr. SOLOMON, I have introduced a concurrent resolution asking that Russia take all the necessary steps to stop these illegal transactions with Iran in accordance with its own policy, export control laws, and criminal code.

If Russia fails to take appropriate action, our resolution calls on President Clinton to impose sanctions on the Russian entities responsible for this proliferation under current policy and law.

It is time for the Russian government to provide evidence that its proliferating activities to Iran and elsewhere have stopped. It's time for the U.S. government to act to ensure Russia acts as well.

I applaud my colleague Mr. SOLOMON for having raised this issue at this time.

Mr. SOLOMON. Madam Chairman, I yield back the balance of my time.

Mr. CASTLE. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

☐ 1600

The Chairman pro tempore [Mrs. EMERSON]. It is now in order to consider amendment No. 7 printed in House Report 105–282.

AMENDMENT NO. 7 OFFERED BY MR. VENTO

Mr. VENTO. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. VENTO:

At the end of the bill, add the following:

SEC. 10. PROHIBITION AGAINST PROVISION OF ASSISTANCE FOR EXPORTS TO COMPANIES THAT EMPLOY CHILD LABOR.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635 is amended by adding at the end the following:

''(f) PROHIBITION AGAINST ASSISTANCE FOR EXPORTS TO COMPANIES THAT EMPLOY CHILD LABOR.—The Bank shall not guarantee, insure, extend credit, or participate in the extension of credit with respect to the export of any good or service to an entity if the entity—

''(1) employs children in a manner that would violate United States law regarding child labor if the entity were located in the United States; or

''(2) has not made a binding commitment to not employ children in such manner.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, the gentleman from Minnesota [Mr. VENTO] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Madam Chairman, I yield myself such time as I may consume.

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Madam Chairman, this is a simple amendment that amplifies the theme that is currently in the law that guides the approval of loans, loan guarantees, and insurance to customers or consumers abroad for the benefit of U.S. jobs. This amendment will certify that in addition to evaluating a foreign buyer's creditworthiness, the Export-Import Bank would consider the child labor practices of the potential foreign buyer. If the company exploits child labor, it would not be eligible for assistance from the Export-Import Bank.

This amendment would motivate, of course, domestic companies to investigate the labor and business practices of potential partners before entering into such agreements. In fact, this bill recognizes the increased potential in the Newly Independent States of the former Soviet Union and the sub-Saharan African areas. It, in fact, emphasizes that more of the loans ought to be made to smaller entities and smaller businesses, smaller loans, in fact, which of course bring us into contact.

Madam Chairman, I am not going to go through a recitation all of the problems with child labor around the world. Someone might say, well, we do not have a lot of data on it. And that is accurate; we are operating in the dark. But we know from reports from the International Labor Organization that there are 250 million children worldwide under the age of 15 that are working instead of receiving basic education, that are being employed in jobs that would not be permitted to be employed in our Nation.

That is 250 million reasons, in my judgment, to in fact make certain that the assistance and loans and loan guarantees and insurance that we provide in this program does have this as a major focus specified in the legislation. There is no doubt that these programs touch upon the problem that we should be proactive, not reactive, to the matter of child labor.

The employment and exploitation of children is an emerging scandal around the globe. We need to be certain, as we engage in subsidizing trade, that we do what we can to curtail the exploitation of children. This amendment will help, I think. And I trust that it is not a major problem with this area, but it is one that we have to, as I said, be proactive on.

Madam Chairman, I reserve the balance of my time.

My amendment prohibits the Export-Import Bank to provide assistance for exports to companies that violate U.S. child labor laws. The question is what types of enterprises are we facilitating abroad.

The amendment would certify that, in addition to evaluating a foreign buyer's creditworthiness, the Export-Import Bank would consider the child labor practices of the potential foreign buyer. If the company exploits child labor, then it would not be eligible for Export-Import assistance. This amendment would motivate domestic companies to investigate the labor and business practices of potential partners before entering into export agreements. The global market place means that this Congress can no longer remain passive regards how programs that we advance; U.S. loans, guarantees, and insurance may be engaged to help address the most serious problems, such as child labor.

On this issue we are advancing current policy in the dark, there is, no data to suggest that is not a problem. In fact, there is every reason for concern. The International Labor Organization estimates that over 250 million children worldwide under the age of 15 are working instead of receiving basic education. That is 250 million reasons to ensure that U.S. Ex-Im loan guarantees, insurance, and loans take the extra step to protect against the exploitation of child labor by U.S. companies and partners, there is no doubt that these programs touch upon the problem. And we should be pro-active not reactive to the matter of child labor. Child labor practices today reveal an unprecedented tragedy of a far greater magnitude than what transpired in a less global economic marketplace. It was, therefore, surprising to me that child labor practices are not considered by the Export-Import Bank when evaluating potential firms and their partners. Because we neither investigate nor know the child labor practices of the companies we assist, this amendment is essential to help assure that our U.S. child labor standards are not violated. Both symbolically and substantively, the U.S. must set an example as we advance and engage in the global marketplace.

The employment and exploitation of children is an emerging scandal around the globe. We need to be certain as we engage in subsidizing trade that we do what we can to curtail the exploitation of children.

No single nation or single agency can eradicate the child labor problem. However, we should deliberately pursue each opportunity in order to turn the tide on the inappropriate employment exploitation of young children. We have leverage in the export sector, and we should harness our market power to effect positive change. If we help these U.S. companies, then we should expect that they and their partners reflect and follow fundamental U.S. values and basic laws.

If we impede the development of young people, we curb the growth of economies and nations. And we shortchange our own work force.

Our American workers need a raise. Not just a raise in wages and benefits, but a raise in corporate conscience too and trade responsibility and fairness that addresses such obvious concerns. Let me be clear, I support the Export-Import Bank. I think that its programs are necessary in a world of global governments which subsidize corporate trade transactions. However, the U.S. Export-Import Bank needs to concentrate on financing export growth that will create good jobs at home and reinforce our basic values. The Bank's primary concern cannot only be to maximize corporate profits. We must be certain that it tracks our respect for individuals and the welfare of children.

The initiative to move into sub-Saharan Africa and other markets like the newly independent states [NIS], the former Soviet Union, raise new real risks regards child labor.

Our Nation must be more responsible in choosing with whom we do business and who our policies benefit. If the Export-Import Bank provides financing to an overseas company to buy U.S. exports, both companies win. the U.S. firm increases its profits through the sale of its goods, and the overseas company receives the financial support it needs to purchase the product. We certainly should not allow enterprises which directly or indirectly exploit children—that rob children of their most formative years—to flourish by helping them get the goods they need. Export sales advanced through Export-Import assistance should carefully screen out products which employ illegal child labor. We need to send both domestic and foreign firms the message that if you violate the principles of U.S. child labor laws, you are no longer eligible for U.S. Export-Import assistance. Today, this amendment provides the opportunity to stand up for children, who even marginally, may be contributing to a subsidized U.S. export product.

By providing assistance to companies that employ child labor, we would be shortchanging hard working American adults by threatening their economic security. Goods produced by child labor ultimately end up in our own markets, exerting downward pressure on wages and living standards. American consumers do not want their Government to provide assistance to a market for goods produced and squeezed from the sweat and toil of children.

The United States has a long history of encouraging fair and responsible business practices. In this vein, my amendment would encourage that domestic businesses and the Export-Import Bank enter into agreements with companies that follow U.S. child labor laws. Children working in overseas factories deserve the same standard of protection that we extend to U.S. children. While this amendment does not question the benefits of young people working, it opposes excessive hours, interference with education, and hazardous occupations and workplaces that are intellectually and physically debilitating to the health of young individuals. U.S. child labor laws protect the educational opportunities of minors and prohibit their employment in jobs that are detrimental to their development. By extending essentially such protection to all children, this amendment is one small step towards closing the market for illegal child labor.

This measure—the Exim Bank—isn't our sole instrument of U.S. foreign policy, but frankly it is time that we're asked to ''show us the money'' that we have the best leverage in collaboration with U.S. exporters we can get positive results to stop the exploitation of children.

There is no other practice so universally condemned, yet so universally practiced as the exploitation of child labor and the problem of the global marketplace means that it's our problem. Crimes committed against children

around the world, that this Congress is so adamant to speak out against, should not be encouraged or tolerated by our own Government policies. This ought to be boiler plate law and policy on our every action. Export-Import financing should promote progress in wages, living standards, and human rights here in the United States and around the globe. I've been encouraged by new progress on this topic regards many imports to the United States of America. U.S. sponsored financing should not undermine progress in these important areas or legitimatize the negative status quo. U.S. Labor protections are just one reason why the United States has a good economy in the world today. Why should we lower the standards and protections that provide the foundation for U.S. prosperity? I urge my colleagues to support the Vento amendment which places the interests and well-being of our children ahead of international corporate profits.

Mr. CASTLE. Madam Chairman, I do not rise in opposition.

Madam Chairman, this amendment, as has been so fairly stated by its sponsor, prohibits the use of Exim assistance for exports to companies that employ child labor.

The majority does not intend to object to the amendment. The gentleman from Minnesota [Mr. VENTO] seeks to address a very serious human rights concern that is being examined in a number of fora, including the OECD, as well as by our own Customs Department.

Although we have doubts that Eximbank is the appropriate vehicle through which to address this issue, the amendment is certainly a powerful symbol of congressional concerns that inhumane child labor practices should not be tolerated.

Having said that, let me register some apprehensions the majority has regarding how the amendment would be implemented. Is there any comprehensive list available to the Bank of companies that employ child labor? Would the amendment apply retrospectively to new transactions only? How would it be enforced? Would foreign buyers of U.S. goods see this as an extraterritorial of U.S. laws?

It would be my hope that we would work with the sponsor of the amendment and the minority to iron out these details later in conference with the other body.

Having said that, we will not oppose the amendment. And I applaud the gentleman from Minnesota [Mr. VENTO] for his thoughtful initiative.

Mr. VENTO. Madam Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Minnesota.

Mr. VENTO. Madam Chairman, I appreciate the support of the subcommittee chairman and the questions he raised. There are not such lists, but there are other questions that we need to work together on. I appreciate his support, and I pledge myself to work with that and make this a part of the explicit policy of the Eximbank, the U.S. Export Bank, I guess, if we are successful with the new nomenclature of the gentleman from New York [Mr. LAFALCE].

Madam Chairman, I yield back the balance of my time.

Mr. CASTLE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would just say with respect to the name change, after some of the debates I have heard here in the 2 days we have debated this, I hope we can make this name change sooner rather than later. There seems to be a lot of confusion about what this bank does, I believe.

In any event, with respect to the amendment, it has been stated and we will support it.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was agreed to.

Mr. CASTLE. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. SOLOMON] having assumed the chair, [Mrs. EMERSON], Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

RECESS

The SPEAKER pro tempore (Mr. SOLOMON). Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 5 p.m.

Accordingly (at 4 o'clock and 7 minutes p.m.), the House stood in recess until approximately 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. SHAW] at 5 p.m.

PERSONAL EXPLANATION

Mr. JONES. Mr. Speaker, on Wednesday, October 1, 1997, I missed rollcall votes 484 to 489. I was presenting testimony on behalf of my legislation, H.R. 765, to the Senate Committee on Energy and Natural Resources Subcommittee on National Parks, Historic Preservation, and Recreation. If I had been present, I would have voted ''yes'' on roll call 484, 485, 487, 488 and 489. I would have voted ''no'' on roll call 486.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2160, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 232 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 232

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes. All points of order against the conference report and against its consideration are waived.

SEC. 2. Upon adoption of this resolution the House shall be considered to have adopted the concurrent resolution specified in section 3.

SEC. 3. The text of the concurrent resolution described in section 2 is as follows:

''*Resolved by the House of Representatives (the Senate concurring)*, That in the enrollment of H.R. 2160 the Clerk of the House shall, in title IV, in the item relating to 'Domestic Food Programs—Food Stamp Program', strike the period and insert the following: ': *Provided further*, That none of the funds made available under this heading shall be used for studies and evaluations.'.''.

The SPEAKER pro tempore. The gentleman from Washington [Mr. HASTINGS] is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the distinguished gentleman from Ohio (Mr. Hall), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 232 provides for the consideration of the conference report to accompany H.R. 2160, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for fiscal year 1998, and for other purposes.

The rule waives all points of order against the conference report and its consideration, and upon its adoption the House shall be considered to have adopted the text of the following concurrent resolution: ''Resolved by the House of Representatives, the Senate concurring, that in the enrollment of H.R. 2160 the Clerk of the House shall, in title IV, in the item relating to 'Domestic Food Programs—Food Stamp Program', strike the period and insert the following: '; provided further, That none of the funds made available under this heading shall be used for studies and evaluations,'.''. This amendment, I understand, has been agreed to.

Mr. Speaker, the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Committee on Appropriations, the distinguished gentleman from New Mexico [Mr. SKEEN], and the ranking minority member, the gentlewoman from Ohio [Ms. KAPTUR], are to be commended for their leadership on the House-Senate conference committee. They have brought to the House floor a conference report which largely reflects the priorities agreed upon earlier this year when the House passed H.R. 2160 by a vote of 395 to 14.

Mr. Speaker, this conference report appropriates $49.6 billion in new fiscal year 1998 budget authority for agriculture programs, which is $103 million more than the House-passed bill but $3.6 billion less than was appropriated in fiscal year 1997. When scorekeeping adjustments are taken into account, the bill provides $35.8 billion for mandatory programs, which is about 80 percent of the total appropriated, and $13.8 billion for discretionary programs.

This conference report cuts food stamps by $2.5 billion from last year. It increases funding for the supplemental nutrition program for women, infants and children by $118 million over fiscal year 1997. It cuts funding for the Commodity Credit Corporation, maintains level funding for the Federal Crop Insurance and increases funding for both the Agriculture Research Service and the Cooperative State Research, Education and Extension Service.

Finally, Mr. Speaker, as I mentioned, this rule also self-executes one minor technical correction which was inadvertently omitted from the conference report itself. Once again, I commend the House conferees on their work on this important agreement and urge my colleagues to support both the rule and the accompanying conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume. I want to thank my colleague from Washington [Mr. HASTINGS] for yielding me the time.

As he explained, this resolution is a rule waiving all points of order against the conference report to accompany H.R. 2160, which is a bill making appropriations for Agriculture, Rural Development and Food and Drug Administration programs for fiscal 1998. The rule also self-executes an amendment to correct a technical problem.

On September 15, the Department of Agriculture released new statistics revealing that 11 million people in the United States experienced moderate or severe hunger, including more than 4 million children. In a Nation as rich as ours, this is unacceptable. Private charities cannot do the job alone.

This bill funds critical food and nutrition programs that are essential to ensuring a minimal safety net. The programs protect children, the elderly and other vulnerable populations from facing the harsh realities of hunger.

I am pleased that the conference agreement provides a slight increase above the original House level for child nutrition programs. These programs are important to maintain the health of the next generation of Americans. I am also pleased to see a small increase in funding over the House position for overseas food assistance programs. These programs save lives and show America's commitment to reducing hunger worldwide.

I commend the chairman and ranking minority member of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for their work on this bill. Mr. Speaker, this rule was approved by the Committee on Rules on a voice vote. I urge adoption of the rule and of the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BURR].

Mr. BURR of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the rule, even though some have signed off on this crazy agreement. This rule waives all points of order. Earlier this year as the Committee on Appropriations moved this bill through this House, one section was struck. It was a section that dealt with reauthorizing the fees that pharmaceutical companies pay to have the approval process expedited for their drugs that are currently under the approval process at FDA. It was struck because in fact it is not the authority of the appropriators to authorize and extend that. Today we are faced with a rule that waves the point of order, does not allow us to strike from this conference report an issue that is clearly the responsibility of the Committee on Commerce.

What are we in fact here to talk about? We are here on the brink of the ability to for once help patients in America, because user fees are great if in fact we have a process at FDA that works. For the first time since I have been here, the Food and Drug Administration was willing and has sat down and talked about real reform and real modernization at the approval process, real reforms that mean quality of care and better health for Americans.

In fact, with the passage of this, with this point of order not having an opportunity to be raised, we put that in question. We put in question, can we actually get modernization of the Food and Drug Administration? Will the Bonnie Skylers of the world, who wait for noninvasive glucose monitors so she will not have to prick her finger 4 times a day at 4 years old to check her blood sugar, will she still have to do it with this? Probably so. Because we are so close but we have allowed this to step in the way. I urge my colleagues in this House to defeat this rule. Let us send it back to the Committee on Rules. Let us do the work in a manner that we are supposed to.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURR of North Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 34, not voting 32, as follows:

[Roll No. 490]

YEAS—367

Abercrombie	Combest	Gilchrest
Ackerman	Cook	Gillmor
Aderholt	Cooksey	Goodlatte
Allen	Cox	Goodling
Andrews	Coyne	Gordon
Archer	Cramer	Goss
Armey	Crane	Granger
Bachus	Crapo	Green
Baker	Cummings	Gutierrez
Barcia	Cunningham	Gutknecht
Barrett (NE)	Danner	Hall (OH)
Barrett (WI)	Davis (FL)	Hall (TX)
Bartlett	Davis (IL)	Hamilton
Bass	Davis (VA)	Hansen
Bateman	DeGette	Harman
Bentsen	Delahunt	Hastert
Bereuter	DeLauro	Hastings (FL)
Berman	DeLay	Hastings (WA)
Berry	Dellums	Hayworth
Bilirakis	Diaz-Balart	Hefner
Bishop	Dickey	Herger
Blagojevich	Dingell	Hill
Bliley	Doggett	Hilleary
Blumenauer	Doolittle	Hinchey
Blunt	Doyle	Hinojosa
Boehlert	Dreier	Hobson
Boehner	Duncan	Hoekstra
Bonilla	Dunn	Holden
Bonior	Edwards	Hooley
Bono	Ehlers	Horn
Borski	Ehrlich	Hostettler
Boswell	Emerson	Houghton
Boucher	Engel	Hoyer
Boyd	English	Hulshof
Brady	Ensign	Hutchinson
Brown (CA)	Eshoo	Hyde
Brown (OH)	Etheridge	Inglis
Bryant	Evans	Istook
Bunning	Everett	Jackson (IL)
Burton	Ewing	Jackson-Lee (TX)
Buyer	Farr	Jefferson
Callahan	Fattah	Jenkins
Calvert	Fawell	John
Camp	Fazio	Johnson (CT)
Campbell	Filner	Johnson (WI)
Canady	Flake	Johnson, E. B.
Cannon	Foley	Johnson, Sam
Capps	Forbes	Kanjorski
Cardin	Ford	Kaptur
Carson	Fowler	Kasich
Castle	Fox	Kelly
Chabot	Frank (MA)	Kennedy (MA)
Chambliss	Franks (NJ)	Kennedy (RI)
Chenoweth	Frelinghuysen	Kennelly
Christensen	Frost	Kildee
Clay	Furse	Kilpatrick
Clayton	Gallegly	Kim
Clement	Gejdenson	Kind (WI)
Clyburn	Gekas	King (NY)
Collins	Gibbons	

Kingston
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—34

Baesler
Ballenger
Barton
Burr
Coble
Condit
Costello
Deal
DeFazio
Deutsch
Ganske
Goode
Graham
Jones
Klink
Klug
Largent
McHale
Miller (CA)
Minge
Norwood
Nussle
Peterson (MN)
Poshard
Rohrabacher
Scarborough
Shadegg
Souder
Stenholm
Sununu
Taylor (MS)
Thurman
Whitfield
Young (AK)

NOT VOTING—32

Baldacci
Barr
Becerra
Bilbray
Brown (FL)
Coburn
Conyers
Cubin
Dicks
Dixon
Dooley
Foglietta
Gephardt
Gilman
Gonzalez
Greenwood
Hefley
Hilliard
Hunter
Lewis (CA)
Maloney (NY)
McKinney
Meek
Owens
Pelosi
Pombo
Rahall
Royce
Schiff
Schumer
Smith (OR)
Weygand

□ 1733

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mrs. Cubin against.

Messrs. GRAHAM, DEUTSCH, BAESLER, NORWOOD, KLINK, and SHADEGG changed their vote from ''yea'' to ''nay.''

Mr. SNOWBARGER changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

PERSONAL EXPLANATION

Mr. RAHALL. Mr. Speaker, I was unavoidably detained in getting back from my district, and missed rollcall vote No. 490. But had I been present and voting, I would have voted "yes" on rollcall vote No. 490, on the Rule House Resolution 232, calling up the Agriculture Appropriations Act Conference Agreement for FY 1998.

The SPEAKER pro tempore [Mr. SHAW]. Pursuant to House Resolution 232, House Concurrent Resolution 167 is considered as adopted.

The text of House Concurrent Resolution 167 is as follows:

H. CON. RES. 167

''Resolved by the House of Representatives (the Senate concurring), That in the enrollment of H.R. 2160 the Clerk of the House shall, in title IV, in the item relating to 'Domestic Food Programs—Food Stamp Program', strike the period and insert the following: ': *Provided further,* That none of the funds made available under this heading shall be used for studies and evaluations'.''

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 629, TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–299) on the resolution (H.Res. 258) providing for consideration of the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 2160, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. SKEEN. Mr. Speaker, pursuant to House Resolution 232, I call up the conference report on the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes, and I ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 17, 1997, at page H7509.)

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. SKEEN] and the gentlewoman from Ohio [Ms. KAPTUR] each will control 30 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. SKEEN].

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 2160 and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. SKEEN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I am pleased to present to the House a conference report on H.R. 2160, providing appropriations for fiscal year 1998 for the Department of Agriculture, Food and Drug Administration, and related agencies.

Mr. Speaker, the House voted overwhelmingly in favor of this bill on July 24. Since then, we were given an additional $100 million in the combined allocation process with the Senate. That money has been spent on rural development, research, and conservation, making it an even stronger bill than before while still remaining within our revised allocation.

Mr. Speaker, this bill benefits every American every day, and this is incorporated in this bill. It is truly a bipartisan bill. All of our subcommittee members and many other Members from both sides of the aisle have helped put this bill together, which I think was reflected in the earlier House vote.

Mr. Speaker, I want to thank the gentleman from Louisiana [Mr. LIVINGSTON], the gentleman from Wisconsin [Mr. OBEY], and the gentlewoman from Ohio [Ms. KAPTUR], the distinguished subcommittee ranking member, for their support. I ask my colleagues to send this conference report on to the Senate and the President with a strong ''yes'' vote.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conferenc compared witl enacte
TITLE I - AGRICULTURAL PROGRAMS						
Production, Processing, and Marketing						
Office of the Secretary	2,836,000	2,872,000	2,836,000	2,836,000	2,836,000	.....
Executive Operations:						
Chief Economist	4,231,000	5,308,000	4,844,000	5,252,000	5,048,000	+817,000
Commission on 21st Century Production Agriculture	.....	1,100,000	.....	.....	.....	.....
National Appeals Division	11,718,000	13,359,000	11,718,000	12,360,000	11,718,000	.....
Office of Budget and Program Analysis	5,986,000	5,918,000	5,986,000	5,986,000	5,986,000	.....
Office of Small and Disadvantaged Business Utilization 1/	.....	795,000	.....	783,000	.....	.....
Office of Chief Information Officer	.....	4,828,000	4,773,000	4,773,000	4,773,000	+4,773,000
Total, Executive Operations	21,935,000	31,308,000	27,321,000	29,154,000	27,525,000	+5,590,000
Chief Financial Officer	4,283,000	4,718,000	4,283,000	4,283,000	4,283,000	.....
Office of the Assistant Secretary for Administration	613,000	621,000	613,000	613,000	613,000	.....
Agriculture buildings and facilities (USDA)	144,053,000	131,085,000	141,085,000	131,085,000	131,085,000	-12,968,000
Payments to GSA	(103,754,000)	(98,600,000)	(98,600,000)	(98,600,000)	(98,600,000)	(-5,154,000
Building operations and maintenance	(16,794,000)	(24,785,000)	(24,785,000)	(24,785,000)	(24,785,000)	(+7,991,000
Repairs, renovations, and construction	(23,505,000)	(5,000,000)	(15,000,000)	(5,000,000)	(5,000,000)	(-18,505,000
Relocation expenses	.....	(2,700,000)	(2,700,000)	(2,700,000)	(2,700,000)	(+2,700,000
Hazardous waste management	15,700,000	25,000,000	20,000,000	15,700,000	15,700,000	.....
Departmental administration	30,529,000	25,258,000	27,231,000	26,948,000	27,231,000	-3,298,000
Office of the Assistant Secretary for Congressional Relations	3,668,000	3,714,000	3,668,000	3,668,000	3,668,000	.....
Office of Communications	8,138,000	8,279,000	8,138,000	8,138,000	8,138,000	.....
Office of the Inspector General	63,028,000	65,259,000	63,128,000	63,728,000	63,128,000	+100,000
Office of the General Counsel	27,749,000	29,449,000	27,949,000	29,098,000	28,524,000	+775,000
Office of the Under Secretary for Research, Education and Economics	540,000	547,000	540,000	540,000	540,000	.....
Economic Research Service	53,109,000	54,310,000	71,604,000	53,109,000	71,604,000	+18,495,000
National Agricultural Statistics Service	100,221,000	119,877,000	116,861,000	118,048,000	118,048,000	+17,827,000
Census of Agriculture	(17,500,000)	(36,327,000)	(36,140,000)	(36,327,000)	(36,327,000)	(+18,827,000)
Agricultural Research Service	716,826,000	726,797,000	725,059,000	738,000,000	744,605,000	+27,779,000
Buildings and facilities	69,100,000	59,300,000	59,000,000	69,100,000	80,630,000	+11,530,000
Total, Agricultural Research Service	785,926,000	786,097,000	784,059,000	807,100,000	825,235,000	+39,309,000
Cooperative State Research, Education, and Extension Service:						
Research and education activities	421,504,000	422,342,000	421,223,000	427,526,000	431,410,000	+9,906,000
Native Americans Institutions Endowment Fund	(4,600,000)	(4,600,000)	(4,600,000)	(4,600,000)	(4,600,000)	.....
Buildings and facilities	61,591,000	.....	.....	.....	.....	-61,591,000
Extension Activities	426,273,000	417,811,000	415,110,000	423,322,000	423,376,000	-2,897,000
Total, Cooperative State Research, Education, and Extension Service	909,368,000	840,153,000	836,333,000	850,848,000	854,786,000	-54,582,000
Office of the Assistant Secretary for Marketing and Regulatory Programs	618,000	625,000	618,000	618,000	618,000	.....
Animal and Plant Health Inspection Service:						
Salaries and expenses	434,909,000	424,491,000	424,244,000	437,183,000	426,282,000	-8,627,000
AQI user fees 2/	(98,000,000)	(100,000,000)	(88,000,000)	(100,000,000)	(88,000,000)	(-10,000,000)
Buildings and facilities	3,200,000	7,200,000	3,200,000	4,200,000	4,200,000	+1,000,000
Total, Animal and Plant Health Inspection Service	438,109,000	431,691,000	427,444,000	441,383,000	430,482,000	-7,627,000
Agricultural Marketing Service:						
Marketing Services	38,507,000	49,786,000	45,592,000	49,627,000	46,592,000	+8,085,000
New user fees	(3,887,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(+113,000)
(Limitation on administrative expenses, from fees collected)	(59,012,000)	(59,521,000)	(59,521,000)	(59,521,000)	(59,521,000)	(+509,000)
Funds for strengthening markets, income, and supply (transfer from section 32)	10,576,000	10,690,000	10,690,000	10,690,000	10,690,000	+114,000
Payments to states and possessions	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	.....
Total, Agricultural Marketing Service	50,283,000	61,676,000	57,482,000	61,517,000	58,482,000	+8,199,000
Grain Inspection, Packers and Stockyards Administration	23,128,000	25,722,000	23,928,000	23,583,000	23,928,000	+800,000
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(43,207,000)	(43,092,000)	(43,092,000)	(43,092,000)	(43,092,000)	(-115,000)
Office of the Under Secretary for Food Safety	446,000	583,000	446,000	446,000	446,000	.....
Food Safety and Inspection Service	574,000,000	591,209,000	589,263,000	590,614,000	589,263,000	+15,263,000
Lab accreditation fees 3/	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	.....
Total, Production, Processing, and Marketing	3,258,280,000	3,240,053,000	3,234,830,000	3,263,057,000	3,286,163,000	+27,883,000
Farm Assistance Programs						
Office of the Under Secretary for Farm and Foreign Agricultural Services	572,000	580,000	572,000	572,000	572,000	.....

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Farm Service Agency:						
Salaries and expenses	746,440,000	742,789,000	702,203,000	700,659,000	700,659,000	-45,781,000
(Transfer from export loans)	(589,000)	(648,000)	(589,000)	(589,000)	(589,000)	.....
(Transfer from P.L. 480)	(745,000)	(815,000)	(745,000)	(815,000)	(815,000)	(+70,000)
(Transfer from ACIF)	(208,446,000)	(209,861,000)	(208,446,000)	(209,861,000)	(209,861,000)	(+1,415,000)
Total, salaries and expenses	(956,220,000)	(954,113,000)	(911,983,000)	(911,924,000)	(911,924,000)	(-44,296,000)
State mediation grants	2,000,000	4,000,000	2,000,000	2,000,000	2,000,000	.....
Dairy indemnity program	100,000	100,000	350,000	550,000	550,000	+450,000
Total, Farm Service Agency	748,540,000	746,889,000	704,553,000	703,209,000	703,209,000	-45,331,000
Agricultural Credit Insurance Fund Program Account:						
Loan authorizations:						
Farm ownership loans:						
Direct	(50,000,000)	(30,828,000)	(30,828,000)	(60,000,000)	(60,000,000)	(+10,000,000)
Guaranteed	(550,000,000)	(400,000,000)	(400,000,000)	(400,000,000)	(400,000,000)	(-150,000,000)
Subtotal	(600,000,000)	(430,828,000)	(430,828,000)	(460,000,000)	(460,000,000)	(-140,000,000)
Farm operating loans:						
Direct	(495,071,000)	(450,000,000)	(450,000,000)	(495,000,000)	(495,000,000)	(-71,000)
Guaranteed unsubsidized	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	.....
Guaranteed subsidized	(200,000,000)	(200,000,000)	(191,701,000)	(200,000,000)	(200,000,000)	.....
Subtotal	(2,395,071,000)	(2,350,000,000)	(2,341,701,000)	(2,395,000,000)	(2,395,000,000)	(-71,000)
Indian tribe land acquisition loans	(1,000,000)	(1,000,000)	(500,000)	(1,000,000)	(1,000,000)	.....
Emergency disaster loans	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	.....
Boll weevil eradication loans	(34,653,000)	.....	(34,653,000)	(34,653,000)	(34,653,000)	.....
Credit sales of acquired property	(25,000,000)	(25,000,000)	(19,432,000)	(25,000,000)	(25,000,000)	.....
Total, Loan authorizations	(3,080,724,000)	(2,831,828,000)	(2,852,114,000)	(2,940,653,000)	(2,940,653,000)	(-140,071,000)
Loan subsidies:						
Farm ownership loans:						
Direct	5,920,000	4,020,000	4,020,000	5,940,000	5,940,000	+20,000
Guaranteed	22,055,000	15,440,000	15,440,000	15,440,000	15,440,000	-6,615,000
Subtotal	27,975,000	19,460,000	19,460,000	21,380,000	21,380,000	-6,595,000
Farm operating loans:						
Direct	65,450,000	29,565,000	29,565,000	32,224,500	32,224,000	-33,226,000
Guaranteed unsubsidized	19,210,000	19,890,000	19,210,000	19,890,000	19,890,000	+680,000
Guaranteed subsidized	18,480,000	19,280,000	18,480,000	19,280,000	19,280,000	+800,000
Subtotal	103,140,000	68,735,000	67,255,000	71,394,500	71,394,000	-31,746,000
Indian tribe land acquisition	54,000	132,000	66,000	132,000	132,000	+78,000
Emergency disaster loans	6,365,000	6,008,000	6,008,000	6,008,000	6,008,000	-357,000
Boll weevil loans subsidy	499,000	.....	500,000	249,500	250,000	-249,000
Credit sales of acquired property	2,530,000	3,255,000	2,530,000	3,255,000	3,255,000	+725,000
Total, Loan subsidies	140,563,000	97,590,000	95,819,000	102,419,000	102,419,000	-38,144,000
ACIF expenses:						
Salaries and expense (transfer to FSA)	208,446,000	209,861,000	208,446,000	209,861,000	209,861,000	+1,415,000
Administrative expenses	12,600,000	10,000,000	10,000,000	10,000,000	10,000,000	-2,600,000
Total, ACIF expenses	221,046,000	219,861,000	218,446,000	219,861,000	219,861,000	-1,185,000
Total, Agricultural Credit Insurance Fund	361,609,000	317,451,000	314,265,000	322,280,000	322,280,000	-39,329,000
(Loan authorization)	(3,080,724,000)	(2,831,828,000)	(2,852,114,000)	(2,940,653,000)	(2,940,653,000)	(-140,071,000)
Risk Management Agency:						
Administrative and operating expenses	64,000,000	68,465,000	65,000,000	64,000,000	64,000,000	.....
Sales commission of agents	.....	202,571,000	188,571,000	202,571,000	188,571,000	+188,571,000
Total, Risk Management Agency	64,000,000	271,036,000	253,571,000	266,571,000	252,571,000	+188,571,000
Total, Farm Assistance Programs	1,174,721,000	1,335,956,000	1,272,961,000	1,292,632,000	1,278,632,000	+103,911,000
Corporations						
Federal Crop Insurance Corporation:						
Federal crop insurance corporation fund	1,785,013,000	1,584,135,000	1,584,135,000	1,584,135,000	1,584,135,000	-200,878,000
Commodity Credit Corporation Fund:						
Reimbursement for net realized losses	1,500,000,000	783,507,000	783,507,000	783,507,000	783,507,000	-716,493,000
Hazardous waste (limitation on administrative expenses)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	.....
Total, Corporations	3,285,013,000	2,367,642,000	2,367,642,000	2,367,642,000	2,367,642,000	-917,371,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Total, title I, Agricultural Programs	7,718,014,000	6,943,651,000	6,875,433,000	6,923,331,000	6,932,437,000	-785,577,000
(By transfer)	(209,780,000)	(211,324,000)	(209,780,000)	(211,265,000)	(211,265,000)	(+1,485,000)
(Loan authorization)	(3,080,724,000)	(2,831,828,000)	(2,852,114,000)	(2,940,653,000)	(2,940,653,000)	(-140,071,000)
(Limitation on administrative expenses)	(107,219,000)	(107,613,000)	(107,613,000)	(107,613,000)	(107,613,000)	(+394,000)
TITLE II - CONSERVATION PROGRAMS						
Office of the Under Secretary for Natural Resources and Environment	693,000	702,000	693,000	693,000	693,000	.....
Natural Resources Conservation Service:						
Conservation operations	619,742,000	722,268,000	610,000,000	729,880,000	633,231,000	+13,489,000
Watershed surveys and planning 4/	12,381,000	.....	10,000,000	.....	11,190,000	-1,191,000
Watershed and flood prevention operations 5/	101,036,000	40,000,000	101,036,000	40,000,000	101,036,000	.....
Resource conservation and development	29,377,000	47,700,000	29,377,000	44,700,000	34,377,000	+5,000,000
Forestry incentives program	6,325,000	6,325,000	6,325,000	6,325,000	6,325,000	.....
Outreach for socially disadvantaged farmers and ranchers	1,000,000	5,000,000	2,000,000	4,000,000	3,000,000	+2,000,000
Total, Natural Resources Conservation Service	769,861,000	821,293,000	758,738,000	824,905,000	789,159,000	+19,298,000
Total, title II, Conservation Programs	770,554,000	821,995,000	759,431,000	825,598,000	789,852,000	+19,298,000
TITLE III - RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS						
Office of the Under Secretary for Rural Development	588,000	596,000	588,000	588,000	588,000	.....
Rural Housing Service:						
Rural Housing Insurance Fund Program Account:						
Loan authorizations:						
Single family (sec. 502)	(1,000,000,000)	(1,000,000,000)	(950,000,000)	(1,000,000,000)	(1,000,000,000)	.....
Unsubsidized guaranteed	(2,300,000,000)	(3,000,000,000)	(3,000,000,000)	(2,300,000,000)	(3,000,000,000)	(+700,000,000)
Housing repair (sec. 504)	(35,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(-5,000,000)
Farm labor (sec. 514)	(15,000,000)	(15,001,000)	(15,000,000)	(15,001,000)	(15,000,000)	.....
Rental housing (sec. 515)	(58,654,000)	(128,640,000)	(128,640,000)	(128,640,000)	(128,640,000)	(+69,986,000)
Multi-family housing guarantees (sec. 538)	.....	.....	(19,700,000)	(19,700,000)	(19,700,000)	(+19,700,000)
Site loans (sec. 524)	(600,000)	(600,000)	(600,000)	(600,000)	(600,000)	.....
Self-help housing land development fund	(600,000)	(587,000)	(587,000)	(587,000)	(587,000)	(-13,000)
Credit sales of acquired property	(50,000,000)	(25,004,000)	(25,000,000)	(25,004,000)	(25,000,000)	(-25,000,000)
Total, Loan authorizations	(3,459,854,000)	(4,199,832,000)	(4,169,527,000)	(3,519,532,000)	(4,219,527,000)	(+759,673,000)
Loan subsidies:						
Single family (sec. 502)	83,000,000	128,100,000	121,600,000	128,100,000	128,100,000	+45,100,000
Unsubsidized guaranteed	6,210,000	6,900,000	6,900,000	5,290,000	6,900,000	+690,000
Housing repair (sec. 504)	11,081,000	10,308,000	10,300,000	10,308,000	10,300,000	-781,000
Farm labor (sec. 514)	6,885,000	7,388,000	7,388,000	7,388,000	7,388,000	+503,000
Rental housing (sec. 515)	28,987,000	68,745,000	68,745,000	68,745,000	68,745,000	+39,758,000
Multi-family housing guarantees (sec. 538)	.....	.....	1,200,000	1,200,000	1,200,000	+1,200,000
Self-help housing land development fund	17,000	20,000	17,000	20,000	17,000	.....
Credit sales of acquired property	4,050,000	3,493,000	3,492,000	3,493,000	3,492,000	-558,000
Total, Loan subsidies	140,230,000	224,954,000	219,642,000	224,544,000	226,142,000	+85,912,000
RHIF administrative expenses (transfer to RHS)	366,205,000	354,785,000	354,785,000	354,785,000	354,785,000	-11,420,000
Rental assistance program:						
(Sec. 521)	487,970,000	535,497,000	487,970,000	535,497,000	535,497,000	+47,527,000
(Sec. 502(c)(5)(D))	5,900,000	5,900,000	5,900,000	5,900,000	5,900,000	.....
Convert from HUD's section 8 contracts to USDA's section 521	.....	52,000,000	.....	.....	.....	.....
Total, Rental assistance program	493,870,000	593,397,000	493,870,000	541,397,000	541,397,000	+47,527,000
Total, Rural Housing Insurance Fund	1,000,305,000	1,173,136,000	1,068,297,000	1,120,726,000	1,122,324,000	+122,019,000
(Loan authorization)	(3,459,854,000)	(4,199,832,000)	(4,169,527,000)	(3,519,532,000)	(4,219,527,000)	(+759,673,000)
Mutual and self-help housing grants 6/	26,000,000	.....	26,000,000	26,000,000	26,000,000	.....
Rural community fire protection grants	.....	2,000,000	2,000,000	1,285,000	2,000,000	+2,000,000
Rural housing assistance program	130,433,000	.....	86,488,000	.....	.....	-130,433,000
Rural housing assistance grants	.....	70,900,000	.....	45,720,000	45,720,000	+45,720,000
Subtotal, grants and payments	156,433,000	72,900,000	114,488,000	73,005,000	73,720,000	-82,713,000
RHS expenses:						
Administrative expenses	60,743,000	58,804,000	58,804,000	58,804,000	58,804,000	-1,939,000
(Transfer from RHIF)	(366,205,000)	(354,785,000)	(354,785,000)	(354,785,000)	(354,785,000)	(-11,420,000)
Total, RHS expenses	(426,948,000)	(413,589,000)	(413,589,000)	(413,589,000)	(413,589,000)	(-13,359,000)
Total, Rural Housing Service	1,217,481,000	1,304,840,000	1,241,589,000	1,252,535,000	1,254,848,000	+37,367,000
(Loan authorization)	(3,459,854,000)	(4,199,832,000)	(4,169,527,000)	(3,519,532,000)	(4,219,527,000)	(+759,673,000)

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Rural Business-Cooperative Service:						
Rural Development Loan Fund Program Account:						
(Loan authorization)	(37,544,000)	(35,000,000)	(35,000,000)	(40,000,000)	(35,000,000)	(-2,544,000)
Loan subsidy	17,270,000	16,888,000	16,888,000	19,200,000	16,888,000	-382,000
Administrative expenses (transfer to RBCS)	.....	3,482,000	3,482,000	3,482,000	3,482,000	+3,482,000
Total, Rural Development Loan Fund	17,270,000	20,370,000	20,370,000	22,682,000	20,370,000	+3,100,000
Rural Economic Development Loans Program Account:						
(Loan authorization)	(12,865,000)	(25,000,000)	(25,000,000)	(12,865,000)	(25,000,000)	(+12,135,000)
Direct subsidy	2,830,000	.....	.....	3,076,000	5,978,000	+3,148,000
Administrative expenses (transfer to RBCS)	654,000	.....	.....	.....	.....	-654,000
By transfer from cushion of credit payments	.....	(5,978,000)	(5,978,000)	.....	.....	.....
Alternative Agricultural Research and Commercialization Revolving Fund	7,000,000	10,000,000	.....	10,000,000	7,000,000	.....
Rural cooperative development grants	.....	3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000
Rural business-cooperative assistance 7/	51,400,000	.....	51,400,000	.....	.....	-51,400,000
Rural community advancement program	.....	688,570,000	.....	644,259,000	652,197,000	+652,197,000
RBCS expenses:						
Salaries and expenses	25,680,000	27,482,000	25,680,000	25,680,000	25,680,000	.....
(Transfer from RDLFP)	.....	(3,482,000)	(3,482,000)	(3,482,000)	(3,482,000)	(+3,482,000)
(Transfer from REDLP)	(654,000)	.....	.....	.....	.....	(-654,000)
Total, RBCS expenses	(26,334,000)	(30,964,000)	(29,162,000)	(29,162,000)	(29,162,000)	(+2,828,000)
Total, Rural Business-Cooperative Service	104,834,000	749,422,000	100,450,000	708,697,000	714,225,000	+609,391,000
(By transfer)	(654,000)	(9,460,000)	(9,460,000)	(3,482,000)	(3,482,000)	(+2,828,000)
(Loan authorization)	(50,409,000)	(60,000,000)	(60,000,000)	(52,865,000)	(60,000,000)	(+9,591,000)
Rural Utilities Service:						
Rural Electrification and Telecommunications Loans Program Account:						
Loan authorizations:						
Direct loans:						
Electric 5%	(125,000,000)	(125,000,000)	(125,000,000)	(125,000,000)	(125,000,000)	.....
Telecommunications 5%	(75,000,000)	(40,000,000)	(75,000,000)	(52,756,000)	(75,000,000)	.....
Subtotal	(200,000,000)	(165,000,000)	(200,000,000)	(177,756,000)	(200,000,000)	.....
Treasury rates: Telecommunications	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	.....
Muni-rate: Electric	(525,000,000)	(400,000,000)	(400,000,000)	(500,000,000)	(500,000,000)	(-25,000,000)
FFB loans:						
Electric, regular	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	.....
Telecommunications	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	.....
Subtotal	(420,000,000)	(420,000,000)	(420,000,000)	(420,000,000)	(420,000,000)	.....
Total, Loan authorizations	(1,445,000,000)	(1,285,000,000)	(1,320,000,000)	(1,397,756,000)	(1,420,000,000)	(-25,000,000)
Loan subsidies:						
Direct loans:						
Electric 5%	3,625,000	9,325,000	9,325,000	9,325,000	9,325,000	+5,700,000
Telecommunications 5%	1,193,000	1,568,000	3,136,000	2,068,000	2,940,000	+1,747,000
Subtotal	4,818,000	10,893,000	12,461,000	11,393,000	12,265,000	+7,447,000
Treasury rates: Telecommunications	60,000	60,000	60,000	60,000	60,000	.....
Muni-rate: Electric	28,245,000	16,880,000	16,880,000	21,100,000	21,100,000	-7,145,000
FFB loans: Electric, regular	2,790,000	2,760,000	2,760,000	2,760,000	2,760,000	-30,000
Total, Loan subsidies	35,913,000	30,593,000	32,161,000	35,313,000	36,185,000	+272,000
RETLP administrative expenses (transfer to RUS)	29,982,000	34,398,000	34,398,000	29,982,000	29,982,000	.....
Total, Rural Electrification and Telecommunications Loans Program Account	65,895,000	64,991,000	66,559,000	65,295,000	66,167,000	+272,000
(Loan authorization)	(1,445,000,000)	(1,285,000,000)	(1,320,000,000)	(1,397,756,000)	(1,420,000,000)	(-25,000,000)
Rural Telephone Bank Program Account:						
(Loan authorization)	(175,000,000)	(175,000,000)	(175,000,000)	(175,000,000)	(175,000,000)	.....
Direct loan subsidy	2,328,000	3,710,000	3,710,000	3,710,000	3,710,000	+1,382,000
RTP administrative expenses (transfer to RUS)	3,500,000	3,000,000	3,000,000	3,000,000	3,000,000	-500,000
Total	5,828,000	6,710,000	6,710,000	6,710,000	6,710,000	+882,000
Distance learning and medical link grants and loans:						
(Loan authorization)	(150,000,000)	(150,000,000)	(150,000,000)	(150,000,000)	(150,000,000)	.....
Direct loan subsidy	1,530,000	30,000	30,000	30,000	30,000	-1,500,000
Grants	7,470,000	20,970,000	15,000,000	12,000,000	12,500,000	+5,030,000
Total	9,000,000	21,000,000	15,030,000	12,030,000	12,530,000	+3,530,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Rural utilities assistance program 7/	566,935,000		577,242,000			-566,935,000
RUS expenses:						
Salaries and expenses	33,195,000	33,000,000	33,000,000	33,000,000	33,000,000	-195,000
(Transfer from RETLP)	(29,982,000)	(34,398,000)	(34,398,000)	(29,982,000)	(29,982,000)	
(Transfer from RTP)	(3,500,000)	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	(-500,000)
Total, RUS expenses	(66,677,000)	(70,398,000)	(70,398,000)	(65,982,000)	(65,982,000)	(-695,000)
Total, Rural Utilities Service	680,853,000	125,701,000	698,541,000	117,035,000	118,407,000	-562,446,000
(By transfer)	(33,482,000)	(37,398,000)	(37,398,000)	(32,982,000)	(32,982,000)	(-500,000)
(Loan authorization)	(1,770,000,000)	(1,610,000,000)	(1,645,000,000)	(1,722,756,000)	(1,745,000,000)	(-25,000,000)
Total, title III, Rural Economic and Community Development Programs	2,003,756,000	2,180,559,000	2,041,168,000	2,078,855,000	2,088,068,000	+84,312,000
(By transfer)	(400,341,000)	(401,643,000)	(401,643,000)	(391,249,000)	(391,249,000)	(-9,092,000)
(Loan authorization)	(5,280,263,000)	(5,869,832,000)	(5,874,527,000)	(5,295,153,000)	(6,024,527,000)	(+744,264,000)
TITLE IV - DOMESTIC FOOD PROGRAMS						
Office of the Under Secretary for Food, Nutrition and Consumer Services	454,000	560,000	454,000	454,000	554,000	+100,000
Food and Consumer Service:						
Child nutrition programs	3,219,544,000	2,617,375,000	2,543,555,000	2,617,675,000	2,612,675,000	-606,869,000
Discretionary spending		14,000,000	5,000,000		3,750,000	+3,750,000
Transfer from section 32	5,433,753,000	5,151,391,000	5,218,411,000	5,151,391,000	5,151,391,000	-282,362,000
Total, Child nutrition programs	8,653,297,000	7,782,766,000	7,766,966,000	7,769,066,000	7,767,816,000	-885,481,000
Special supplemental nutrition program for women, infants, and children (WIC)	3,805,807,000	4,108,000,000	3,924,000,000	3,927,600,000	3,924,000,000	+118,193,000
Reserve		(100,000,000)				
Food stamp program:						
Expenses	26,244,029,000	23,747,479,000	23,736,479,000	23,747,479,000	23,736,479,000	-2,507,550,000
Reserve	100,000,000	2,500,000,000	100,000,000	1,000,000,000	100,000,000	
Nutrition assistance for Puerto Rico	1,174,000,000	1,204,000,000	1,204,000,000	1,204,000,000	1,204,000,000	+30,000,000
The emergency food assistance program 8/	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	
Total, Food stamp program	27,618,029,000	27,551,479,000	25,140,479,000	26,051,479,000	25,140,479,000	-2,477,550,000
Commodity assistance program	166,000,000	272,165,000	141,000,000	148,600,000	141,000,000	-25,000,000
Food donations programs for selected groups:						
Needy family program	1,250,000		1,165,000	1,165,000	1,165,000	-85,000
Elderly feeding program	140,000,000		145,000,000	140,000,000	140,000,000	
Total, Food donations programs 9/	141,250,000		146,165,000	141,165,000	141,165,000	-85,000
Food program administration	106,128,000	105,501,000	104,128,000	107,719,000	107,619,000	+1,491,000
The Center for Nutrition Policy and Promotion 10/		2,499,000				
Total, Food and Consumer Service	40,490,511,000	39,822,410,000	37,222,738,000	38,145,629,000	37,222,079,000	-3,268,432,000
Total, title IV, Domestic Food Programs	40,490,965,000	39,822,970,000	37,223,192,000	38,146,083,000	37,222,633,000	-3,268,332,000
TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS						
Foreign Agricultural Service:						
Direct appropriation 11/	131,295,000	146,549,000	131,295,000	132,367,000	131,295,000	
(Transfer from export loans)	(3,231,000)	(3,327,000)	(3,231,000)	(3,231,000)	(3,231,000)	
(Transfer from P.L. 480)	(1,035,000)	(1,066,000)	(1,035,000)	(1,066,000)	(1,035,000)	
Total, Program level	(135,561,000)	(150,942,000)	(135,561,000)	(136,664,000)	(135,561,000)	
Public Law 480 Program Account:						
Title I - Credit sales:						
Program level	(240,805,000)	(123,149,000)	(238,048,000)	(247,530,000)	(244,508,000)	(+3,703,000)
Direct loans	(226,900,000)	(112,899,000)	(225,798,000)	(226,900,000)	(226,900,000)	
Ocean freight differential	13,905,000	10,250,000	12,250,000	20,630,000	17,608,000	+3,703,000
Title II - Commodities for disposition abroad:						
Program level	(837,000,000)	(837,000,000)	(837,000,000)	(837,000,000)	(837,000,000)	
Appropriation	837,000,000	837,000,000	837,000,000	837,000,000	837,000,000	
Title III - Commodity grants:						
Program level	(29,500,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(+500,000)
Appropriation	29,500,000	30,000,000	30,000,000	30,000,000	30,000,000	+500,000
Loan subsidies	185,589,000	87,869,000	175,738,000	176,596,000	176,596,000	-8,993,000
Salaries and expenses:						
General Sales Manager (transfer to FAS)	1,035,000	1,066,000	1,035,000	1,066,000	1,035,000	
Farm Service Agency (transfer to FSA)	745,000	815,000	745,000	815,000	815,000	+70,000
Subtotal	1,780,000	1,881,000	1,780,000	1,881,000	1,850,000	+70,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Total, Public Law 480:						
Program level	(1,107,305,000)	(990,149,000)	(1,105,048,000)	(1,114,530,000)	(1,111,508,000)	(+4,203,000)
Appropriation	1,067,774,000	967,000,000	1,056,768,000	1,066,107,000	1,063,054,000	-4,720,000
CCC Export Loans Program Account:						
Loan guarantees: Short-term export credit	(5,500,000,000)	(5,500,000,000)	(5,500,000,000)	(5,500,000,000)	(5,500,000,000)	.....
Loan subsidy	390,305,000	527,546,000	527,546,000	527,546,000	527,546,000	+137,241,000
Emerging markets export credit	.....	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(+200,000,000)
Salaries and expenses (Export Loans):						
General Sales Manager (transfer to FAS)	3,231,000	3,327,000	3,231,000	3,231,000	3,231,000	.....
Farm Service Agency (transfer to FSA)	589,000	648,000	589,000	589,000	589,000	.....
Total, CCC Export Loans Program Account	394,125,000	531,521,000	531,366,000	531,366,000	531,366,000	+137,241,000
Total, title V, Foreign Assistance and Related Programs	1,593,194,000	1,645,070,000	1,719,429,000	1,729,840,000	1,725,715,000	+132,521,000
(By transfer)	(4,266,000)	(4,393,000)	(4,266,000)	(4,297,000)	(4,266,000)	.....
TITLE VI - RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION						
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Food and Drug Administration						
Salaries and expenses, direct appropriation	819,971,000	750,922,000	852,501,000	873,057,000	857,501,000	+37,530,000
Prescription drug user fee act 12/	(87,528,000)	(91,204,000)	.....	(91,204,000)	(91,204,000)	(+3,676,000)
Mammography clinics user fee 12/	(13,403,000)	(13,966,000)	(13,966,000)	(13,966,000)	(13,966,000)	(+563,000)
New proposed user fees 12/	.....	(131,643,000)	.....	.....	.....	.....
Total, Program level	(920,902,000)	(987,735,000)	(866,467,000)	(978,227,000)	(962,671,000)	(+41,769,000)
Buildings and facilities	21,350,000	22,900,000	21,350,000	22,900,000	21,350,000	.....
Rental payments	46,294,000	46,294,000	46,294,000	46,294,000	46,294,000	.....
Total, Food and Drug Administration	887,615,000	820,116,000	920,145,000	942,251,000	925,145,000	+37,530,000
DEPARTMENT OF THE TREASURY						
Financial Management Service: Payments to the Farm Credit System Financial Assistance Corporation	10,290,000	7,728,000	7,728,000	7,728,000	7,728,000	-2,562,000
INDEPENDENT AGENCIES						
Commodity Futures Trading Commission	55,101,000	60,101,000	57,101,000	60,101,000	58,101,000	+3,000,000
Farm Credit Administration (limitation on administrative expenses)	(37,478,000)	(34,423,000)	(34,423,000)	(34,423,000)	(34,423,000)	(-3,055,000)
Total, title VI, Related Agencies and Food and Drug Administration	953,006,000	887,945,000	984,974,000	1,010,080,000	990,974,000	+37,968,000
TITLE VII - EMERGENCY APPROPRIATIONS						
DEPARTMENT OF AGRICULTURE						
Farm Service Agency						
Emergency conservation program	25,000,000	.....	.....	.....	.....	-25,000,000
Emergency appropriations (P.L. 105-18)	23,000,000	.....	.....	.....	.....	-23,000,000
Natural Resources Conservation Service						
Watershed and flood prevention operations	63,000,000	.....	.....	.....	.....	-63,000,000
Emergency appropriations (P.L. 105-18)	245,000,000	.....	.....	.....	.....	-245,000,000
Rural Utilities Service						
Emergency appropriations (P.L. 105-18)	4,000,000	.....	.....	.....	.....	-4,000,000
Total, title VII:						
New budget (obligational) authority	360,000,000	.....	.....	.....	.....	-360,000,000
Grand total:						
New budget (obligational) authority	53,889,489,000	52,302,190,000	49,603,627,000	50,713,787,000	49,749,679,000	-4,139,810,000
Appropriations	(53,801,489,000)	(52,302,190,000)	(49,603,627,000)	(50,713,787,000)	(49,749,679,000)	(-4,051,810,000)
Emergency appropriations	(88,000,000)	.....	.....	.....	.....	(-88,000,000)
(By transfer)	(614,387,000)	(617,360,000)	(615,689,000)	(606,811,000)	(606,780,000)	(-7,607,000)
(Loan authorization)	(13,860,987,000)	(14,201,660,000)	(14,226,641,000)	(13,735,806,000)	(14,465,180,000)	(+604,193,000)
(Limitation on administrative expenses)	(144,697,000)	(142,036,000)	(142,036,000)	(142,036,000)	(142,036,000)	(-2,661,000)

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
RECAPITULATION						
Title I - Agricultural programs	7,718,014,000	6,943,651,000	6,875,433,000	6,923,331,000	6,932,437,000	-785,577,000
Title II - Conservation programs	770,554,000	821,995,000	759,431,000	825,598,000	789,852,000	+19,298,000
Title III - Rural economic and community development programs	2,003,756,000	2,180,559,000	2,041,168,000	2,078,855,000	2,088,068,000	+84,312,000
Title IV - Domestic food programs	40,490,965,000	39,822,970,000	37,223,192,000	38,146,083,000	37,222,633,000	-3,268,332,000
Title V - Foreign assistance and related programs	1,593,194,000	1,645,070,000	1,719,429,000	1,729,840,000	1,725,715,000	+132,521,000
Title VI - Related agencies and Food and Drug Administration	953,006,000	887,945,000	984,974,000	1,010,080,000	990,974,000	+37,968,000
Title VII - Emergency appropriations	360,000,000	.....	.....	.....	.....	-360,000,000
Total, new budget (obligational) authority	53,889,489,000	52,302,190,000	49,603,627,000	50,713,787,000	49,749,679,000	-4,139,810,000

1/ Funded under Departmental Administration in FY 1997.
2/ In addition, $41 million is anticipated from Farm Bill direct appropriations.
3/ In addition to appropriation.
4/ Budget proposes to fund this account under Conservation Operations.
5/ Budget proposes to fund technical assistance for WFPO under Conservation Operations.
6/ Budget proposes to fund this account under the Rural Housing Assistance program.
7/ The Administration proposed funding for this account under the name "Rural community advancement program".
8/ Program created in Welfare Reform.
9/ Budget proposes to include funding for these programs under the Commodity Assistance Program in FY 1998.
10/ $2,218,000 included under Food Program Administration in FY 1997.
11/ Includes $10 million shift from mandatory spending for IRM activities.
12/ President's budget proposes collections to be used as revenues.

Mr. SKEEN. Mr. Speaker, I reserve the balance of my time.

Ms. KAPTUR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleagues for their forbearance here. I feel privileged to join the gentleman from New Mexico [Mr. SKEEN], our subcommittee chair, and all of our committee members in supporting this conference report on H.R. 2160, our fiscal year 1998 Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriation bill.

I just want to say that this bill truly represents a bipartisan, bicameral compromise in our efforts to provide critical support for the Department of Agriculture, Food and Drug Administration, and other agencies funded in this bill. This will help our Nation remain at the leading edge for food production, fuel production, fiber and forest production, as well as agricultural research, trade promotion, and food and drug safety.

Mr. Speaker, there cannot be too many places in this Congress where one is privileged to serve on a committee where in a week he can talk about windmills and lambing season, child nutrition, and coyotes all at the same time. We are very pleased that the additional funding that is included in this bill will help us on our important research programs, our conservation programs, and our rural housing and development programs. The agreement also fully funds the budget request for youth tobacco prevention and food safety initiatives under the Food and Drug Administration.

I would like to acknowledge and thank the very talented and hard-working subcommittee staff: Tim Sanders, Carol Murphy, John Ziolkowski, JoAnne Orndorf, Doug Lawrence, Sally Chahbourne, and Roberta Jeauquent. We all rely on these individuals' experience and expertise in agriculture programs; and without their help, we would not be on this floor today.

I have to say to the gentleman from New Mexico [Mr. SKEEN], my good friend, the chairman, I shall always remember that he has been the chair of this committee during the first year that I served as its ranking member, and these moments will remain among my treasured moments in this Congress.

Mr. Speaker, I yield as much time as he may consume to the gentleman from Texas [Mr. STENHOLM].

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I rise in strong support of this conference report and commend those conferees who did an excellent job in making balanced the priorities.

Ms. KAPTUR. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I might just mention that we have one request for time on this side.

Mr. SKEEN. Mr. Speaker, I reserve the balance of my time.

Ms. KAPTUR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I rise in strong support of this bill. So often agriculture and so often rural America gets overlooked in the whole scheme of things.

This bill does an excellent job. I compliment the chairman and the ranking member on the bipartisan approach to this. The fact that it is agreed upon and is noncontroversial speaks well for the way agriculture is being treated, rural development is being handled, and as well as the agriculture research, which is so very, very important for the agriculture community, which in turn is important to all of America.

□ 1745

Ms. KAPTUR. Mr. Speaker, I yield myself such time as I may consume to observe for the RECORD that the gentleman from Missouri [Mr. SKELTON] took off his field boots in order to give his remarks this afternoon. So we thank him very much for being down here on the floor.

Mr. BENTSEN. Mr. Chairman, I rise to express my strong support for H.R. 2160, the conference report on the fiscal year 1998 Agriculture Appropriations Bill. I am especially pleased that this conference report includes $11.3 million for pediatric research conducted at the Children's Nutrition Research Center [CNRC] in Houston, which I represent. This funding level represents a $500,000 increase over last year's bill and will be used to conduct critical nutrition research on children.

It is important that we provide sufficient funding for agricultural research programs, including nutrition research. This research has helped to lead to better and more effective strategies to improve children's health. I have worked closely with members of the Appropriations Committee and the Texas Congressional Delegation to secure this vital funding, and I wish to thank Subcommittee Chairman SKEEN and ranking member KAPTUR for their assistance.

The Children's Nutrition Research Center was founded in 1978 and operates in cooperation with Texas Children's Hospital and Baylor College of Medicine in the Texas Medical Center. It is a world leader in the field of pediatric nutrition, and its research has led to better health and reduced health care costs for children. For instance, some of its research has saved 40 percent of the cost of treating premature infants at Texas Children's Hospital by developing a better system for feeding without compromising nutritional intake. This system saves $7,500 per infant and reduced the average hospital stay of premature infants by 3 days. The CNRC is currently conducting research on children's obesity, which may lead to more effective treatments to prevent such serious diseases as atherosclerosis, osteoporosis, and diabetes.

This conference report also includes critical funding for many nutrition programs, including the Food Stamp Program, the school lunch and breakfast programs, and the Women, Infants, and Children [WIC] program. For many low-income families, these programs are the only way that they can meet their nutritional needs. This legislation also includes $858 million for the Food and Drug Administration, the Federal agency responsible for protecting food safety and promoting safe and effective drugs to combat illnesses. This legislation also includes $34 million for a new food safety initiative to increase surveillance, research, and education concerning food-borne illnesses.

I urge my colleagues to support this important legislation.

Mrs. ROUKEMA. Mr. Speaker, I would like to commend the conferees for their work in putting together a conference report that achieves so many important goals.

This conference report includes an increase from $4 million to $34 million to implement the FDA's regulations aimed at curbing tobacco use by underage consumers. This makes sense.

Underage smoking creates a new generation of smokers and it puts them on the road to potentially debilitating and costly health problems. We need to prevent this now.

I would have liked a conference report that included language that would have eliminated the USDA's nonrecourse loan program for sugar. Through a combination of import quotas, price supports and subsidized loans, our Government props up sugar prices nationwide.

This is not about the small sugar farmer. This is about big agri-business. Most beneficiaries of the sugar program are large corporate interests, not small farmers. The GAO estimates that 42 percent of the sugar program benefits went to 1 percent of sugar plantations. We need to eliminate this corporate welfare, and I am sorry we are not doing that with this conference report today.

Yet, I do support this conference report because it helps our children.

What we are doing with this conference report is protecting and feeding our children.

Mr. Speaker, we are helping ensure the health of our children by increasing funding for WIC by $118 million over the previous year. This will help maintain the current participation level of 7.4 million individuals. The WIC program is a program that works, and in the longer-term, actually saves Federal money. For every $1 dollar used in the prenatal segment of the WIC Program, Medicaid saves untold moneys and give healthy productive lives to these children and cannot be measured in dollars and cents.

WIC works. It reduces the instances of infant mortality, low birthweight, malnutrition and the myriad other problems of impoverished children. The WIC program also provides valuable health care counseling for expectant mothers for both mothers and children.

This report also provides $7.8 billion for child nutrition programs, such as the school lunch and breakfast programs. This is $885 million more than the previous year. These programs help our children focus in the classroom and have the ability to concentrate on learning, and not hunger.

Mr. Speaker, we have been presented with a great opportunity today to make wise investments in our children, and our future. Let's vote for this conference report.

Ms. KAPTUR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SKEEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAW). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 18, not voting 16, as follows:

[Roll No. 491]

YEAS—399

Abercrombie	Deal	Holden
Ackerman	DeGette	Hooley
Aderholt	Delahunt	Horn
Allen	DeLauro	Hostettler
Archer	DeLay	Houghton
Armey	Dellums	Hoyer
Bachus	Deutsch	Hulshof
Baesler	Diaz-Balart	Hunter
Baker	Dickey	Hutchinson
Baldacci	Dicks	Hyde
Ballenger	Dingell	Inglis
Barcia	Dixon	Istook
Barr	Dooley	Jackson (IL)
Barrett (NE)	Doolittle	Jackson-Lee
Barrett (WI)	Doyle	(TX)
Bartlett	Dreier	Jefferson
Barton	Duncan	Jenkins
Bass	Dunn	John
Bateman	Edwards	Johnson (CT)
Bentsen	Ehlers	Johnson (WI)
Bereuter	Ehrlich	Johnson, E.B.
Berman	Emerson	Johnson, Sam
Berry	Engel	Jones
Bilbray	English	Kanjorski
Bilirakis	Eshoo	Kaptur
Bishop	Etheridge	Kasich
Blagojevich	Evans	Kelly
Bliley	Everett	Kennedy (MA)
Blumenauer	Ewing	Kennedy (RI)
Blunt	Farr	Kennelly
Boehlert	Fattah	Kildee
Boehner	Fawell	Kilpatrick
Bonilla	Fazio	Kim
Bonior	Filner	Kind (WI)
Bono	Flake	King (NY)
Borski	Foley	Kingston
Boswell	Forbes	Kleczka
Boyd	Ford	Klink
Brady	Fowler	Klug
Brown (CA)	Fox	Knollenberg
Brown (OH)	Frank (MA)	Kolbe
Bryant	Franks (NJ)	LaFalce
Bunning	Frelinghuysen	LaHood
Burr	Frost	Lampson
Burton	Furse	Lantos
Buyer	Gallegly	Largent
Callahan	Ganske	Latham
Calvert	Gejdenson	LaTourette
Camp	Gekas	Lazio
Canady	Gibbons	Leach
Cannon	Gilchrest	Levin
Capps	Gillmor	Lewis (CA)
Cardin	Gilman	Lewis (GA)
Carson	Goode	Lewis (KY)
Castle	Goodlatte	Linder
Chabot	Goodling	Lipinski
Chambliss	Gordon	Livingston
Chenoweth	Goss	LoBiondo
Christensen	Graham	Lowey
Clay	Granger	Lucas
Clayton	Green	Luther
Clement	Gutierrez	Maloney (CT)
Clyburn	Gutknecht	Maloney (NY)
Coble	Hall (OH)	Manton
Collins	Hall (TX)	Markey
Combest	Hamilton	Martinez
Condit	Hansen	Mascara
Cook	Harman	Matsui
Cooksey	Hastert	McCarthy (MO)
Costello	Hastings (FL)	McCarthy (NY)
Cox	Hastings (WA)	McCollum
Coyne	Hayworth	McCrery
Cramer	Hefley	McDade
Crane	Hefner	McDermott
Crapo	Herger	McGovern
Cummings	Hill	McHale
Cunningham	Hilleary	McHugh
Danner	Hinchey	McInnis
Davis (FL)	Hinojosa	McIntosh
Davis (IL)	Hobson	McIntyre
Davis (VA)	Hoekstra	McKeon
McKinney	Pryce (OH)	Souder
McNulty	Quinn	Spence
Meehan	Radanovich	Spratt
Meek	Rahall	Stabenow
Menendez	Ramstad	Stark
Metcalf	Rangel	Stenholm
Mica	Redmond	Stokes
Millender-McDonald	Regula	Strickland
	Reyes	Stump
Miller (FL)	Riggs	Stupak
Minge	Riley	Sununu
Mink	Rivers	Talent
Moakley	Rodriguez	Tanner
Mollohan	Roemer	Tauscher
Moran (KS)	Rogan	Tauzin
Moran (VA)	Rogers	Taylor (NC)
Morella	Ros-Lehtinen	Thomas
Murtha	Rothman	Thompson
Myrick	Roukema	Thornberry
Nadler	Roybal-Allard	Thune
Neal	Rush	Thurman
Nethercutt	Ryun	Tiahrt
Neumann	Sabo	Tierney
Ney	Sanchez	Torres
Northup	Sanders	Towns
Norwood	Sandlin	Traficant
Nussle	Sanford	Turner
Oberstar	Sawyer	Upton
Obey	Saxton	Velazquez
Olver	Schaefer, Dan	Vento
Ortiz	Schaffer, Bob	Visclosky
Oxley	Scott	Walsh
Packard	Serrano	Wamp
Pallone	Sessions	Waters
Pappas	Shadegg	Watkins
Parker	Shaw	Watt (NC)
Pascrell	Shays	Watts (OK)
Pastor	Sherman	Waxman
Paxon	Shimkus	Weldon (FL)
Payne	Shuster	Weldon (PA)
Pease	Sisisky	Weller
Pelosi	Skaggs	Wexler
Peterson (MN)	Skeen	White
Peterson (PA)	Skelton	Whitfield
Petri	Slaughter	Wicker
Pickering	Smith (MI)	Wise
Pickett	Smith (NJ)	Wolf
Pitts	Smith (TX)	Woolsey
Pomeroy	Smith, Adam	Wynn
Porter	Smith, Linda	Yates
Portman	Snowbarger	Young (AK)
Poshard	Snyder	Young (FL)
Price (NC)	Solomon	

NAYS—18

Andrews	Ensign	Royce
Campbell	Kucinich	Salmon
Conyers	Lofgren	Scarborough
Cubin	Miller (CA)	Sensenbrenner
DeFazio	Paul	Stearns
Doggett	Rohrabacher	Taylor (MS)

NOT VOTING—16

Becerra	Gonzalez	Schiff
Boucher	Greenwood	Schumer
Brown (FL)	Hilliard	Smith (OR)
Coburn	Manzullo	Weygand
Foglietta	Owens	
Gephardt	Pombo	

□ 1805

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENT TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2159, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1998

Mr. LARGENT. Mr. Speaker, pursuant to rule XXVIII, clause 1(c), I rise today to give the House notice of my intention to offer a motion to instruct conferees on the bill (H.R. 2159) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1997, and for other purposes. The motion is at the desk.

The form of the motion is as follows:

Mr. LARGENT moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2159 be instructed to insist upon the provisions contained in section 581 of the House bill (relating to restrictions on assistance to foreign organizations that perform or actively promote abortions).

APPOINTMENT OF CONFEREES ON H.R. 2267, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2267) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. MOLLOHAN

Mr. MOLLOHAN. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. MOLLOHAN moves that the managers on the part of the House at the conference on the disagreeing votes of the House and the Senate on H.R. 2267, Commerce-Justice-State-Judiciary Appropriations Act for Fiscal Year 1998, be instructed to insist on the House position regarding funding for programs under the Victims of Child Abuse Act in the Juvenile Justice Programs account.

The SPEAKER. The gentleman from West Virginia [Mr. MOLLOHAN] and the gentleman from Kentucky [Mr. ROGERS] each will control 30 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me explain this motion to instruct to my colleagues. The House-Commerce-Justice-State appropriation bill provides $7 million for various programs authorized by the Victims of Child Abuse Act. The Senate bill provides $4.5 million for these programs, which is the budget request.

The Victims of Child Abuse Program improves the quality of local and Federal child abuse prosecution and case handling. It does this by identifying and implementing improved policies and procedures to assist State and Federal prosecutors in keeping abreast of modern practices in child abuse prosecution.

The program also funds local and regional child advocacy center programs

to focus attention on the needs of child abuse victims by enhancing coordination and support among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.

Children's advocacy centers are child-focused, facility-based programs that use multidisciplinary teams to coordinate judicial and social service systems' response to victims of child abuse, Mr. Speaker.

My motion instructs conferees to remain firm on the House position of $7 million for Victims of Child Abuse programs. These programs are working and working well and deserve this level of funding.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no objection to the motion.

Mr. MOLLOHAN. Mr. Speaker, I yield back the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. Without objection, the Chair appoints the following conferees:

Messrs. ROGERS,
KOLBE,
TAYLOR of North Carolina,
REGULA,
FORBES,
LATHAM,
LIVINGSTON,
MOLLOHAN,
SKAGGS,
DIXON, and
OBEY.

There was no objection.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2267, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. SHAW). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REAUTHORIZATION OF THE EXPORT-IMPORT BANK

The SPEAKER pro tempore. Pursuant to House Resolution 255 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for further consideration of the bill, H.R. 1370.

☐ 1812

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States, with Mrs. EMERSON, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, amendment No. 7 printed in House report 105–282 offered by the gentleman from Minnesota [Mr. VENTO] had been disposed of.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 4 offered by the gentleman from California [Mr. ROHRABACHER] and amendment No. 5 offered by the gentleman from California [Mr. ROHRABACHER].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

☐ 1815

AMENDMENT NO. 4 OFFERED BY MR. ROHRABACHER

The CHAIRMAN pro tempore (Mrs. EMERSON). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. ROHRABACHER] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT NO. 5 OFFERED BY MR. ROHRABACHER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 5 offered by the gentleman from California [Mr. ROHRABACHER] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN pro tempore. The question is on the Committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. PAUL. Mr. Speaker, H.R. 1370, reauthorizing the Export-Import Bank, should be rejected for several reasons. The claim to constitutionality is dubious. The Bank rewards special interest groups with political favors. Reallocating money from the job-producing, productive sectors of the economy to the less efficient sectors distorts credit allocation. Reauthorization of the Bank is both bad economics and bad politics.

Article I section 8 of the U.S. Constitution enumerates areas over which Congress has authority. The ninth and tenth amendments further reinforce that powers not vested in the U.S. Congress are reserved to the States or to the people. The fifth amendment of the Constitution forbids the taking from the people in order to subsidize the business of the politically well-connected. It is not through free trade that the Government subsidizes the politically well-connected. Rather, it is through such organizations as the Eximbank.

The justification of H.R. 1370 under the general welfare clause of the Constitution stretches the imagination of the intent of the Founding Fathers. Nowhere in the authors' dreams could the general welfare clause be used to tax all American individuals in order to give corporate welfare to a few, specific, large political donors. The supporters of the bill have not satisfactorily explained how the authorization of the Eximbank could be justified as regulating commerce. To construe Congress' power to coin money so broadly as to include the Federal regulation of the provision of credit by creating and perpetuating the Eximbank threatens the intrinsic value of American money itself. As former Federal Reserve Chairman Paul Volcker pointed out, ''The truly unique power of a central bank, after all, is the power to create money, and ultimately the power to create is the power to destroy.'' Even if Congress has the constitutional authority to destroy money incident to its enumerated authority to coin, this is not to say it should do so through the reauthorization of the credit-misallocating Eximbank.

The U.S. Government takes money from its citizens through taxes to subsidize other nations' purchases. Very often, our Government subsidizes the purchases by foreign governments, such as the People's Republic of China or other brutal regimes, whose practices many Americans find objectionable. In fact, according to the Export-Import Bank's 1996 Annual Report, the People's Republic of China was the second largest recipient country of U.S. Eximbank loans or loan guarantees; American taxpayers subsidized $4.1 billion of mainland China's purchases. It is one thing to permit voluntary exchanges between citizens of different countries but quite another to coerce the American taxpayer to subsidize the purchases of a country whose practices offend many. Such practices can best be explained by considering the way in which the Eximbank operates.

Maria L. Haley, one of the five Bank directors, is a long-time friend of Bill from Arkansas who ran then-Gov. Clinton's program to attract foreign investment in the state. She advocated approval of loans to Pauline Kanchanalak (a Thai native living in Virginia) to set up Blockbuster video stores in Bangkok, Thailand. The Eximbank has never approved financing for franchise rights; retail stores abroad do not create U.S. jobs. Ms. Kanchanalak contributed $85,000 on June 18, 1996, the same day DNC fundraiser John Huang arranged for her to be invited to a White House coffee. Mr.

Huang called her that day and twice more in August. The DNC eventually returned $250,000 of Ms. Kanchanalak's donations because of questionable foreign origin. It is clear that the Bank sometimes acts as a slush fund to repay political favors—it is, however, not their money to lend. It is the taxpayers' money.

The act of the government taking from its people to return only part of it—and that part with strings attached—is another sign of the so-called Nanny State. The strings are meant to induce the welfare or subsidy recipients to act in a manner that another group of individuals, through the coercive power of the State, subjectively consider desirable. A ''Bully State'' might be a better characterization of such a government. The Frank amendment rightfully acknowledges this fact and attempts to maintain some form of equality of discrimination.

The section added by Rep. Bernard Sanders makes an effort to address the charge that the Bank uses taxpayer dollars from both individuals and job-producing small businesses to fund large corporations that export American jobs or downsize their workforce here. If money is to be taken from the paychecks of our citizens, then it should at least be spent on companies showing a commitment to reinvestment and job creation in the United States.

That the Eximbank works at cross-purposes with our stated foreign policy objectives is clear. The bank supports state-owned and military-controlled companies in foreign nations at the same time that our foreign policy calls for the privatization of the same companies and limitations on the activities of many foreign military companies. Amendments correcting these problems should be favorably considered by the House.

The supporters of the Export-Import Bank will point to the few examples of claimed jobs created through subsidized exports of the beneficiaries of their programs. They will be conspicuously silent on the greater number of jobs lost or forgone, dispersed throughout the country, due to the increased tax burden levied on the productive companies to support the less efficient companies living on government subsidies. The few beneficiaries of government largesse are easier to identify than the no less real, but harder to identify, losers of the government's misguided policies.

The funding for the Export-Import Bank affords politicians the opportunity to pay back their contributors with other people's money. By voting for reauthorization of the Bank, those individual politicians that depend on the political support of the few large companies subsidized at taxpayer expense can return the favor. This Congress should put a stop to this special interest favoritism. The Congressional Research Service, in a recent report, noted that the Bank's ''subsidized export financing raises financing costs for all borrowers by drawing on financial resources that otherwise would be available for other uses.''

Small businesses that are the engine of export growth and job creation in this country subsidize the larger corporations that are shedding jobs in America. This misallocation of credit occurs because the larger corporations have the resources to lobby politicians in order to seek special favors that are out of reach of the smaller businesses. These lobbyists will claim that these special interest subsidies are important to the country. Yet with over $600 million funding for the Bank, only $20 billion of our total U.S. exports of $700 billion are subsidized.

Arguments that we must reauthorize the Bank because it creates jobs, generates economic growth, and counterbalances the subsidies of our major trading partners is not supported by objective economic data:

Country	Percent of country's exports subsidized [1]	Percent rate of real GDP growth [2]	Percent rate of unemployment [2]
Japan	32	0.7	3.1
France	18	2.2	11.6
Canada	7	2.2	9.5
Germany	5	2.1	9.4
Italy	4	3.0	12
U.K.	3	2.4	8.2
U.S.A.	2	2.0	5.6

[1] Export-Import Bank, 1995 figures.
[2] Bureau of Economic and Business Affairs, 1995 figures.

It would be difficult for anyone but the most committed statists to argue that the dirigiste wonders of government bureaucrats could be demonstrated by macroeconomic statistics. However, if there is a broad relationship, it is directly inverse to the relationship the central planners envision.

In 1995, according to Export-Import Bank data, Japan subsidized 32 percent of its exports and France subsidized 18 percent while the United States only aided 2 percent of total exports. However in the same year, according to figures from the Bureau of Economic and Business Affairs, Japan's real growth in Gross Domestic Product registered a paltry 0.7 percent against a solid 2.0 percent here in the U.S., and France had an unemployment rate of 11.6 percent, more than double the American rate of only 5.6 percent. Perhaps, following the logic of the Bank's supporters, we should increase the portion of our subsidized exports to nine times the current level (with the accompanying tax increases) to double our unemployment rate, and, if that isn't desirable, we could double that rate of subsidy (again with the increased tax burden) to cut our economic growth rate to one-third its current level. We should not jump off the bridge of special interest corporativism just because our competitors do.

''Corporate welfare does not work anywhere in the world. It does not work because it penalizes a country's winners with excess taxes in order to fund that country's losers with inefficiently run government programs,'' testified Dr. T.J. Rodgers, President and C.E.O. of Cypress Semiconductor Corporation, before Congress in 1995. '''They've got subsidies; we need subsidies,' is exactly wrong. America will be much more competitive on a relative basis if we allow the nations with whom we compete to squander their taxpayer's money, while we encourage our companies to win without subsidies. It's like the Olympics: there comes the day when an athlete must walk alone into the arena of competition. The government cannot lift the weights and run the miles that are required to be a champion—only an individual can.''

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. SHAW] having assumed the chair, Mrs. EMERSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States, pursuant to House Resolution 255, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SMITH of Michigan. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 38, not voting 17, as follows:

[Roll No. 492]

YEAS—378

Abercrombie	Canady	Doyle
Ackerman	Cannon	Dreier
Aderholt	Capps	Dunn
Allen	Cardin	Edwards
Archer	Carson	Ehlers
Bachus	Castle	Ehrlich
Baesler	Chambliss	Emerson
Baker	Chenoweth	Engel
Baldacci	Christensen	English
Ballenger	Clay	Ensign
Barcia	Clayton	Eshoo
Barrett (NE)	Clement	Etheridge
Barrett (WI)	Clyburn	Evans
Bartlett	Collins	Everett
Barton	Combest	Ewing
Bateman	Condit	Farr
Becerra	Conyers	Fattah
Bentsen	Cook	Fawell
Bereuter	Cooksey	Fazio
Berman	Costello	Filner
Berry	Coyne	Flake
Bilbray	Cramer	Foley
Bishop	Crane	Forbes
Blagojevich	Crapo	Ford
Bliley	Cubin	Fowler
Blumenauer	Cummings	Fox
Blunt	Cunningham	Frank (MA)
Boehlert	Danner	Franks (NJ)
Boehner	Davis (FL)	Frelinghuysen
Bonilla	Davis (IL)	Frost
Bono	Davis (VA)	Furse
Borski	Deal	Gallegly
Boswell	DeGette	Gejdenson
Boucher	Delahunt	Gekas
Boyd	DeLauro	Gibbons
Brady	DeLay	Gilchrest
Brown (CA)	Dellums	Gillmor
Brown (OH)	Deutsch	Goode
Bryant	Diaz-Balart	Goodlatte
Bunning	Dickey	Goodling
Burr	Dicks	Gordon
Burton	Dingell	Goss
Buyer	Dixon	Graham
Callahan	Doggett	Granger
Calvert	Dooley	Green
Camp	Doolittle	Gutierrez

Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hefner
Herger
Hill
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—38

Andrews
Armey
Barr
Bass
Bilirakis
Bonior
Campbell
Chabot
Coble
Cox
DeFazio
Duncan
Ganske
Hayworth
Hilleary
Hoekstra
Hostettler
Johnson (WI)
Jones
Largent
McDermott
McIntosh
Miller (FL)
Paul
Petri
Radanovich
Rogan
Rohrabacher
Royce
Sanford
Scarborough
Sensenbrenner
Shadegg
Smith (MI)
Solomon
Stearns
Wamp
Watts (OK)

NOT VOTING—17

Brown (FL)
Coburn
Foglietta
Gephardt
Gilman
Gonzalez
Greenwood
Hilliard
Maloney (NY)
Owens
Pombo
Rangel
Schiff
Schumer
Smith (OR)
Weygand
Whitfield

□ 1836

Mr. WAMP changed his vote from ''yea'' to ''nay.''

Mr. GILLMOR, Mrs. CHENOWETH, and Mr. EVERETT changed their vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I regret that I was delayed on my arrival to Washington from New York, which prevented me from voting on rollcall No. 490. Had I been able to vote I would have voted ''aye.''

I was also inadvertently detained in voting on rollcall No. 492. Had I been Present, I would have voted ''aye.''

Mr. CASTLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1026) to reauthorize the Export-Import Bank of the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objecton.

The Clerk read the Senate bill, as follows:

S. 1026

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 ''Export-Import Bank Reauthorization Act of 1997''.

SEC. 2. EXTENSIONS OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking ''1997'' and inserting ''2001''.

SEC. 3. TIED AID CREDIT FUND AUTHORITY.

(a) Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) is amended by striking ''through'' and all that follows through ''1997''.

(b) Section 10(e) of such Act (12 U.S.C. 635i–3(3)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of this section.''.

SEC. 4. EXTENSION OF AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

Section 1(c) of Public Law 103–428 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking ''1997'' and inserting ''2001''.

SEC. 5. OUTREACH TO COMPANIES.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

''(I) The Chairman of the Bank shall undertake efforts to enhance the Bank's capacity to provide information about the Bank's programs to small and rural companies which have not previously participated in the Bank's programs. Not later than 1 year after the date of the enactment of this subparagraph, the Chairman of the Bank shall submit to Congress a report on the activities undertaken pursuant to this subparagraph.''.

MOTION OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CASTLE moves to strike all after the enacting clause of S. 1026 and insert in lieu thereof the provisions of H.R. 1370, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1370) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to S. 1026 and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware? The Chair hears none and, without objection, appoints the following conferees:

Messrs. LEACH, CASTLE, BEREUTER, LAFALCE and FLAKE.

There was no objection.

VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1997

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2206, as amended.

The Clerk read the title of the bill

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 2206, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

POSTPONING FURTHER CONSIDERATION OF MOTIONS TO SUSPEND RULES CONSIDERED ON MONDAY, SEPTEMBER 29, 1997, UNTIL TUESDAY, OCTOBER 7, 1997

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that further consideration of the remaining motions to suspend the rules originally considered on Monday, September 29, 1997 be postponed until Tuesday, October 7.

This has been cleared.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–147)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Budget and the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the ''Military Construction Appropriations Act, 1998'' (Public Law 105–45; H.R. 2016). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1997.*

NATIONAL MONUMENT FAIRNESS ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 256 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1127.

□ 1842

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1127) to amend the Antiquities Act to require an act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres, with Mr. SNOWBARGER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from California [Mr. MILLER], each will control 30 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I yield myself 6½ minutes.

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

Mr. HANSEN. Mr. Chairman, this is a very interesting bill that we have in front of us at this time. It is a fairness act, is what it is.

On September 18, 1996, the President of the United States, William Jefferson Clinton, stood on the south rim of the Grand Canyon and declared 1.7 million acres of land as a national monument in the State of Utah. What did he do this under? He did this under the 1906 antiquities law.

Does he have the right to do it? You bet he does. He has the right to do that. President Carter earlier had done a similar piece of legislation in Alaska of around 53 million acres.

□ 1845

Why is this bill around? Because in 1906 the President of the United States had no way to protect the gorgeous parts of America that should be protected. Wisely, Teddy Roosevelt could see a reason to do it, and out of that we got the Grand Canyon, we got Zion, we got some beautiful areas. All of those should be protected.

Later on, in 1915, we got a park bill. That park bill is what President Roosevelt probably would have used, but he did not have anything. There was nothing to protect it. Later on, Congress passed the 1964 Wilderness Act. Later on, in 1969, they passed the NEPA Act. In 1976, they passed the bill called FLPMA, or Federal Land Policy Management Act. And besides that there was the Wild Washington Trail Act, there is the Scenic Rivers Act, and the list goes on and on.

So Teddy Roosevelt did not have a tool to use. He did not have a way to do it so he used this. Since that time, other Presidents have used it and we now have 73 national monuments.

Mr. Chairman, I would be willing to say that the majority of people in here could tell me what was a distinguishing feature of the Golden Spike National Monument. They would say, of course, what it is is where the two trains came together. How about the Rainbow Bridge National Monument, where we see that beautiful red arch? Everyone could distinguish that one. So we say, well, what did we do on this one; what is the distinguishing feature? He talked about archeology, but he did not distinguish it. He talked about geology, but he did not tell us what it was. But we have 1.7 million acres.

Now let us go back to the law, where we put our hands in the air and took an oath that we would obey the law. That is the next thing; is that he would use the smallest acreage possible to do it. Smallest acreage to preserve what? What did we come up with to preserve 1.7 million acres?

To give my colleagues an idea of 1.7 million acres, that is pretty big. We could take Delaware and two other States and put it in that and they would become a national monument.

The bill we have in front of us says, well, if we are really mad at the President, as some of our colleagues say, if we are vindictive, if we want revenge, if we want to get even, let us repeal the law. I hope we rise above that. I hope we are bigger than that. I hope we should say this should still be on the books.

So we said what would be a reasonable amount of acreage for the President, and we came up with the figure 50,000 acres. Can people in this room equate with 50,000 acres? I will give them a hint. How big is Washington, DC? Anybody in here know? How about 39,000 acres. So all of Washington, DC is only 39,000 acres.

So we are saying we are going to give the President 50,000 acres; he can do it wherever, whenever he wants. He can put it in San Francisco, he can put it in New York, he can put it in Minnesota, which I would suggest three great places there. Anyway, carrying that on, we are giving him 50,000 acres.

Let us say the President says he wants more than that; he wants a bigger piece. This bill says the President now has to talk for 30 days with the Governor of the State and confer with him. But if he wants more than that, all he has to do is come to Congress. So this bill takes care of it.

We are not hurting any environment. In fact, it would be a very interesting debate that I would look forward to entering into, saying what does the antiquities bill protect. I have the bill in my hands here. It protects nothing.

In fact, if my colleagues do not believe that, go down to southern Utah and look at the people going there in hordes looking for something to see. When I stand out there as a Federal official and they say, where is the monument? I say, ''Friend, you are standing in it.'' They say, ''Well, what am I supposed to see?'' I say, ''I don't know, look around and enjoy it.''

People say, well, we got rid of that coal mine before it protected anything. I would be willing to ask anybody in the 435, who has been to that coal mine other than me? I have been there a number of times. If my colleagues have not been there, if they want to see one of the ugliest places in the State of Utah, they should go stand at Smokey Hollow. Rolling hills of sagebrush and bugs and nothing else. And if anybody wants to stand up and say that is beautiful, I would certainly question it.

Well, Mr. Chairman, what are we trying to do? This has nothing to do with the environment because it protects nothing. It has nothing to do with wilderness. Some of my colleagues have said, oh, the President did this because we did not pass the wilderness bill. Come on, get real.

Let us go back to the things we took from the President and the Department of Interior. All of the correspondence, not one shred of it, not one scintilla, says anything about protecting, except Mrs. Katy McGinty, who says one other thing, she says, ''There is nothing here worth preserving.'' Right in her own words. So protection is not an issue, wilderness is not an issue, parks are not an issue.

In fact, if wilderness was the issue, I sometimes wonder, when my friends on the other side of the aisle were in control, why they did not allow the Wayne Owens bill of 5.4 million acres. Did not even allow a hearing on it, as I recall, and when I put in the bill every year,

never even looked at it. So do not give us that stuff regarding wilderness.

This, my colleagues, is something that when it was brought up the Governor of the State was not made aware of it. And the gentleman from New York, I read his statement in the CONGRESSIONAL RECORD saying the Governor of New York knew about it. I talked to the Governor today and he adamantly refuses that. He says that did not happen. I was not made aware of this.

But to equivocate, my friend from New York, at 2 in the morning he got a call from the President of the United States and then it happened at 10. So if he wants to use that stretch, I have to agree with him.

The Governor was not made aware of it, I was not made aware of it, the two Senators were not made aware of it, but in this they say we want the enviro crowd there, we do not want the Utah people.

I urge my colleagues to realize this is a good piece of legislation and we should move ahead on it.

Mr. Chairman, I appreciate the opportunity to bring this important bill to the floor. H.R. 1127, the National Monument Fairness Act, is designed to limit the President's authority to create national monuments under the Antiquities Act of 1906. The bill as reported from the Resources Committee would limit unilateral monument withdrawals to 50,000 acres or the size of the District of Columbia. Anything larger would require consultation with the Governor and congressional consent. However, at the appropriate time, I will be offering a compromise amendment that addresses the concerns of most Members.

This action was provoked when President Clinton, on September 18, 1996, claiming authority under the Antiquities Act, stood on the south side of the Grand Canyon in Arizona and designated 1.7 million acres of southern Utah as a national monument.

Over at the Resources Committee, we have met with administration officials, held hearings, and subpoenaed documents in an effort to sort this thing out. Thus far, this is pretty much what we've been able to come up with:

The first time I or any other Utah official heard about the new national monument was on September 7, 1996, when the Washington Post published an article announcing that President Clinton was about to use the Antiquities Act of 1906 to create a 2 million acre national monument in southern Utah. Naturally, we were all somewhat concerned. In fact, I think most of us found it a little hard to believe. Surely the President would have had the decency to at least let the citizens of Utah know if he were considering a move that would affect them so greatly.

When we expressed our concerns to the Clinton administration, they denied that they had made any decisions. They tried to make it look like the monument was an idea that was being kicked around, but that we shouldn't really take it too seriously or worry about it. As late as September 11th, Secretary of Interior Bruce Babbitt wrote to Utah Senator BENNETT and pretty much told him that.

Within the confines of the administration, however, it was clear that the monument was a go. The real issue was keeping it a secret from the rest of the world. By July of 1996, the Department of Interior had already hired law professor Charles Wilkinson to draw up the President's National Monument proclamation. In a letter written to Professor Wilkinson asking him to draw up the proclamation, DOI solicitor John Leshy wrote: ''I can't emphasize confidentiality too much—if word leaks out, it probably won't happen, so take care.''

When I say that the Clinton administration went to great lengths to keep everyone in the dark, I should qualify that a little. On August 5, 1996, CEQ chair Katy McGinty wrote a memo to Marcia Hale telling her to call some key western Democrats to get their reactions to the monument idea. There was a conspicuous absence on her list, however, of anyone from the state of Utah. Even former Utah Democrat Congressman Bill Orton was kept in the dark. Clinton didn't want to take any chances. In the memo, Ms. McGinty emphasized that it should be kept secret, saying that ''Any public release of the information would probably foreclose the President's option to proceed.''

Why, you ask, did President Clinton want to keep this secret from the rest of the world until the day it happened? Because it would ruin their timing. This thing was a political election year stunt and those type of things have to be planned and timed perfectly. If news of the monument were to break too early it would be old news by the time Bill Clinton got his photo-op at the Grand Canyon.

Lets back up a little and ask ourselves why President Clinton wanted to create this new 1.7 million acre national monument. The administration claimed that the move was taken to protect the land. At our hearing on this issue back in April, Katy McGinty told us that ''by last year the lands were in real jeopardy''.

That sounds real nice, but the truth is the land wasn't in any danger, and even if it were, national monument status wouldn't do much to protect it. We have subpoenaed documents from the administration where they admit to both of these points. Take for example a March 25, 1996 E-Mail message about the proposed Utah national monument from Katy McGinty to T.J. Glauthier at OMB: ''I do think there is a danger of abuse of the withdrawal/antiquities authorities, especially because these lands are not really endangered.'' There you have it—in Katy McGinty's own words. The administration didn't think that the land was in any real danger. The ''lands in Jeopardy'' excuse is nothing but that . . . An excuse.

So the administration didn't really think the lands involved were in any real danger. Lets just ignore that for a minute and ask ourselves if creating a national monument out of those lands was a good idea from a protection standpoint;

Does it stop coal mining in the area? No. You can still mine coal in a national monument and Andalex still has their coal leases. Does it stop mineral development? No. CONOCO is drilling exploratory oil wells on the Grand Staircase-Escalante National Monument as we speak. Does it stop grazing on the land? No. Grazing will continue. Does it stop people from visiting the land? No. On the contrary, national monuments are like national parks, they are meant for people to come see. The number of people coming to see the area has increased exponentially since President Clinton created his new monument. Does it stop new roads from being built? No. In fact even more new roads will probably have to be built to accommodate the increased traffic. The land wasn't in any kind of danger, and even if it were, a national monument was probably the least effective method at the administration's disposal to protect it.

Why did President Clinton pick the national monument idea when it actually protected the land less than the other options available to him? It was pure presidential politics. Utah was an expendable State and this dramatic action would assure some environmental votes in 49 other States. The Clinton administration needed to do something dramatic to get their votes. Bill Clinton needed to stand there overlooking the Grant Canyon, with the wind blowing through his hair, telling everyone how he was following in Teddy Roosevelt's footsteps and saving the land by creating a new national monument. How profound. How courageous. It kind of brings a tear to the eye, doesn't it. Never mind the fact that creating this monument didn't really achieve any of the administration's stated objectives. Chances were that no one would figure that out until after the election anyway.

Well, people are starting to figure it out now. For instance, a couple of weeks ago I read an article in the Salt Lake Tribune where a spokesman for the Southern Utah Wilderness Alliance called President Clinton and Vice President GORE ''election-year environmentalists'' because CONOCO is being allowed to drill for oil in the monument. Remember, these are the same people that were cheering and crying and hugging each other at the Grand Canyon a year ago. Today they are beginning to realize that they were all duped—that this was nothing but an election year stunt and that national monument status doesn't do anything for their cause.

I doubt that the election year politics reason comes as much of a surprise to anyone. And I think we have all grown to expect that sort of thing from the Clinton administration. The second reason they created the monument, however, is a lot worse, and something we should all be a little concerned about. The Clinton administration created this national monument to circumvent the powers of Congress. Essentially to circumvent the democratic process itself. All of the documents produced by the White House make it clear that the extreme environmentalists were frustrated by their failures in Congress and put immense pressure on the President to circumvent Congress by abusing the Antiquities Act.

Well, the rest is history. The rest of the world heard about the whole thing 11 days before it happened. By this time, none of us could stop it. Bill Clinton had his photo-op at the Grand Canyon, bypassed congressional power over the public lands, gave Congress the slap in the face that he had been wanting to give it for a long time, got the few extra votes he needed, and won the election. Meanwhile, the land isn't protected, hundreds of thousands of acres of private and state school trust land are hanging in limbo, and we are all wondering how we can stop this from happening again.

Since September of last year, I have had several Congressmen and Senators call me to express their concern that the same thing could happen to their state. They are outraged. Many have proposed that we completely repeal the 1906 Antiquities Act. Others

have offered bills that would exempt their own states from the provisions of the act.

Before we embark on a discussion on how we should change the act, I think it would be helpful to talk a little bit about the history of the Antiquities Act of 1906. Why did we need it? What did Congress intend for the legislation to do? And how have Presidents used the act in the past?

The roots of the Antiquities Act go back into the 1800's. The 1890's saw a dramatic rise in interest in archaeological objects from the American Southwest. Pottery, ancient tools, and even human skulls obtained from prehistoric ruins brought a handsome price on the market.

As horror stories of looting and destruction of these sites reached Congress, they began to realize that something needed to be done before our archaeological sites were all destroyed. The problem, however, was that getting individual protection bills through Congress took a lot of time—too much time. These sites were being destroyed too fast. To solve this problem someone proposed that we give the President the authority to protect archaeological sites through executive withdrawal. This would provide a method to protect a large number of archaeological sites quickly.

The debate over the legislation continued for about 6 years. By 1905, the proposed Antiquities Law raised the withdrawal limit from 320 to 640 acres. In 1906, a prominent archaeologist by the name of Edgar Lee Hewett drew up a new antiquities bill that would allow the President to ''declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are owned or controlled by the Government of the United States to be national monuments''. The size of such withdrawals would be in all cases ''confined to the smallest area compatible with the proper care and management of the objects to be protected.'' This compromise bill quickly passed the House and Senate, and The Antiquities Act was signed into law by President Theodore Roosevelt on June 8, 1906.

As we can see from the legislative history, Congress intended that national monuments be small in size and that they were for the purpose of preserving specific ''objects''. Congress specifically rejected the proposal that national monument withdrawals extend to national park type preservation of land.

Mr. Chairman, some of our Nation's greatest treasures were protected in the early years following passage of the Antiquities Act. During the next several decades, public concern for conservation increased and Congress responded by passing powerful laws to serve the cause of conservation. In 1916 the Organic Act was passed, creating the National Park Service. In 1964 the Wilderness Act created the National Wilderness Preservation System. In 1968 the Wild and Scenic Rivers Act was passed. This was followed by the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976. These laws made it easy to preserve large portions of land without forcing the President to abuse the Antiquities Act.

The era of large national park type monument withdrawals came to an abrupt close in 1943 when Franklin Roosevelt created the Jackson Hole National Monument, covering 221,610 acres. After that day, the creation of large national monuments virtually ceased. In the last 50 years there have only been four occasions when new national monuments were designated by Presidential proclamation that exceeded 1,500 acres in size. Only 2 of those have exceeded 50,000 acres: President Carter's 56 million acre withdrawal in Alaska in 1978 and President Clinton's 1.7 million acre withdrawal in Utah in 1996.

All of the other monuments created through Presidential proclamation during the last 50 years have been small and have fit the criteria of the 1906 Act relatively well.

Mr. Chairman, one might ask, why have most of the Presidents during the past 50 years declined to use the Antiquities Act to create large monuments? Is it because none of them have cared about the environment? Of course not. The answer is that they have been busy preserving our lands within the new systems and frameworks that have been set up since 1906. We have been creating wilderness areas, national parks, historical parks, recreation areas, wildlife refuges, etc. We have been following the systematic and democratic processes set forth in FLPMA, NEPA, NFMA, and other planning statutes. These new laws and systems preserve our lands more fully, and encourage public participation in planning for our public lands.

By allowing Presidents like Bill Clinton to abuse the 1906 Antiquities Act by creating multimillion acre monuments we are defeating the whole purpose of these conservation laws. Both President Carter and President Clinton used the 1906 Antiquities Act to circumvent the public land use planning procedures that Congress has created.

That's not what democracy is all about. These are issues that should be debated, issues that need to be discussed and subjected to the democratic process. These are issues where people on all sides of the debate have legitimate concerns, and they need to be heard.

Mr. Chairman, so what's the solution? How do we keep this sort of thing from happening again? The most obvious solution, and one that has been suggested to me by several Congressmen, is to just repeal the Antiquities Act. If the Antiquities Act were completely repealed, the President wouldn't be able to create any national monuments through presidential proclamation. This would eliminate Presidential abuse of the Antiquities Act, but would also eliminate the small, beneficial, archeological withdrawals originally envisioned by the act.

There may be areas out there on the public domain that still qualify for national monument status under the criteria originally envisioned by the act. It is not at all unlikely that we could uncover new and important archeological sites. These areas will need the same type of prompt executive national monument protection that other archeological sites have received under the Antiquities Act. For this reason, I think it may be unwise to completely repeal the act.

Instead, H.R. 1127 would limit the President's withdrawal authorities under the Antiquities Act.

Mr. Chairman, I will offer an amendment at the appropriate time that would not affect the authority of the President under the antiquities Act of 1906 for proclamations under 50,000 acres or an area the size of the District of Columbia. The President will have the authority to protect historic and prehistoric resources, and other objects of scientific interest on Federal lands, as currently provided in section 2 of the Antiquities Act of 1906 (16 U.S.C. 431). However, my amendment would provide for any national monument in excess of 50,000 acres to sunset after 2 years unless Congress approves of the action by way of a joint resolution. Moreover, my amendment would amend section 2 of the 1906 Act by mandating that the President transmit such a proclamation to the Governor of the affected State for comment 30 days prior to the monument proclamation taking effect.

Mr. Chairman, this compromise amendment has been worked out among many Members of this House and I must admit with much compromise on my part. However, I believe that the result of this amendment is that the authority of the President is assured for protecting resources as intended by the Antiquities Act of 1906, but has placed Congress in the appropriate constitutional role of determining designation of Federal lands on behalf of the people of the United States.

Mr. Chairman, I urge all Members to support the Hansen substitute, defeat all other amendments and give back to Congress the balance of power this democracy demands.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield 6 minutes to the gentleman from Minnesota [Mr. VENTO].

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Chairman, I rise in opposition to this measure, H.R. 1127. It is a measure which, in effect, would remove an important tool from this and future Presidents in the management of hundreds of millions of acres of the public's land.

This bill upsets the balance between the executive and the Congress, blocking the President from declarations of key lands and resources when a crisis arises, often because Congress cannot or, more often, will not act.

I think it is instructive in this case to examine why the House is considering this legislation today. We in Congress have for at least the last 10 or 15 years been debating the status we would give the incredible wildlands of Utah, the red rock country.

I have seen those lands, Mr. Chairman, and I have made no secret of the fact that I am an advocate of creating federally designated wilderness areas in Utah, but of course there is great disagreement at all levels on this issue from here on the Capitol Hill all the way to the affected communities in Utah. Unfortunately, while Congress has been considering this issue, industrial and other exploitative interests have had their eyes and are attempting to get their hands on many of these Utah lands. The Kaiparowits Plateau in southern central Utah is an example.

In the face of congressional disagreements, and in an effort to protect these lands from further leasing and development, the President, last year, utilized the nearly 100-year authority granted

our chief executives and designated the Grand Staircase-Escalante National Monument in south-central Utah because of its superior natural, historic, scientific and ecological values.

Now, I have heard the gentleman from Utah comment on the fact the President did not state the reasons for it, but there are four pages laid out of various types of geologic and scientific and interesting type and important type of plant life, historic materials dating from the various Native American groups all the way through pre-Colombian history, such as the arrival of the Mormons that have occurred in the artifacts and the products that are present from this culture.

So the President did, against the backdrop of years of congressional debate, years of hearings involving members of the affected communities, use the powers embodied within the purpose of this act, the Antiquities Act of 1906.

It is clear, in times when Congress is embroiled in controversy, when Federal natural, scientific, and cultural resources are at risk, the President needs tools to act to specifically designate Federal lands. Teddy Roosevelt, the first great conservationist President of this century, passed and signed the Antiquities Act in 1906. T.R. used that power in this act 18 times. Perhaps most notably was President Roosevelt's action to establish the Grand Canyon as a national monument in 1908. Presidents in general have designated 105 monuments using the Antiquities Act, including astounding areas that define our preservation and conservation achievements: as I said, Grand Canyon, Bryce Canyon, Death Valley, the Alaska's Glacier Bay, the Statute of Liberty and many, many others.

That, my colleagues, is an effective law. It worked throughout the past nine decades and it should be used the next nine decades, but today it is under attack. While supporters of this bill say they are seeking fairness and seeking to improve the Antiquities Act, I think the facts show that the effect of their action would render this law ineffective and unworkable and our special Federal lands for tomorrow would be without the protection and safeguards inherent in this important law.

This fairness act requires congressional authorization for all newly designated national monuments over a certain size. Supporters of this legislation claim the President abused his power under the act and that intensive new congressional oversight powers are needed to check executive authority. I disagree with the allegations. President Clinton acted following years of debate on the issue. This act has been used rarely since 1950, and only in situations where cherished natural resources were in immediate danger of degradation.

To require cumbersome congressional oversight procedures would greatly weaken this law in a manner that contradicts the intended purpose and the need. In fact, the 1906 act, as a law, preserves the authority of Congress to overturn or to alter monument designations made by the President. And Congress has often done so, not to diminish them, in fact, but to enlarge them.

I think it is instructive, Mr. Chairman, that none of my colleagues are attempting to rescind the President's designation of the Grand Staircase-Escalante National Monument today. They know that the American people would never support such a move. Instead, the advocates of this measure are attempting to accomplish their goals in a backhanded manner. This action has far more impact.

The new monument in Utah will not be affected, but they would hobble forever the ability of future Presidents to act as they have done for the last 91 years in 100-some actions taken to preserve our special legacies. The measure places a 50,000-acre limit on the President's designation of powers under this Antiquities Act.

I suppose if I were in the District of Columbia and all I could see was out to the beltway, I might think that is what comprises this great country. But the fact is that we have one of the greatest stewardship responsibilities in terms of managing hundreds of millions of acres of land, and it is public land. That is what we are designating in this area. This is land owned by the American people and managed for the benefit of the American people. That is the purpose.

So if we have an inside the beltway view, maybe 50,000 acres sounds like a lot, but if any of my colleagues have had the opportunity to work, and I know many of my colleagues have, to see the depth and breadth of this great country and the areas that have been left as they were touched by the creator of this land, we have a responsibility in terms of stewardship.

We needed this to stop the robber barons in the 1900's, and Teddy Roosevelt stopped them. And I think our Presidents in the future need that same power. Let us not go back to those thrilling days of yesterday when conservation took a second seat to the special interests.

I know my colleagues do not want to do that, but that is the effect of removing this power. We need this because we need balance in this so we can act and move to establish wilderness and to establish parks and to establish these other resources in this country. I ask my colleagues to vote against this measure.

This measure, H.R. 1127 places a 50,000-acre limit on the President's designation powers under the Antiquities Act. Supporters of the bill claim that most designations in the history of the act have broken this threshold. But look, Mr. Chairman, at the national monuments that have been more than 50,000 acres: the Grand Canyon, Olympic National Park, Glacier Bay, Grand Teton, Joshua Tree, Arches, and many others. They are today the grown jewels of our park system. I would hope that this Congress will be willing to prevent future Presidential declarations and designations of such natural treasures.

I urge my colleagues to oppose this bill in its current form. This Congress should not gut the law that is the foundation for all the great landscape conservation acts have been built upon. The intense passion and reaction to Presidential monument declaration isn't new. Such opposition had plagued the Presidents from Teddy Roosevelt to Bill Clinton. The Antiquities Act is the bed rock that our conservation laws are built upon it is as relevant today as it was in 1906. It has not been eclipsed but reinforced by law to designate parks, wilderness, wild and scenic rivers, and a host of other actions almost all at the sole disposal of Congress.

I will, in recognition of the House agenda, offer an amendment that greatly improves H.R. 1127. First, it will allow—not require—a year of congressional review following Presidential declarations of national monuments before the designation becomes final. This time period will give Congress a chance to review, study, and even alter new designations. My amendment also, importantly, will protect proclaimed areas from development during this review period. No final action would be taken nor would the administration of the lands change save to maintain the status quo.

I hope the House adopts my amendment. This is a major change to the existing law and circumstance but retains the essence of this 1906 Antiquities Act.

It is ironic Mr. Chairman that this Congress and majority members that lead the Resources Committee boast of a willingness to take on more work, more responsibility to designate and manage more land use and the decisions related to it. Frankly, this committee has more to do than there is time on the clock. This measure is not an action to restore a—congressional role regarding monuments rather the result would be to submarine the 1906 act and the limited role that Presidents have had since 1906. This measure deserved and demands the strong opposition and rejection by this House as the transparent effort to move us many steps back to the days of the 19th century robber barons—say no to this bill and this policy. Say yes to our children and let's leave them a legacy for the 21st century.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG], chairman of the Committee on Resources.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Chairman, I just listened to the previous speaker speak, and since 1943, there was an Effigy Mounds National Monument by Mr. Truman of 1,481 acres; Russell Cave National Monument, 310 acres by President Kennedy; Buck Island Reef National Monument, 850 acres by Mr. Kennedy; Chesapeake & Ohio Canal National Monument, 19,236 acres historical; Marble Canyon National Monument, 26,000 scientific, by Mr. Johnson; 1978, and the reason I am speaking, the Alaska Monuments, 56 million acres; and then, of course, the Grand Staircase-Escalante National Monument, 1,700,000 acres.

□ 1900

Both of those, the Alaska one and the Escalante, were for political purposes only and that is all.

We talk about robber barons. What about the coal deposits in that area that are now set aside so that people of every day can benefit from them? It is ironic that there are some other people at that time also interested in coal in foreign countries.

This was used for political purposes only. There was no consultation, even with Mr. Orton, who was one of their colleagues. He got shot in the foot, in the head, and the back by his President for the environmental community.

The bill we have before us today is a bill that will work. Fifty thousand acres is bigger than any other ones, than the political ones in Utah and Alaska. The true monuments, the true antiquities acts, have been applied with less acreage than is in this bill. This is a fairness bill. This is about if there is that much threat to an area, it can be saved by the President. If it is larger than that, and God help us, it never will be larger than that, they can come to the Congress.

I am surprised the gentleman from Minnesota [Mr. VENTO] wants to give away the authority of this Congress, because under this Constitution, only this Congress can designate and classify lands. The gentleman also said, we can come back and undo what they did in Escalante. With this President, who are they kidding? It will never get signed into law.

Do my colleagues know what they did to me in Alaska? After 56 million acres, they came back with Mo Udall, bless his heart, John Seiberling, a few others I can mention, and they set aside 147 million acres of land, took it away from the people of Alaska, took it away from the people of America, and put it in little classified areas so that only a few and the elite can get to see. This is not what the Antiquities Act is all about.

I am suggesting, respectfully, if we really want to save the Antiquities Act, if we really want to make it work, then we ought to take and adopt this bill. It is a fairness bill. It is a bill that does allow the President, by the stroke of a pen, to set aside 50,000 acres. If he wants more, he has to come back to us. And that is our role, and that is what we should be doing. This is a good bill, and I urge a ''yes'' on this legislation.

Mr. MILLER of California. Mr. Chairman, I yield 5 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA], the ranking Democratic member of the subcommittee.

Mr. FALEOMAVAEGA. Mr. Chairman, with due respect to the distinguished gentleman from Alaska [Mr. YOUNG], as the chairman of the Committee on Resources, and also to the gentleman from Utah [Mr. HANSEN], for whom I have the highest respect not only in his capacity as chairman of the Subcommittee on National Parks and Public Lands, but the privilege I have serving as ranking member of that subcommittee, I thank the gentleman from California [Mr. MILLER], the ranking member, for allowing me this opportunity to share my thoughts with our colleagues here in the Chamber.

Mr. Chairman, I rise in opposition to this bill in its current form. H.R. 1127 amends the Antiquities Act, a law that has been in effect for 91 years. Pursuant to this act, 105 national monuments have been designated, and 29 of these national monuments were later designated as national parks. Among the national monuments that have been later designated national parks are Grand Canyon National Park, Olympic National Park, Glacier Bay National Park, and Bryce and Zion National Parks.

The Antiquities Act has been used by all but three Presidents in the past 90 years and has been the vehicle to protect some of our most cherished public areas. Given this successful history, I do believe the executive should, with modification, retain its current authority to proclaim national monuments.

Not all of the Presidential proclamations have been received favorably by the officials from the States in which the national monuments were made. As a result of this dissatisfaction, the States of Alaska and Wyoming are now treated differently than the other States under the Antiquities Act.

Some would say that these two States are now protected from having further monuments proclaimed within their boundaries. I want to bring this point to my colleagues' attention. This concept of inconsistent treatment among the 50 States should be addressed so that we are all returned to an equal footing.

Mr. Chairman, I believe the driving force behind this legislation is the President's designation of the Grand Staircase-Escalante National Monument in 1996, shortly before the 1996 elections. It is my understanding that the President declared this area in southern Utah as a national monument without proper consultation with the elected leaders of the State of Utah.

To make matters look even worse, the President issued this proclamation while he was physically, physically, Mr. Chairman, in the State of Arizona, as though he was afraid to set foot into Utah to issue the proclamation.

Mr. Chairman, I sympathize with the Utah congressional delegation on this point and feel it was improper for the President to act in this manner. I think any of us would have been offended if such an action were taken in our State or territory, and I do not believe the Antiquities Act should give the President license to proclaim monuments without consulting with the Governor and congressional delegation from that State.

Nevertheless, the State of Utah provides a perfect example of congressional inability to reach final agreement on issues affecting the use of public land and the need for action from the executive branch of the Government.

I believe there is general agreement that it would be beneficial to the Nation if parts of the public lands in southern Utah were preserved for future generations. And, in fact, there has been legislation introduced in each of the past five Congresses to preserve the scenic, environmentally-sensitive lands.

The problem has been in getting the two sides to agree on a compromise. In fact, even the Utah congressional delegation has not been able to agree. The two competing bills have proposed designating 1.8 million acres and 5.7 million acres of land as wilderness.

Because of differences of how much land to designate and how this land might be used, and despite the efforts of legislators on both sides, Congress has not passed a bill. Furthermore, as best I can tell, Mr. Chairman, there is little prospect of legislation on this issue being enacted into law in the foreseeable future.

Mr. Chairman, as other speakers have noted, Congress retains the power to negate Presidential proclamations. In the case of the Grand Staircase-Escalante National Monument, I am not aware of any effort to prohibit funding for the national monument or to terminate the designation as a national monument.

In fact, contrary to many arguments I have heard that designations of this nature hurt the economic development of the region, I believe the designation of this most recent national monument will provide an economic stimulus to the region. The future designation of part or all of this area as a national park could be even a greater economic stimulus.

Mr. Chairman, at the Committee on Resources markup of H.R. 1127, I offered an amendment to require that at least 60 days before the issuance of a proclamation establishing a national monument, the President must consult with the Governor of that State in which the monument would be located. The rule for this bill provides the gentleman from California [Mr. MILLER] the opportunity to offer this amendment later on today, and I hope to address the amendment in more detail at that time. I believe this change will address the real problem while still giving the President the authority to take definitive, unilateral action.

Mr. HANSEN. The gentleman from Utah [Mr. CANNON] has the whole 1.7 million acres in his district; and, all of a sudden, six little communities are now a national monument.

Mr. Chairman, I yield 6 minutes to the distinguished gentleman from the Third Congressional District in Utah [Mr. Cannon].

Mr. CANNON. Mr. Chairman, I thank the gentleman from Utah [Mr. HANSEN] for yielding me the time and for his comments.

Mr. Chairman, I rise today to explain exactly why we need to rein in the

power of the President to create national monuments. I represent Utah's Third Congressional District. Within its borders is the year-old Grand Staircase-Escalante National Monument.

Last fall, President Clinton stood across the State line in Arizona, as so graciously pointed out by the ranking member, on the other side of the Grand Canyon, and, with a few quick words and the stroke of a pen, created this 1.7-million-acre monument. It is massive, larger in scope than Rhode Island and Delaware combined.

To create the monument, President Clinton used the 1906 Antiquities Act. This designation was not about the environment. This was not about doing the right thing. It was about power, politics, and the deliberate abuse of Presidential power. Those are bold statements, but the events of last September justify them.

September 7, 1996, 11 days before the designation, was a Saturday. Utahns, including the Utah congressional delegation, were startled to read in the Washington Post that President Clinton was planning to designate a massive national monument in southern Utah.

The next Monday, Utah's two Senators and three U.S. Representatives placed calls to the White House and to the Interior Department to see if there was any truth to the Washington Post story.

During a series of meetings that week, both Secretary Babbitt and Katy McGinty, the President's Chair of the Council on Environmental Quality, assured the Utah delegation that nothing was imminent. They explained that the administration had done some internal discussions but nothing was about to occur, and if it became more likely, the administration would closely consult with the Utah delegation.

That was clearly untrue. Towards the weekend, word leaked that the President and Vice President were going to do an environmental event at the Grand Canyon the following Wednesday. The rumored topic was the announcement of a new monument in southern Utah.

Alarmed and angry, the Utah delegation met with Secretary Babbitt and Ms. McGinty. This time they were asked to detail any general concerns about the concept of a monument in southern Utah. The Utah officials asked to see maps. They were told there were none. They asked for details. They received none.

The day before the expected announcement, Utah Governor Mike Leavitt flew to Washington to meet with the President. President Clinton left the Governor cooling his heels while he boarded a plane to Chicago bound for Arizona.

White House Chief of Staff Leon Panetta met with Governor Leavitt. The Governor outlined a long list of concerns and proposed a Utah-developed plan to protect the area without harming the local economy. Mr. Panetta promised the Governor that he would let him speak to the President that night. The Governor asked for a map of the proposal but again was told one was not available.

Governor Leavitt spent the evening before the announcement waiting at the hotel for a call from the President. At 2 a.m., actually 2 minutes to 2 a.m., he had a conversation with the President where he outlined his concerns. The President did agree to consider a few of the Governor's points. But the President refused to allow logic, details, or local concerns to get in the way of his photo opportunity.

Utahns, except for a few friendly Clinton supporters, were excluded from the announcement. To add insult to injury, Governor Leavitt, still in Washington, DC, picked up the New York Times to find a map of the monument, a map that had been denied to every Utah official but which apparently had been turned over to the press.

On that day, I went down to the southern Utah town of Kanab where the residents released dozens of black balloons. The people of Kanab then suspected what we now know. At a time when the Green Party in California was holding roughly 10 percent of the vote in public opinion polls, President Clinton saw southern Utah merely as an item to sacrifice on the altar of Presidential ambitions.

Mr. Chairman, I sit on the House Resources Committee. Thanks to the leadership of the gentleman from Alaska [Mr. YOUNG] and the gentleman from Utah [Mr. HANSEN], chairman of the Subcommittee on National Parks and Public Land, we have been able to extract a slew of documents concerning the creation of the Utah monument. Though much remains hidden, we have learned much.

First, this decision was not driven by a desire to protect our environment. On the contrary, documents indicate that the administration knew that the monument designation would not improve protection of these lands. The most fragile areas were already in wilderness study areas. In fact, the designation and attendant publicity has probably attracted more visitors than would otherwise come to this delicate area.

Second, law and courtesy dictate that local officials and local residents have a chance to give input on decisions that directly affect them. In this instance, 6 weeks before the designation, the administration contacted the Democratic Governor of Colorado, the two Democratic Senators from Nevada, the former Democratic Governor from Wyoming, the former Governor of Montana, and even a Democratic House Member from New Mexico to discuss the Utah monument plan. They did not bother to contact any Utahns, not even Utah Democrats. I might point out that these people had expertise in the politics of the West but not in the particulars of southern Utah.

Third, the administration went to great lengths to avoid public scrutiny of its proposal. The law requires that public land decisions be made in the open so as to be improved by the light of public scrutiny. We now know that the administration went to great lengths to avoid application of the public disclosure requirements of NEPA, FLMPA, and FACA.

Because of its sloppy process, the White House failed to deal with problems created by its haste. Within the monument are vast deposits of coal and a large potential for oil, gas, methane, and hard rock minerals. The total value would be well in excess of $1 trillion. The 10,000 residents of the two affected counties were counting on those resources to provide jobs for their children and grandchildren.

Some of those resources are located on school trust land property held by Utah's schools. They contain mineral resources with value potentially in the billions. The Utah School Trust expected to reap millions a year from its lands within the monument.

A year ago, the President stood in Arizona and promised that, ''creating this national monument should not and will not come at the expense of Utah's children,'' and vowed to create a working group, including Utah's congressional delegation, to find equivalent lands for exchange.

Of course, a year later, no working group exists, no member of the Utah delegation has been contacted, and the Utah School Trust has been unable to open negotiations. The only thing Utah's schoolchildren are left with is a Presidential promise that is already of questionable value.

□ 1915

The story of the creation of the Grand Staircase Escalante National Monument is important because it shows what can happen when respect for a legal process is casually set aside. America itself was founded on process. Our Constitution is an elaborate set of checks and balances designed to preclude precipitous action by any leader or any group.

For this reason, I support the bill of my colleague from Utah.

I dare the opponents of this bill to justify the administration's actions with regard to this monument. I challenge opponents of this bill to convince me or anyone in Utah that such abuse will not happen again. They cannot, and that is why we need this bill.

Utah paid a price last fall for being in the way of a President's political agenda. This measure is a reasoned step in response to a gross abuse and is worthy of an affirmative vote.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Chairman, in the last several years that I have had the opportunity to serve on the Committee on Resources, I have come to have a great deal of respect and even affection for the present leaders of what is now called the Committee on Resources,

the gentleman from Alaska [Mr. YOUNG] and the gentleman from Utah [Mr. HANSEN]; respectively the chairman of the Committee on Resources and the chairman of the Subcommittee on National Parks and Public Lands. However, we also have occasional differences, and we certainly have a difference on this particular piece of legislation.

This bill would restrict the President's ability to declare national monuments. This is a provision that has been in the law now for some 90 years. We have had a large number of monuments that have been declared. I think 13 Presidents have used it, and 102 monuments have been declared over that period of time. This bill is not really about all of that; this bill before us today focuses its attention on simply one national monument declared by President Clinton last year, the Grand Staircase Escalante National Monument in southern Utah.

That act by President Clinton was, I believe, one of the most important domestic acts of his administration. It set aside an area of southern Utah which is vastly important to the future of our country, and it is not the first time that this area has been considered for special consideration by a President. Many Presidents have looked at it and thought about declaring national monuments or treating it in some other special way, going back as far as the administration of Franklin Roosevelt. In fact, in Franklin Roosevelt's time, the Minister of the Interior during that administration recommended that vast portions of southern Utah be set aside as a national park.

Now, this monument is something like 1.7 million acres, only a small percentage of the public land that is owned by all of the people of the United States located in southern Utah. People of the United States own more than 22 million acres administered by the Bureau of Land Management in southern Utah. This 1.7 million acres is just a small piece of that.

So this legislation is designed to really destroy a process that has been in effect now for most of this century, has been used by 13 Presidents, has resulted in the setting aside of 102 national monuments, including the Grand Canyon, some of the most important parts of our country, and it would be destroyed, that process would be destroyed, that privilege would be denied this President and future Presidents if this legislation were to pass.

It would be a serious mistake to pass this legislation because it would mean that an honored process that has been very valuable to the people of this country would be destroyed, and the opportunity to set aside national monuments in the future would become much more difficult.

For those reasons, I hope that the Members of this House will reject this measure, and it should be defeated.

Mr. HANSEN. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Utah [Mr. HANSEN], the chairman of the Subcommittee on National Parks and Public Lands of the Committee on Resources.

Mr. Chairman, I greatly appreciate your willingness to work with me to develop a compromise to allay some of the concerns that H.R. 1127 has raised. As the gentleman knows, last Tuesday night we arrived at a compromise with which we both felt quite comfortable. Unfortunately, because of a problem with the rule, we were told that that compromise could not move forward. We had to delete the sections ensuring that no single Member of either this or the other body could block a resolution of approval. That is obviously an essential provision.

I would include the compromise we reached for the RECORD at this point.

AMENDMENT TO H.R. 1127, AS REPORTED, OFFERED BY MR. HANSEN OF UTAH

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Monument Fairness Act of 1997''.

SEC. 2. CONGRESSIONAL REVIEW OF NATIONAL MONUMENT STATUS AND CONSULTATION.

The Act of June 8, 1906, commonly referred to as the ''Antiquities Act'' (34 Stat. 225; 16 U.S.C. 432) is amended as follows:

(1) By adding the following at the end of section 2: ''A proclamation of the President under this section that results in the designation of a total acreage in excess of 50,000 acres in a single State in a single calendar year as a national monument may not be issued until 39 days after the President has transmitted the proposed proclamation to the Governor of the State in which such acreage is located and solicited such Governor's written comments, and any such proclamation shall cease to be effective on the date 2 years after issuance unless the Congress has approved such proclamation by joint resolution as provided in section 5 of this Act.''.

(2) By adding the following new section at the end thereof:

''SEC. 5. CONGRESSIONAL REVIEW OF CERTAIN NATIONAL MONUMENT PROCLAMATIONS.

''(a) JOINT RESOLUTION.—For purposes of approving a proclamation referred to in section 2 that results in the designation of a total acreage in excess if 50,000 acres in a single State in a single calendar year as a national monument, the term 'joint resolution' means only a joint resolution introduced in the period after the proclamation is issued but before the expiration of the 2-year period thereafter, the matter after the resolving clause of which is as follows: 'That Congress approves the proclamation submitted by the President on___relating to the designation of a national monument in___.' (The blank spaces being appropriately filled in).

''(b) REFERRAL.___A Joint resolution described in this subsection shall be referred to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

''(c) SENATE PROCEDURES.—(1) In the Senate, if the Committee on Energy and Natural Resources has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission date, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

''(2) In the Senate, when the Committee on Energy and Natural Resources has reported, or is discharged (under paragraph (1)) from further consideration of a joint resolution described in this subsection, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points or order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

''(3) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

''(4) In the Senate, immediately following the conclusion of the debate on a joint resolution described in this subsection, and a single quorum call at the conclusion of the debate if requested in accordance with the proclamations of the Senate, the vote on final passage of the joint resolution shall occur.

''(5) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in this subsection shall be decided without debate.

''(e) PASSAGE BY ONE HOUSE.—If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

''(1) The joint resolution of the other House shall not be referred to a committee.

''(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

''(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(B) the vote on final passage shall be on the joint resolution of the other House.

''(f) RULEMAKING POWER.—This section is enacted by Congress—

''(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in this subsection, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.''.

Amend the title so as to read: ''A bill to amend the Antiquities Act regarding the establishment by the President of certain national monuments.''.

Mr. Chairman, I would ask the gentleman from Utah [Mr. HANSEN] if he would agree with me that section 5 of the compromise was an essential provision, that it was dropped only because of a problem with the rule, and that the gentleman will work to ensure that it is restored as the bill moves through the congressional process?

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I would respond to the gentleman from New York [Mr. BOEHLERT] that yes, I agree with the gentleman on all of these points. I regret that we had to drop the language because of the problem with the rule and I will work to see it restored.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman.

With those assurances, I will support this compromise to enable the bill to begin moving forward.

As I said, I will support the compromise embodied in the manager's amendment. That compromise improves on the bill by allowing a monument declaration to take effect immediately, rather than requiring a wait for congressional approval. In other words, in the case in point, the President could have done what he did after giving 30 days advanced notice to the Governor, along with a request for comment from the Governor. The President would consider those comments, but if he did not agree with them, he could still go forward with the declaration, and the declaration would be in effect for 2 years; but then there would be a sunset provision, and after 2 years, if Congress did not pass a joint resolution approving the monument, then the monument would be no more.

I support this compromise because I believe my friends from the West have some reasonable complaints with the current system. It is not unreasonable to involve Congress in changes in the status of huge tracts of land, tracts of land of 50,000 or more acres, as is the case in point. The President still has the authority to move forward with the designation of smaller tracts of land, and I think that is an appropriate responsibility for the President. But in the rare cases where we have large tracts of land in excess of 50,000 acres, I think we should have some congressional involvement, but we ought to make darn sure that no single person can block consideration by the Congress.

However, congressional involvement must not make the 1906 Antiquities Act a dead letter. The act has served this Nation well and it should not be fundamentally altered.

If our original compromise had remained intact, that standard would have been met unequivocally. Unfortunately, the compromise was blocked by the Committee on Rules because we were told last week that the bill had to come to a vote last week.

I support the current version of the compromise only because I have the commitment of the gentleman from Utah [Mr. HANSEN], the chairman of the subcommittee, to restore the original compromise as we move forward. The gentleman has acted in good faith, and I know he will continue to do so, but I must be clear: If this bill comes back from Congress without the full compromise in place, I will enthusiastically and vigorously oppose it.

We need to pass a bill that gives Congress a reasonable chance to review Presidential declarations, but we cannot pass a bill that allows any single Member of Congress to veto a monument declaration. That was the problem with the original bill, and it is still a problem with the manager's amendment. The problem would have been solved by the procedures that had to be dropped from the compromise.

So again, I thank Chairman HANSEN for his help. I urge support for the manager's amendment, and if it passes, for final passage of the bill. I do so because this puts us on a path to a reasonable compromise. A reasonable compromise will balance congressional and Presidential responsibilities in a way that does not threaten the protection of western lands.

I look forward to working with the gentleman from Utah [Mr. HANSEN] to arrive at a final product that will meet that standard.

The CHAIRMAN. Without objection, the gentleman from Minnesota [Mr. VENTO] shall temporarily control the time for the gentleman from California [Mr. MILLER].

There was no objection.

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] is recognized.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I want to thank my colleague for yielding me this time.

Mr. Chairman, this bill is not necessary; it is not desirable; the House should reject it.

Since 1906, Presidents have used the authority under the Antiquities Act to protect very, very special parts of this Nation's public lands. Under that authority, President Roosevelt set aside the heart of the Grand Canyon and many other priceless areas. Under its authority, President Coolidge set aside Carlsbad Cavern, and President Harding protected the Indian Mounds in Ohio.

In the 105 times that the act has been used, it has included, in Colorado, usage by President Taft to set aside the sandstone pinnacles of the Colorado National Monument; by President Hoover to protect Great Sand Dunes; and President Hoover as well to take care of that very special dark chasm known as the Black Canyon of the Gunnison. Those were not mistakes. They were not attacks on the West. They were wise actions, taken under sound authority, and that authority should not be undermined.

If Members of Congress are displeased with the way the President, any President, uses this authority, there is a remedy. Congress can modify or overturn any monument a President establishes. This can be done and it has been done, and if the sponsor of this bill, for instance, is opposed to the Grand Staircase-Escalante National Monument, he can introduce a bill to modify or repeal it.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. Mr. Chairman, I have limited time. I would be glad to yield when I am finished.

Mr. HANSEN. We are more than happy to do it. We have one prepared almost and it will be coming. I want everyone to realize that. I thank the gentleman for yielding.

Mr. SKAGGS. Certainly.

Mr. Chairman, I suppose it has a very good chance of having it reported out of the Committee on Resources and probably scheduled for action on the floor, but that is not the bill before us.

Later, when we consider amendments, there will be a proposal to change this bill to make monuments temporary unless approved by Congress. We should not do that either. That would merely give some one Member of the other body, under the rules that obtain over there, the ability to block any monument. That is not the kind of way we want to do business around here.

We should do the right thing. We should do the careful thing. We should do the conservative thing. We should reject this bill.

Mr. HANSEN. Mr. Chairman, I yield 2½ minutes to the gentleman from Tennessee [Mr. DUNCAN].

(Mr. DUNCAN asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN. Mr. Chairman, I rise in strong support of this very modest, commonsense, much-needed and eminently fair proposal.

This legislation is needed primarily because of something Senator HATCH referred to as the most arrogant abuse of power he had seen in his 20 years in the Congress. He was referring, of course, to the sneak attack by the Federal Government just before the last election to lock up 1.7 million acres in the State of Utah to produce what is called a national monument in the Escalante-Grand Staircase section of southern Utah. However, there are several reasons why this particular land grant has been questioned like no other in U.S. history.

First, it was done with no public discussion or hearings of any type, no vote by the Congress, no vote by the Utah State Legislature, no vote by the

people of Utah. In fact, the Governor of Utah testified that the first notice Utah public officials had was when they read about it 9 days beforehand in press reports.

The second serious question is the secrecy, the coverup. Not only were high-ranking officials not notified, the documents the gentleman from Utah [Mr. CANNON]) mentioned earlier, the administration documents, said that it cannot be emphasized enough, this is the administration talking, that public disclosure would have stopped the designation because such an outcry would have been created. It almost makes me wonder if we have people running our Government today who want to run things in the secret, shadowy way of the former Soviet Union or other dictatorships.

Third, this 1.7 million acres contains the largest deposit of clean, low-sulfur coal in the world. Senator HATCH testified, and the gentleman from Utah, [Mr. CANNON] mentioned a moment ago that this coal alone is worth over $1 trillion. Who has the second largest deposit? The Lippo Group from Indonesia, who just happened to make some very large campaign contributions about the time this land was locked up.

In one small rural county in Utah, this means the loss of 900 jobs. Not only does it mean jobs lost, but it means higher prices. It means higher prices for every individual and company which uses coal in this country.

Environmental extremists, who almost always come from wealthy or upper income backgrounds, are really destroying jobs and driving up prices all over this country. Rich environmentalists who have enough money to be insulated from the harm they do are really hurting the poor and working people of this country.

I urge my colleagues, Mr. Chairman, to support this very fair proposal by the gentleman from Utah.

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ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Members are reminded that they should refrain from using personal references to Senators.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. Mr. Chairman, I want to thank the gentleman for the privilege to join him in support of H.R. 1127.

My father always told me, ''If it is not broke, don't fix it.'' The Antiquities Act was not broken, but the Clinton/Gore administration abused the process. It is time to bring people back into this process. Thirteen Presidents have used it, and in my view, two have abused it. Those who have said we are going to upset the balance, I do not believe we are going to upset the balance. We are going to bring balance back.

I come from a large, rural district in Pennsylvania where there is a lot of public ownership. I want to tell the Members, people are very concerned about regulations and declarations and laws that are passed and how it impacts rural America. Utah is 73 percent public land. They had no input. They deserved better. They have a right, when regulations and declarations are coming at them, to have an input. The President should explain why 1.7 million acres was needed. Was it to increase the ability of foreign friends to import a simpler type of coal? That is a public debate that should have happened.

This bill does bring balance back to the process. States and local governments should have input. Citizens need a voice. This act, if amended, will still allow Presidents to act. Utah deserved better.

I urge Easterners, my fellow Easterners from the East, and urban and suburban legislators in this body, to be a whole lot more sensitive to rural America. Regulations and laws and declarations have a huge impact on rural life. We are taking away their very ability to earn a living and to exist and live where they want to live. I urge all Members to be much more sensitive.

This bill is modest. It gets at the problem because this administration broke it.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I rise today in support of the National Monument Fairness Act. Like many Members, I was outraged by the President's decision to designate a whopping 1.7 million acres of land in Utah as a national monument last year. In what was obviously driven by politics and not resource conservation, the President did not consult with and in fact ignored the Governor of Utah, the State's congressional delegation, and most importantly, those affected by his action, the local population.

Tellingly, the President made his announcement in Arizona, surrounded by hand-selected members of the green movement, far away from the people of Utah. We need to ensure that a President cannot circumvent the will of the people like this again. This bill would ensure that the President works with Congress and with affected Governors before designating large tracts of land as national monuments.

Let us make sure Congress is allowed to do the job the people sent us here to do, to represent them. It is crucial that we never again allow the President to ignore our constituents. Again, I urge a yes vote on this bill.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I just wanted to rise to point out to my colleagues that while each of us represents about 600,000 people, and our respective Senators represent entire States, the only elected official in this Nation that represents all the people is the President.

That is why I think, in constructing this, and I have been a staunch advocate of the authorizing and the other powers of this body, as I had the privilege to chair the Subcommittee on Parks and Public Lands for many years, the fact is, though, in looking at this in toto, we have to have a balance. In other words, when Congress does not act, there has to be some recourse in terms of action. We have to have the power to act.

The other issue with regard to the nature of declarations and how public we go is a real concern, because once we indicate a willingness or an interest in designating or declaring lands, we often find that individuals will put in various types of claims. Some of those claims, in my judgment, with regard to mineral claims or with regard to water permits and other types of activities, are spurious. They are designed to do one thing. That is to exact as many dollars as they can out of taxpayers in order to make the conservation designation that is intended. In fact, it happens all the time when we are considering measures for wilderness or measures within this body.

Of course, as Members know, when action is imminent in terms of a declaration, as it would be in this case, and it is a major flaw that we are going to have with some of the amendments that are being offered here today in terms of notice, because they are fatally flawed in the sense that they prevent and in fact compound the very problems that the President may be taking issue with.

The other issue is with regard to President Carter's action, the D–2 alliance, and I am sorry that my friend, the chairman, has left the floor, because we failed to meet the deadlines with regard to those lands being set aside in this Congress after many years.

In failing to take action at that time in 1980, in essence, the President had recourse to in fact try to provide some temporary protection. This is the one law he had at that time that he could use to actually address that very serious problem with regard to the disposition and designation of those lands in Alaska, which points out that all the other laws that have been passed that the gentleman commented about earlier, the gentleman from Utah, Chairman HANSEN], really did not do the job, because the President has to have some recourse.

What the chairman is doing with this bill, irrespective of what the merits are concerning, and of course I do not find politics unusual in this Congress or among those that are candidates or serving as President, it is sort of a given, but the fact is that we are taking away the power they have to act, as I think is reasonable, and Members may think unreasonable. This is taking away the ability to act. That is the

fundamental flaw with this particular bill.

We have the ability to change this if we think there is a mistake by acting ourselves.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. I thank the gentleman for yielding me the time, Mr. Chairman.

Let me point out that not a single argument mounted on the other side of the aisle on this issue has addressed the bill as amended by the manager's amendment. The manager's amendment would allow the President to designate any amount of land. It would simply provide that that designation would expire within 2 years. So all the discussions on the other side about emergency need on the President's part is just a distraction from reality.

The other shocking argument we hear from the other side is that they oppose sunshine. If my colleagues around this Capitol listen to my colleague, the gentleman from Utah [Mr. CANNON], detail the outrageous abuse of power by this President in what he did this time around, that is not sunshine. Refusing to discuss the issue and misleading the Utah delegation is not sunshine; it is keeping the American people and the people of Utah in the dark, and it is wrong.

The Antiquities Act was broken by this President, but he raised an issue, and that is, we need to look at what is wrong with it and fix it. How we can fix it is to allow the Congress to have a say.

Let me point out how he broke the act. The act says specifically when the President chooses to exercise this power, he must in all cases confine the area designated to the smallest area comparable with the proper care and management of the objects that are protected. Mr. Clinton did not do that in this case. He designated 1.7 million acres, vastly more than needed to be designated.

All we are asking on this side is that when the President takes that action, that the measure come back to Congress for a vote. I thought, Mr. Chairman, that we were a Nation of laws and not a Nation of men. I am glad that the previous Presidents designated the Grand Canyon, but this Congress came back in after that and made the Grand Canyon a national park.

What opponents of this bill do not want is they do not want a public debate. They do not want open consideration of this issue. They want raw power in the hands of the President to be exercised in the dark of secrecy. I asked the gentleman on the other side of the aisle if he would yield on that point and he would not yield on that point. Their goal is not to allow the American people to know what the President is doing and to give him a free hand.

Clearly, the President in this case abused the Antiquities Act, and this is a reasonable measure to protect it; to say for 50,000 acres he can do whatever he wants, but when he goes above 50,000 acres to 1 or 22 million acres, then he ought to have to consult the people.

The President may represent all the people. He lost in the State of Utah. It seems to me it is fair to give the people in this Congress whom we represent a voice in these issues.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to this legislation. As many of my colleagues have said, it is unnecessary, and it is premised on a misleading argument that it will open the door to wanton acts by the President of the United States. There is no history in this act that that is the case. In fact, this President acted properly, within the law, within the act, and in the best interests of the American people.

The fact of the matter is that many of these lands that the President finally chose to protect by the use of the Antiquities Act have been under discussion, but those discussions have been filibustered, delayed, obstructed by members of the Utah delegation with respect to these lands and to other lands that need to be protected, public lands that are owned by the people of the United States, and lands that are open to the exploitation by the mineral extractive industries that could go onto these lands and start taking coal and petroleum and other products from these lands without regard to their preservation, as is now allowed because of the President's actions.

The facts are that those processes grind on and those companies continue to get permits to extract those minerals. The bill the gentleman is introducing here today is basically an overturning of the Antiquities Act. It is a gutting of the Antiquities Act.

He says he wants to give 30 days' notice. With 30 days' notice, as we saw in the New World Mine, people rushed in, people rushed in to file claims and try and perfect claims when they heard the President was going to do this. In the time between the time we started considering the California desert and the time that we did the California desert, we ended up with people filing mining claims, perfecting mining claims, knowing that the government would then have to come along and try to deal with them.

The notion that somehow this current law would be improved upon if the Congress had 2 years in which to act, the Congress can act at any time it wants. It is acting tonight with consideration of this legislation. The gentleman from Utah says he has a repeal of this, or to overturn the President's act, coming. That is fine. People can vote yes or no.

But these are the lands of all the people of this Nation. The President from time to time has to take positions to protect those lands, because the legislative process is unable to respond. The legislative process, if we gave them 2 years, we have the very same problem. We have the Senators from Utah or elsewhere that decide they want to filibuster this act, and all the political dynamics kick in, with what else is going on in the Senate, and somehow we cannot report out provisions to protect these lands and we are right back where we are today before the President acted.

That is why, that is why we should keep the current law as it is. It provides for the protection of the lands. And if the Congress is so outraged, they can come back and modify, they can come back and repeal, they can come back and change the provisions of the Monuments Act.

If we listened to these people, we would have the President pick. Maybe this year he could pick the Grand Staircase, but that exceeds 50,000 acres, so he could not pick that one. But once he set notice that he was going to do the Grand Staircase, people would start filing, and the power would plateau, because they could see the handwriting on the wall. The President might be prepared to act.

Then people in the Canyon of the Escalante, they could start to file on those actions. All of a sudden, what we have done is caused the taxpayer a huge liability because we have decided that these people should have a right to file on these public lands for extractive permits.

The fact of the matter is that when we look at these lands and we see them and how they are intertwined, one of the things I thought we learned over the last 20 years is setting arbitrary acreages does not necessarily guarantee the protection of the ecosystem, the lands, the assets, or the interplay between those resources.

But again, this law that is being presented here tonight or this proposed law that is being presented here tonight is simply one to kick the teeth out of this act, and to somehow try to see if they can embarrass or punish this President for the actions he took. This President should neither be embarrassed nor should he be punished because he took these actions on behalf of the American people.

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And he did it properly so, and he did it over the actions that for years and years of people who decided that they were going to stand in the way of these public lands, they were not going to allow this to happen. And I think that is why the President acted and the President should be very proud of his actions and the American people should be very proud of these actions.

The authors of this legislation, they say they do not know why the President did that because there is nothing there. But then they say there is everything there because people are coming to see the antiquities and the geologic sites and the cultural sites and the beauty of this area.

Obviously, the people of this country understand the assets and value of these lands that are there, and they are obviously supportive of the efforts by the President to protect these lands. Now they can come there to utilize them, and, fortunately enough, we were able to get resources for interpretation of these sites and guidance at these sites. This can again be a wonderful experience for America's families, the millions who take to their automobiles and their vacations to visit and see these wonderful lands of the West, and the arches, and the bridges and canyons, and the rivers and ecosystems, and the riparian areas that are so unique to anything else that is offered in the United States.

We should continue with the current law as it is. Should this legislation pass the House, I would be surprised if it has much of a life after that. But people should not vote for a bad bill just because it is not going to go anywhere. We should turn this bill down and protect the Antiquities Act and protect the prerogatives of the President and, more important than that, protect these valuable, valuable lands of the United States of America.

Mr. Chairman, I yield back the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just say that the Presidents have used this well and have done a good job with it. If we wanted to punish the President, we would repeal it. Of all of these hundred and something things, very, very few of them are over 100,000 acres, over 50,000 acres. It can still be used. This is just a modest approach to it.

Mr. Chairman, a lot of Members have talked about the idea of the threatened land that we are talking about. Those who put this together did not realize that. Let me quote from their letters to the White House, to another person in the White House, and I will not mention their names.

I realize the real remaining question is not so much what the letter says, but the political consequences of designating these lands as monuments when they are not threatened.

Let me repeat,

when they are not threatened with losing wilderness stature, and they are probably not the areas of the country most in need of designation.

Right from the White House.

Another one where they talk about, all we are worried about is how the ''enviros'' will react. This has nothing to do with the Grand Staircase-Escalante. It is talking about balance of power.

We talked about my amendment which I think will more than handle this area. And let me point out, there is no reason to be an apologist for the President or for anybody here. It was a mistake that was made, and therefore this is a very modest, reasonable approach to take care of it.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1127

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Monument Fairness Act of 1997''.

SEC. 2. CONSULTATION WITH THE GOVERNOR AND STATE LEGISLATURE.

Section 2 of the Act of June 8, 1906, commonly referred to as the ''Antiquities Act'' (34 Stat. 225; 16 U.S.C. 431) is amended by adding the following at the end thereof: ''A proclamation under this section issued by the President to declare any area in excess of 50,000 acres in a single State in a single calendar year, to be a national monument shall not be final and effective unless and until the Secretary of the Interior submits the Presidential proclamation to Congress as a proposal and the proposal is passed as a law pursuant to the procedures set forth in Article 1 of the United States Constitution. Prior to the submission of the proposed proclamation to Congress, the Secretary of the Interior shall consult with and obtain the written comments of the Governor of the State in which the area is located. The Governor shall have 90 days to respond to the consultation concerning the area's proposed monument status. The proposed proclamation shall be submitted to Congress 90 days after receipt of the Governor's written comments or 180 days from the date of the consultation if no comments were received.''.

Amend the title so as to read: ''A bill to amend the Antiquities Act to require an Act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 50,000 acres.''.

The CHAIRMAN. No amendment shall be in order except those printed or considered as though they were printed in House Report 105–283, which may be considered only in the order specified, may be offered only by a Member designated in the report, shall be considered read, shall be debated for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for the voting on the first question shall be a minimum of 15 minutes.

The Chair is advised that amendment No. 1 will not be offered and, consequently, it is now in order to consider amendment No. 2 printed in House Report 105–283.

AMENDMENT NO. 2 OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VENTO:

Page 3, line 14, strike ''unless and until'' and insert ''until 1 year after''.

Page 3, beginning on line 16, insert a period after ''Congress'' and strike all that follows through the period on line 18 and insert in lieu thereof: ''During the period of review, Federal lands within the proclamation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws.''

The CHAIRMAN. Pursuant to House Resolution 256, the gentleman from Minnesota [Mr. VENTO] and the gentleman from Utah [Mr. HANSEN] will each control 5 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise to offer an amendment with regards to this that will make it workable.

The fact is, the problem is with Congress not acting, and all the other versions that we here over 50,000 acres provide for Congress to sit on its hands and do nothing, and if they do that, that is simply enough not to, in fact, provide for the protection of these lands.

So, Mr. Chairman, this amendment is a very straightforward amendment. It says that the President can make the declaration, and if Congress does not act within a year, that declaration takes effect. During that pendency, during that period of time, those lands would be protected. They would be protected from mineral entry and from other types of appropriation.

These lands are all public lands we are talking about. They are owned by the Federal Government and by the people of this country, who are the Federal Government. The fact is, that is what this is about: To take away the power. This keeps the power in the hands of the President but gives us the opportunity, with the other types of proposals, to provide for the opportunity to act on this for Congress.

This would be, of course, a limitation in the powers of the President in this particular instance, but it would not inure to the damage in terms of what happens to taxpayers in this instance. It would provide for the conservation, and the other precepts of the Antiquities Act would be kept in place.

This makes sense. Instead of requiring Congress to act, my amendment preserves an option for us to act, and it would not permit us to get by by simply sitting on our hands. In fact, that is, of course, what the case is today with many of the other laws that we have, whether it is a park designation or wilderness designation. Just by doing nothing, we can avoid facing the issue. This gives the President the opportunity to do his job as steward of such lands.

Mr. SHADEGG. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, if I could ask a couple of questions, the gentleman from Minnesota said this would keep the power in the hands of the President. It would keep the power in the hands of the President to create a monument of over 50,000 acres?

Mr. VENTO. Mr. Chairman, reclaiming my time, I would say to the gentleman: To make the declaration.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

Mr. HANSEN. Mr. Chairman, the 1-year limit for Congress that the gentleman from Minnesota [Mr. VENTO] has come up with, to finalize the monument designation as the Vento amendment would enact, simply does not allow enough time for Congress to act to the Presidential proclamation. In fact, it takes way the power that this bill provides to Congress in order to pass the proposed designation.

Mr. Chairman, I would ask my colleagues to keep in mind, a case in point would be the most recent Presidential abuse of the Antiquities Act designating 1.7 million acres of mostly sagebrush and pinyon juniper in southern Utah as a national monument.

Mr. Chairman, it is well over a year since the purely political monument was established, yet there continues to be frequent congressional discussion of this blatant and insulting abuse of Presidential power designated as a national monument proclamation, so this amendment really does nothing.

Mr. Chairman, I find it interesting when I hear some say this is only Federal lands and we all own it. That is not what the antiquities law says. Let us go to the law when all else fails. It says ''on lands owned or controlled by.'' Well, they control everything, if we want to take the extreme interpretation of it. In fact, in this 1.7 million acres there are 200,000 acres that belonged to the schoolchildren of Utah. There are countless pieces of private ground that are encompassed. There are cities that are encompassed, but now they are ''controlled by.'' So I do not know where we get this type of thing. I really do not see a reason for this particular amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think that those lands are not part of the monument.

Mr. HANSEN. Mr. Chairman, reclaiming my time, they are inside the monument. What choice have they got? If they are completely surrounded, they are in the monument. Believe me.

Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. CANNON].

Mr. CANNON. Mr. Chairman, the gentleman from Minnesota has said several times today, and in the prior debate on the rule, that the problem is that Congress has not acted. Now, what the premise of that is is that there is a problem out there that needs to be solved. It is an urgent problem that requires what the Governor of Utah called a dictatorial action.

Mr. Chairman, I believe this is a straw man. The fact is, what we are saying here is that the people of Utah were somehow out committing depredations on this area. Remember, this is an area bigger than New Hampshire and Delaware combined. It is a huge area that has only about 10,000 people in the periphery, not even on the area.

Therefore, I would like to just point out that I do not think it is a reasonable thing for this body to look at itself and say we need to give up any authority we have because of some potential depredations and give dictatorial powers to the Presidency. I think in a matter of balance in this body that we should retain that balance, as opposed to the Presidency, and at the same time give him the ability to do what we need to do with monuments.

Mr. Chairman, no one could love monuments more than I. I grew up with Arches National Monument. I grew up with that monument. It is now a park, but I have a hard time calling it a park because it was such a wonderful monument.

We want monuments. America wants monuments, but we want them done in the light, not in the darkness, not hiding in saying, if people find this out, we will not be able to do it, not suggesting a straw man of people going out and making claims on land. Those are not fair things to do. We need policy and balance, and that is what this bill represents.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Chairman, I simply want to point out and express my appreciation to the gentleman from Minnesota [Mr. VENTO], my friend, for his candor in his remarks in support of this particular amendment. He said, and I quote quite directly, ''This leaves the power in the hands of the President.'' And indeed that is precisely what the proponents of this amendment want to do. They want to leave the power under the Antiquities Act in the hands of the President.

Mr. Chairman, that might be a good idea and under prior Presidents probably was a good idea. But, regrettably, the most recent incident demonstrates that that power is awesome and can be, and in this case regrettably was, abused.

Even if my colleagues do not think it was abused in this case, they ought to be concerned about the power of the President to act unilaterally; to, as he did in this case, ignore the Utah delegation; to, as he did in this case, ignore the Governor of Utah, who is sitting in a hotel in Washington, DC, desperately trying to see the President.

I suggest that people who believe in sunshine, who believe in process, and who believe in the rule of law, should reject this amendment, because it leaves in the President's hands the power to unilaterally designate a national monument of 50,000 acres, as our bill would do, but to go beyond that and to designate 1.7 million, or 5 million, or 10 million, or 22 million, or, for that matter, 22 billion acres, and to ignore the Congress in doing that.

That simply is not good public policy in this country today, where we believe in the rule of law, where we believe in representational government, where we believe public policy should be debated openly in the Congress between people who represent all kinds of different views.

Mr. Chairman, to leave the President with that sole power to be abused when he wants to, as sadly happened in this case on the eve of an election, is a mistake, is wrong. I cannot believe that anyone does not see that. Sunshine is what we need. If my colleagues trust people and believe in representative government, I urge them to reject this amendment.

Mr. VENTO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would say that this amendment does achieve a balance. I think we had a balance in terms of powers, in terms of many units, conservation units and other units we can designate. And my colleagues are failing to understand that in terms of opening up any of this to public announcement prior to the declaration, we will invite in various groups to make claims, and then the taxpayers have to buy back that which they already own, whether it is a claim for minerals, whether it is a claim for water, whatever the claim may be.

Mr. Chairman, I just think that that is wrong. It is one of the fatal flaws in the legislation, and all the variations that have been proposed by my subcommittee chairman have that particular problem in them. What we are saying here is, if this is an error on the part of the President, if Congress disagreed with it, within a year they could come back and prevent the declaration to occur.

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The fact is that even in this instance, where they are making these claims and some have been talking about the fact that it was unlawful, I am not aware of any court decision or any action, I am not aware of any court decision or action or anything pending in which the Antiquities Act has not been successfully upheld as being a proper and legal power of the President and constitutional. Unless there is something I am unaware of, I would be happy to yield to anyone to give me the name of a case in the last 91 years where that has occurred.

Of course, I think the issue here is, I think that maybe the last thing to

criticize, of course, is to say somehow this is political or that is political. There is a lot of politics that go on on the House floor, in our committees, and certainly I do not think the President is beyond that. But in this case, I think he did the right thing. I think that the laws were pending, measures were pending.

The gentleman from Utah quite rightly recognized, as I led the committee, I did not hear that bill or move on that bill of the gentleman from New York [Mr. OWENS] that he was concerned about. I did not do that. Perhaps I should have. We could have averted this particular designation by the President.

I think at that time he probably was giving me different advice than that which he might be giving me now. Today I think the advice he gives us is wrong. This is a prudent, a measured move that I have in this amendment in terms of providing for a year review and providing for the opportunity but avoiding the type of problem that can exist and has existed.

My view is not seeing the view of the bills that we have before us that would put oil wells in the Grand Canyon. It would put mines in various areas. We have had it. Even today the claims that are being made in Escalante are being honored. We have to honor those types of claims that are being made.

We are talking about Federal land and public land and, yes, there are lands that are included within these monuments. I hope that we could move fairly and expeditiously to deal with the trade-off of those lands so that they could be used and the benefit of that would be to the citizens and others in Utah that might be affected by that.

That is a different issue, though. We are not doing this on the basis of one monument. We are doing it forever. When we do that, we deny the children of the 21st century their legacy. I urge an ''aye'' vote for the Vento amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. VENTO. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 256, further proceedings on the amendment offered by the gentleman from Minnesota [Mr. VENTO] will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 3 printed in House Report 105–283.

AMENDMENT NO. 3 OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr.MILLER of California:

Page 3, strike line 8 and all that follows through page 4, line 2, and insert the following:

Section 2 of the Act of June 8, 1906, commonly referred to as the Antiquities Act (34 Stat. 225; 16 U.S.C. 432), is amended by adding at the end the following: ''At least 60 days before the issuance of a proclamation under this section, the President shall consult with the Governor of the State in which the proposed monument is to be located and any other individuals or organizations the President deems advisable, unless the President determines and publishes a notice that a delay in issuing a proclamation will jeopardize the values for which such monument is to be established.''.

Amend the title to read ''To amend the Antiquities Act to provide for consultation in the establishment by the President of national monument.''.

The CHAIRMAN. Pursuant to House Resolution 256, the gentleman from California [Mr. MILLER], and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield 5 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

The CHAIRMAN. Without objection, the gentleman from American Samoa [Mr. FALEOMAVAEGA] will control the 5 minutes.

There was no objection.

Mr. FALEOMAVAEGA. Mr. Chairman, I yield myself such time as I may consume.

As I noted during the general debate of this bill, from my perspective the problem with the Antiquities Act is that the President has the ability to declare national monuments without consulting with the elected officials from the State in which the monument is being considered. Mr. Chairman, my amendment deletes the language of H.R. 1127 and instead amends the Antiquities Act to require that the President consult with the governor of the State in which the proposed monument is to be located at least 60 days in advance of issuance of a proclamation. The only exception to this requirement is if the President publishes a notice that a delayed issuance of the proclamation would jeopardize the values for which the monument is being established.

Mr. Chairman, this proposal seems to be the right mix of authority vested in the executive while still giving State officials notification of action being considered. This gives the State an opportunity to take any action it seems appropriate before a proclamation is issued.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does gentleman from Utah [Mr. HANSEN] claim the time in opposition?

Mr. HANSEN. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, after looking at this, it appears to me the President has to consult with the governor of the affected State at lease 60 days prior to issuing a proclamation unless the President finds delay would jeopardize the value of such monument being established. As Members know here, I will be doing a manager's amendment which I think, my good friend from American Samoa, pretty well answers that. What it will say is when the President is ready to make his proclamation prior to doing that, he has 30 days in which to talk to the governor of that State.

So I think in a way this would pretty well resolve it without these things occurring that have occurred where the governor of the State is stonewalled in a hotel in Washington, DC, trying desperately to get in to the President of the United States, trying to find out what is going on. I was stonewalled as chairman of the committee, both Senators were stonewalled. But I do have to agree that at 2 in the morning our governor did get a call and then it was done at 10, no time to even react.

So I think the gentleman is on the right track, the gentleman from American Samoa, the gentleman from California. I support them, but I do not think they have gone quite far enough. With what they have said here, I can see where in their hearts they would see that maybe the Hansen amendment coming up would more than solve this. I would appreciate their support in this. I rise in opposition to this amendment. I would suggest it be rejected.

Mr. FALEOMAVAEGA. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in support of this amendment. I think the distinction here with this amendment in addressing the question of consultation with the governor of the State in which a designation will be made and transmitting the proclamation to that governor is a matter of legitimate concern and interest.

But it is a far cry from this amendment to then be standing the act on its head and in effect sort of creating temporary monuments, as we may end up doing in this legislation, and then if the Congress does not act the monument goes away. That is to gut the Antiquities Act.

This is to try to address a problem that a number of Members believe is legitimate and of concern in terms of the communications between the Federal Government and local governments that are going to be impacted by these actions. I think this is a good amendment. The gentleman from American Samoa [Mr. FALEOMAVAEGA] has suggested this from the time of the hearings and during the legislative process. I believe that the amendment should be supported because I think this is a rational response, unlike the legislation

which then goes to the undermining of the entire current law with respect to presidential ability to protect these public lands.

Mr. FALEOMAVAEGA. Mr. Chairman, I yield back the balance of my time.

Mr. HANSEN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] has 3½ minutes remaining.

Mr. HANSEN. Mr. Chairman, I yield the balance of my time to the gentleman from Colorado [Mr. BOB SCHAFFER].

Mr. BOB SCHAFFER of Colorado. Mr. Chairman, I would urge colleagues to reject the Miller amendment that is before us at the moment. I ask this body to remember exactly what it is that this debate is all about.

This is not a discussion over safeguards against some prospective possibility of executive abuse where national monuments are concerned. This is a bill that is brought to us because of the demonstrated abuses that have already occurred, already occurred. What this amendment proposes to do is virtually nothing different than the President has already done in establishing the Escalante Grand Staircase National Monument.

Think of this, 1.7 million acres set aside in a State where the governor was not consulted, where the governor of that State of Utah heard by rumor that this might occur within his State. The President did not even exercise the courage of making the announcement from the State where the monument was to be designated. He made it one State over in Arizona. He consulted the governor of my State in Colorado, Roy Romer, who now is chairman of the Democratic National Committee, consulted him weeks before; consulted Robert Redford, an actor; but did not consult one member of the Utah delegation.

What this amendment suggests in front of us now is that the President will attempt to notify somebody. It does not say it has to be the governor of that State. It says that it may be some other individual, any other individual or organizations that he deems advisable. Well, who would that be?

Let me just tell my colleagues from past experience, it was not the governor of the State of Utah where this monument was in question. In fact, that governor flew all the way here to Washington, DC, camped out in a hotel, asked for meetings with the President of the United States and was denied that opportunity until 2 in the morning before that President set aside 1.7 million acres.

Let me suggest, this is not just an issue of great concern for those individuals here from Utah. It is of great concern to every Member of this Congress who has public lands within it or private land within it or State lands within it, because those are the kinds of lands we are talking about.

The Antiquities Act that we think of was designed quite frankly for small monuments. In fact, prior to this 1.7 million acre set-aside, that is what we saw, small areas of land with some unique feature.

But when this President decided to waltz into a State without notifying the congressional delegation, without notifying the Senators, without notifying one individual within that State of any elected capacity and set aside 1.7 million acres, we need to shut that authority off. We need to put that authority back in the hands of the people's House so that we can assure right here that our citizens and taxpayers, property rights holders and those who enjoy the use of public lands and who enjoy credible monuments have the opportunity to have input and a say-so and have full opportunity to deliberate the importance of those dramatic actions by this Congress.

Mrs. CUBIN. Mr. Chairman, I rise today in opposition to the Miller amendment that would allow the Antiquities Act to apply to all 50 states.

As you may know Mr. Chairman, Wyoming is fully exempt from the Antiquities Act—the President cannot designate a national monument in my State that is 50 acres, 5,000 acres, 50,000 acres or 5 million acres without the consent of Congress.

The legislation that established this important exemption was passed into law in 1950. The law is very simple, and very straight forward. It reads: ''No further extension or establishment of national monuments in Wyoming may be undertaken except by express authorization of Congress.''

The State of Wyoming took civil action in February of 1945 against the administration of President Franklin D. Roosevelt, after he had used the Antiquities Act to designate the Jackson Hole National Monument.

The State claimed national interference with the use and maintenance of State highways, together with the loss of revenue from game and fish licenses by the exercise of federal control.

Finally, an agreement was reached between the parties and Congress that incorporated much of the Jackson Hole National Monument into Grand Teton National Park. In addition, legislation was also enacted that bars any future Presidential designation of any national monument in my State.

The Miller amendment, if passed, would submit the people of Wyoming to the possibility of the same treatment that occurred in 1945—the designation of a national monument without as much as a single comment from the people who live in the affected state.

President Clinton recently used the Antiquities Act to establish the Grand Staircase-Escalante National Monument in Utah.

He stood not in Utah, but on the north rim of the Grand Canyon in Arizona, to announce the creation of that monument. No member of Congress, local official or the Governor of Utah was ever consulted, nor was the public.

In 1976 this Nation made an important public policy decision. Congress passed landmark legislation in the Federal Land Policy and Management Act (FLPMA) requiring great deliberation, careful process, and above all public input in determining how public lands should be used.

I am not willing to submit my constituents—the citizens of the State of Wyoming—to a President, present or future, who is willing to skirt important environmental and public comment processes for purely political gain.

We must require, and our constituents expect, full and complete accountability of our elected officials—the President through the Antiquities Act must be accountable to the citizens he represents. If he is not, I believe that power should be taken away.

I am thankful that Wyoming had the foresight and courage to pass the law that exempts it from the Antiquities Act and from an outright abuse of power.

I ask that my colleagues oppose the Miller amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was rejected.

The CHAIRMAN. The Chair is advised that amendments 4 and 5 will not be offered.

It is now in order to consider the amendment made in order pursuant to House Resolution 256.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Monument Fairness Act of 1997''.

SEC. 2. CONGRESSIONAL REVIEW OF NATIONAL MONUMENT STATUS AND CONSULTATION.

Section 2 of the Act of June 8, 1906, commonly referred to as the ''Antiquities Act'' (34 Stat. 225; 16 U.S.C. 431) is amended by adding the following at the end thereof: ''A proclamation of the President under this section that results in the designation of a total acreage in excess of 50,000 acres in a single State in a single calendar year as a national monument may not be issued until 30 days after the President has transmitted the proposed proclamation to the Governor of the State in which such acreage is located and solicited such Governor's written comments, and any such proclamation shall cease to be effective on the date 2 years after issuance unless the Congress has approved such proclamation by joint resolution.''

The CHAIRMAN. Pursuant to House Resolution 256, the gentleman from Utah [Mr. HANSEN] and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Since September 18, 1996, the Utah delegation, the Committee on Resources and many other Members of Congress have tried to figure out a way to both preserve the President's authority to designate national monuments in emergency situations but prevent the type of abuses the Clinton administration pulled last September in Utah.

After much discussion in committee and with other Members, since then I have agreed on a compromise proposal that addresses these many concerns. My amendment allows the President to unilaterally designate any, any national monument up to 50,000 acres in size. Remember, this is the approximate size of the District of Columbia.

If the President wants to designate a national monument over 50,000 acres, he must submit the proposal to the Governor of the affected State 30 days prior to the proclamation. After the 30-day period, the monument is created. However, after 2 years, the monument designation will sunset unless the Congress has passed a joint resolution approving the President's action. Thus, if Congress does not agree with the monument over 50,000 acres in size, the land will revert back to its former status.

I commend my colleague from New York for his willingness to reach this agreement. This is a compromise. It restores the balance of power between the President and the Congress while still allowing the President to act in emergency situations as originally intended in 1906.

I urge all Members to support this compromise which restores Congress' role in managing our Federal lands. I ask, what could be more fair than this? Fifty thousand acres he gets, like that. That seems very simple to me. Over that, he can still do it.

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To me, that is a reasonable approach.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from California [Mr. MILLER] claim the time in opposition?

Mr. MILLER of California. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. MILLER] for 5 minutes.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to this. I commend my colleagues for trying to work out a compromise for his legislation, which he realizes has some problems or is flawed, but the fact is that this is just a perfect political solution: The President is able to declare, and then Congress will do what Congress has done, and that is sit on its hands and nothing would happen.

So it does not really put anything on us. It is the same problem that we had. We are right back where we started from. We are chasing our tail around a tree here. That is really what this amendment does.

I appreciate the fact that they have 2 years to go out and convince the public, but we have had many decades to try to convince them about the red rock country of southern Utah and we still have not come to a conclusion by setting a certain amount aside for conservation purposes. That is the problem with this amendment.

Far worse than that, this amendment says that 30 days before we have to send the proclamation to the Governor. I understand the gentleman's problem with the Governor and other people not being informed, but I want the gentleman to understand my problem. My problem is I do not think the taxpayers should get ripped off in the process. And once we set this proclamation in writing and put it out there, obviously it is open season in terms of making claims and making changes, and I think most of those are spurious, quite frankly. That is my concern.

So we have those two problems. Those are two big problems with this amendment, which is a good political compromise, I guess. The Presidents can go off and designate monuments every 2 years, Congress can sit on its hands. The Presidents would be happy. They would get the political credit for declaring the monuments, and in 2 years they would not be there, they would monument-for-the-day, the monuments would be gone, and the public would be the losers.

I think this is wrong. I think this process does not do it. The gentleman is not there yet with this amendment. This amendment is a bad amendment and its being offered as a compromise, I think, is a problem. It is no compromise for me, and its is no compromise for the 13 Presidents that have used this power. This would take away the authority and the ability to act as stewards for these conservation areas.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. CANNON].

Mr. CANNON. Mr. Chairman, I believe that argument we just heard is a strawman: The idea that taxpayers are going to be ripped off earlier. I think it was said there would be claims filed that would take the value that belongs to American people.

If we look at those issues, and water was mentioned. The fact is water is already taken in these areas. We will not have spurious claims on waters. As to minerals, those that are known are pretty much taken. Those that are not known, if someone randomly goes out and decides to file a claim, they will not have value. And when they come back to the process of proving value, they will not have any.

We do believe in America still in the rule of law and in supporting contracts and the obligations of the American people. In this particular case, in the case of Utah, I do not think there is any question but that the President abused his power. There is no question by people looking at this dispassionately at how he hid his actions.

What we are talking about in this amendment is restoring balance to the process, limiting the extremes to which a President can go, and this President has said he would go or has gone. This is not only about the people of Utah, though. It is not just about the people in the western United States, the public land States. It is not just about those kinds of things. This is about the abuse of Presidential power generally and this is a particularly good bill that will rein in that power and allow this House its proper role in the balance of the policy decisions about how we use our public lands.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Chairman, this is the Here Today Gone Tomorrow Monument Act. It would make two changes in the law regarding large presidentially proclaimed monuments. First, it would require the President to provide 30 days notice prior to a proclamation. And that is no surprise. As Secretary Babbitt has said, and I quote, ''The notice period would provide both incentive and opportunity to stake mining claims and carry out other development activities which could irreparably impair the ability of the President to protect the area.''

That is not just speculation. The opponents of the Grand Canyon and Arches proclamations, to mention just two specifically, said they wanted to mine those areas. Second, it would sunset a monument proclamation after 2 years if Congress did not enact legislation approving it. That means that a single Senator opposed to a monument could block it by putting a hold on the bill or a monument could be gone tomorrow simply because of delays and oversights.

We can be sure once the monument declaration expired, the people who wanted to stake mining claims would be out there in force. That is what the gentleman from Minnesota [Mr. VENTO] meant about protecting the taxpayers.

Put another way, if this substitute had been in effect in 1908, the chances are that much of the Grand Canyon today would be an abandoned mining site; chances are that some of our other national monuments and others would be covered by mill tailings.

The ''Dear Colleague'' of the gentleman from New York [Mr. BOEHLERT] of last week made this same point. He said then, and I quote, ''A congressional approval process would enable any powerful committee chairman or a single Senator to single-handedly block monument declarations. And few monument declarations fail to attract at least one opponent. Just look back at the opposition that greeted the declaration concerning the Grand Canyon if you have any doubts.''

These words are equally true of the substitute being offered today. That is why this amendment should be defeated.

Mr. Chairman, I submit for the RECORD a letter from Secretary Babbitt to the Speaker regarding this legislation.

SECRETARY OF THE INTERIOR,
Washington, October 6, 1997.

HON. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We understand that the House soon will consider H.R. 1127, the proposed ''National Monument Fairness Act of 1997,'' a bill strongly opposed by the Administration and which I have stated would be the subject of a veto recommendation.

We have serious concerns with a new amendment to the bill made in order last Wednesday. The amendment does not correct the flaws in H.R. 1127, as noted in the attached Statement of Administration Policy. If this amendment is adopted, I would still recommend to the President that he veto H.R. 1127, as the bill would continue to infringe upon the power vested in him by the Antiquities Act.

The Antiquities Act is one of the most successful environmental laws in American history. Between 1906 and 1997, fourteen Presidents have proclaimed 105 national monuments, including Grand Canyon, Zion, Joshua Tree, the Statue of Liberty, Jackson Hole, Death Valley and most recently Grand Staircase-Escalante National Monument. These designations have not been without controversy, but it is clear that, without the President having the authority to act quickly, many of America's grandest places would never have been protected and preserved for future generations.

The proposed amendment would require the President to provide 30 days notice prior to a designation. Requiring 30 days public notice in advance of every land withdrawal severely undermines the purpose of the Act, which in part is to permit the President to protect federal lands on an immediate and time-sensitive basis. The notice period would provide both incentive and opportunity to stake mining claims and to carry out other development activities which could irreparably impair the ability of the President to preserve and protect the area.

Equally as damaging to our ability to protect public lands, the amendment would make each covered Presidential proclamation effectively temporary. It would require that such proclamations be nullified if Congress does not act affirmatively to ratify them within two years. Congress currently has the authority and opportunity to act to overturn any monument designation at any time by passing legislation to do so. To make permanent monument status dependent on affirmative Congressional action within a specified time limit presents too great a risk that the complexities of the Congressional process and scheduling will undermine the protections for these special places that all Americans want and deserve.

I urge the House to defeat this attempt and any others that would undermine the President's authority under the Antiquities Act.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

BRUCE BABBIT.

Mr. MILLER of California. Mr. Chairman, I yield myself the balance of my time.

My two colleagues have pointed out exactly what is wrong with this. First of all, this leaves our public lands and the damage to public lands and the threat to public lands open to a policy by filibuster, by Senate holds, and by obstructionists. Those would be the people who win in the debate against protecting and creating the national monuments.

The second point, as the gentleman said, there is no mining here. Well, there is mining. In fact, in the Grand Canyon there was previously. But this is a generic law. This is not about these lands, this million 7, this is about lands in the future that may be declared monuments where there are serious issues over water rights, where there are mining claims, where there are all these issues.

If we give 30 days notice, we will have a gold rush out there for people who think they can come back and jack up the Federal Government for these things, because we deal with that in this committee and have for years and years and years by people who think they can then extract something from the Federal Government if they file a claim.

So, remember this, we are not writing a law about Utah. We are writing a law about the United States of America, and there are many assets that people would find valuable and would try to perfect and would try to hold up the Federal Government. So whether or not there is water in this particular area that would be in contention or not does not speak to this law. That is why the 30-day notice provision and the 2-year provision is simply bad public policy, because it leads into the policy of filibuster, the policy of hold rather than debate and action.

Mr. HANSEN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have a hard time believing my good friends from the other side, knowing how articulate and how well versed they are in the law, have forgotten there is a FLPMA Act. This happened in 1906. There is a Federal Land Management Policy Act that covers everything my three friends have just talked about.

One of those is emergency withdrawals. I will not quote the section, I am sure they know where it is. Another is general land withdrawals, and another is land classifications. So the opposition is using scare tactics here. With this act or without this act all three of these cover the problem.

The gentleman from New York talked about the idea if this had been there in 1906. Please keep in mind that only two since 1943, only two declarations would be affected by this amendment: The one in Alaska and the one in Utah. All the rest are all right. So the vast, vast, vast majority of all the monuments would not be affected at all because we are giving the President 50,000 acres. Carte blanche. Take it anywhere he wants. In the middle of his district. Wherever he wants it, he can do it.

So I say if there has ever been a fairness act that is reasonable, that restores the power to Congress where it belongs, this is the act. Nothing to do with the monument in Utah, nothing to do with the one in Alaska or the little teeny ones, like most of them are, of maybe 300 acres. So, Mr. Chairman, I urge support of this amendment and support of the bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Utah [Mr. HANSEN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 256, further proceedings on the amendment offered by the gentleman from Utah [Mr. HANSEN] will be postponed.

The point of no quorum is considered withdrawn.

Mr. HANSEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOB SCHAFFER of Colorado) having assumed the chair, Mr. SNOWBARGER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1127) to amend the Antiquities Act to require an act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres, had come to no resolution thereon.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BOB SCHAFFER of Colorado). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

[Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

[Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized for 5 minutes.

[Mr. HUTCHINSON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

[Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

[Ms. JACKSON-LEE of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

[Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

STATUS OF THE CNMI

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, I have introduced a bill today that will allow the people of the CNMI to decide whether they will abide by all of the laws of the United States or whether they chose to seek independence.

Reports of abuses in the CNMI are not new. Reports surfaced as long as 13 years ago. In response, Congress directed the establishment of a joint program with the CNMI to respond to this widening range of abuses. After 3 years, these agencies investigating these abuses report the negative trends worsening. They report:

Chinese garment and construction workers sign shadow contracts with a government recruitment agency before leaving China for employment in the CNMI. These contracts restrict their civil rights and threaten to return them to China if workers make labor complaints while in the CNMI.

Wages for domestic maids average $0.64 an hour for an average work week of 72 hours. The domestic service sector averages the highest percentage of labor complaints out of all sectors.

Many businesses in the CNMI are not subject to the Fair Labor Standards Act, resulting in their failing to pay the employees, going bankrupt and eventually going into another line of business under a different name.

The CNMI does not require visas for investors. A business entry permit allows foreign businessmen to enter the CNMI with $50,000 to set up a business. There is no evidence that the CNMI verifies or authenticates the amount, nature, or source of the claimed investment.

Reports have found an appearance of a large number of underage dancers and other underage workers in the CNMI. Many of these persons are alleged to be engaged in prostitution. CNMI lacks the resources to determine the authenticity of birth certificates and other documents and therefore in many cases simply admits these persons on the basis of approved work permits. In addition, many of these nonresident alien victims fail to report their cases to authorities because of fear of retaliations or loss of employment.

The INS reports the CNMI has had limited success in improving immigration control, including adjudications, examinations, inspection, and investigations. CNMI immigration worksite enforcement is nonexistent.

The CNMI can ship duty-free goods to the United States under General Note 3(a)(iv) of the Harmonized Tariff Schedule, which provides duty-free entry to qualifying products of the CNMI and other U.S. insular possession. The duty-free and quota-free preferences coupled with the CNMI's local control of its immigration policy and its minimum wage rate, have created a loophole that enables foreign interests to establish apparel productions facilities in the CNMI with unlimited access to the U.S. market, thereby giving the CNMI garment industry advantages that are not enjoyed in the US market.

The CNMI has flooded the islands with low-cost foreign labor, resulting in a huge population increase and high unemployment among native U.S. Citizens. As a result, many indigenous people are living at the poverty level or below.

These abuses are happening in our own backyard. Because of that, we cannot look the other way and allow them to continue when they are occurring in the U.S. jurisdiction.

The covenant agreement adopted by Congress and the CNMI gave local control of immigration and the minimum wage to the Commonwealth. In establishing the covenant, the residents of the CNMI expressed concern that Federal immigration laws would permit excessive immigration to the islands from neighboring countries thus overwhelming the local culture and community. Isn't it ironic that these policies have produced the opposite result. U.S. citizens are now a minority of the population. Temporary alien workers now compromise 60 percent of the total labor force and 90 percent of the private sector labor force.

In response to calls that the CNMI be subject to U.S. immigration and wage laws, the Governor and various local leaders spoke out stating they would prefer independence than to fall under our laws. My response to the Government and other local leaders is this: OK. Lets bring this issue to the citizens who live in the CNMI. Lets ask the people: Shall the CNMI be governed under U.S. immigration and wage laws or shall the CNMI seek independence.

The days of status quo have come and gone. We now must take responsibility for the abuses occurring and take measures to remedy them. If the CNMI does not agree, they are free to choose self-determination. However, if they are to remain as a part of the United States then they must adhere to all of our laws.

GOOD NEWS FOR THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. I rise tonight to bring some good news to the American people.

I spent some time in my district on Thursday and Friday, and I had a chance to talk with lots of folks and it occurred to me as I was talking with the people back home that the concepts of the tax cut bill actually being signed into law and the amount of taxes that people are going to pay next year having actually gone down is something that the folks back home did not understand very well yet.

So I thought I would start this evening with a little bit of discussion of some good news for the American people, for people that are working and paying taxes into this Government. Taxes are going down and it is good news. It is the first time in 16 years it has happened. It has happened at the same time that we have actually balanced the budget for the first time since 1969.

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I thought what I would do to start this evening is just talk through those tax cuts a little bit, because there is something in the tax cut package that affects virtually every American citizen that is working and paying taxes today.

I thought I would start with the one that is going to affect the most families. In Wisconsin, the $400 per child tax cut affects 550,000 Wisconsin families. In all of our families back home in Wisconsin that have children under the age of 17, next year, for 1998, they should figure out how much taxes they would have owed to the U.S. Government, or to Washington, and subtract $400 off the bottom line for each one of those children.

Let me say that again, so it is crystal clear exactly what this $400 per child tax cut means. If there are children in the home under the age of 17, the family would go through and figure out how much taxes they would have owed to the U.S. Government, to Washington, and they will then simply subtract $400 per child off the bottom line.

For a family with three kids under the age of 17, for a family of five, like our family used to be, our kids are older now, but like our family used to be, if you have three kids under the age of 17, that family could subtract $1,200 off the amount of taxes that they would have owed to the U.S. Government.

Let me put this another way. For that family of five with three kids at home, they should in January of next year go into their place of employment and reduce their withholding taxes, reduce the amount of money that their employer is sending to Washington each month, by $100, because, you see, that $1,200 for the 3 kids divided up over the 12 months is $100 a month.

Again, this bill is signed into law; this is not political rhetoric or promises. I cannot count how many people in Wisconsin said to me, ''I will believe it when I see it.'' It is done; it is signed into law. That family of five, in January of next year, should keep $100 more a month in their own home instead of sending it out here to Washington, DC.

A lot of folks say, ''What about education? There are other things that you need to be doing in Washington

with that money that you are letting these families keep.'' Let me first say that I think that these families in Wisconsin, all 550,000 of them, can do a much better job spending their own money than they could if that money was sent out here to Washington for Washington to decide how to spend it.

But second, on the education front, I think it is very important to know what was in the tax cut provisions to help with education, because the amount of money that is to be provided for freshmen and sophomores in college is a phenomenal amount in terms of many of the people going especially to places like the technical college like MATC in Milwaukee, WI, or Gateway Tech in Kenosha, WI, between Kenosha and Racine, or Blackhawk Tech out in Jamesville, WI.

For a freshman or sophomore in college, they keep the first thousand dollars of their college cost. That is to say, the first thousand dollars they spend on college tuition, room, board, and books, the whole shooting match; the first thousand dollars is fully refundable; and the second thousand dollars is 50 percent refundable.

So let me translate that into English. If the listeners or if our colleagues have a freshman or sophomore in college, and the normal freshman or sophomore is paying more than $2,000 a year in room, board, and tuition, you should figure out how much you owe the Federal Government in taxes and subtract $1,500 off the bottom line, and that money is designed to help pay for the college education. So for freshmen and sophomores in college, the tax cut package provides a college tuition credit of $1,500 a year.

For juniors and seniors, it is 20 percent of the first $5,000. So for most juniors and seniors in college, they should keep a thousand dollars more of their own money to help pay that college tuition. This is a lot of money for a lot of families.

A family in Wisconsin with a freshman in college, two kids still at home, again, I am back to that family of five, there are so many of these families out there in Wisconsin and all across America, for a family of five with a freshman in college and two kids still at home, they keep $1,500 extra because of the freshman in college, the college tuition credit, and they keep $400 for each one of the two kids at home, or $2,300 more of their own money.

And make no mistake about this. This is not like Washington reaching into the pockets of taxpayers, bringing the money out here to Washington, and then Washington making a decision about who should get this money back. It is very different than that. This is the families out there who get up every morning and go to work for a living, they work very hard, but instead of sending that money out here to Washington, they simply keep that money in their own home. That is how a tax cut should be.

So if you have got a freshman or sophomore in college and a couple of kids still at home, we are talking roughly $200 a month more in the take-home paycheck than it would have been if this tax bill had not been signed.

Again, I want to emphasize, the tax bill is signed into law. The ink is dry. This is not political rhetoric or political promises. This bill has been signed into law, and it is good news for families all across America.

The tax cut package did not end there; the tax cut package went on. The tax cut package also reduced the capital gains tax from 28 percent down to 20 percent, and then it goes to 18 in the year 2000. So capital gains have been cut. If you are in the lower-income bracket but you bought stocks or bonds or whatever and they have appreciated in value, in the lower-income bracket, the tax on capital gains has dropped from 15 percent down to 10 percent.

So for the folks who have made investments in order to prepare to take care of themselves in their own retirement and to take care of themselves as they prepare to retire, the capital gains, the amount of money that they will send to the Federal Government, has been decreased from 28 percent down to 20 percent.

It did not stop there either. I have some folks say, ''Well, you haven't talked to me yet, Mark. There are others of us out here.'' I had a young couple, for example, where both spouses were working but one spouse had returned to college on at least a halftime basis. She did not go into exact details, but with both of them working, of course, they had a significant tax burden to the Federal Government. She said, ''Well, Mark, my parents are no longer paying my bills. I am going back to college. This does not help me.''

Well, in fact, in this case, where we have got a husband and wife working, there are provisions in the tax bill that would directly impact them, because the money that was going to pay for her college tuition would be reimbursed to them or subtracted off the bottom line of the taxes they were due.

But there is another area that this young couple is very eligible for under this provision. It is called the Roth IRA. The Roth IRA is different from the old-fashioned IRA. The old-fashioned IRA, you put $2,000 in per person and write it off your taxes this year. Under the Roth IRA, you put $2,000 in but you do not get to write it off on your taxes this year.

That may not sound like a good deal this year. But the difference is, when you take this money out in retirement, all of the interest, all of the accumulated value of this IRA, all of the money that is accumulated because of the interest or earnings on it, you get that money tax free.

And for that young people that was there at this meeting on Friday that I was at back home in my district, that young couple can put money into the Roth IRA, let it accumulate, and then take out up to $10,000 to help that couple buy their first home.

So you see, that young couple with one in college and the other one working, both working but one in college on a part-time basis, they benefit from the college tuition tax credit as well as from the Roth IRA that allows them an opportunity to save up and buy their first home.

The Roth IRA, of course, can be used by many people in their thirties and forties and fifties who are saving up to take care of themselves in retirement as well. It is another major change in the tax code.

One other one that I want to bring to attention that is very important: For anyone out there who owns their own home, in the past they had this one-time exclusion at age 55, so that people had to wait until age 55 to sell their home and then they could sell it one time. Well, that is just plain gone; it is not there anymore. If you have lived in your home for 2 years, and you sell your home, and it has been your personal residence now for 2 years, there is no tax due to the Federal Government. Under this new tax code, if you sell your home and it has been your principal residence for 2 years or longer, there is no tax due to the Federal Government.

I get through telling a lot of folks about these tax cuts and how they impact so many people. I should talk on seniors, too. Seventy-four percent of the seniors in Wisconsin own their own home. Many of the seniors took the one-time exclusion at age 55 and then bought another house and are ready to sell it again. And of course the new house has appreciated in value 8 to 10 years later. So this tax cut as far as the home sale is certainly very significant to seniors.

For seniors, also in this package, Medicare has been restored. So they do not have to worry about Medicare going bankrupt, as it was back 2 years ago, 3 years ago. It has been restored for at least a decade for our senior citizens.

I get done telling our folks back home about these tax cuts, and especially the families, like one at college and two still at home, that see they get to keep $2,300 more of their own money, and they go, ''It is a lot of money. It is a lot of money, Mark. Does that mean that we are going to destroy the Nation? Does that mean we are going to pass this huge burden of debt on to our children, we are going to start deficit spending again? Does that mean we are going to wreck America to do this?'' The answer to that question is ''No.''

I would like to now devote some of our time here this evening to a discussion about why the answer to that question is ''No'' and what has changed out here in Washington to get us to a point where that answer is ''No.''

Before I go in that direction, however, I see my good friend, the gentleman from California (Mr. Hunter), has joined us.

Mr. Speaker, I yield to the gentleman from California (Mr. Hunter).

Mr. HUNTER. Mr. Speaker, I appreciate the gentleman from Wisconsin (Mr. Neumann) yielding to me.

I intended to do a 5-minute special order a little later on on the U.S. Marine Corps and the commandant, Chuck Krulak, one of our great commandants. But I am very interested in the expertise of the gentleman from Wisconsin (Mr. Neumann) in this area.

I think that particularly the homeowners' or home sellers' exclusion from taxation that the gentleman from Wisconsin (Mr. Neumann) talked about is a real release and a relief for literally hundreds of thousands of homeowners in this country, because over the years they have traded up as inflation increased, especially in areas like California and, I am sure, the home State of the gentleman from Wisconsin (Mr. Neumann) too; and they are now at the point where, if they sell that home, they have a very low basis and they are going to pay massive taxes.

And now this $500 exclusion, up to $500 exclusion, has come in the nick of time. They can use that money for their kids' education and, incidentally, for buying houses for their children. And most children today need some help from their parents to buy a house.

Mr. NEUMANN. Mr. Speaker, reclaiming my time, in Wisconsin that top-end number is not totally relevant in most cases because most of our homes are under that price.

And as a home builder, I worked with a lot of folks that were transferring from Wisconsin, and I am sure some of our people came to California, too. I have to sell our State and say how good the business climate is there under our Governor Tommy Thompson.

But we have a lot of people transferring in from a higher-priced home area, such as California, to a lower-priced area, such as Wisconsin. And, of course, those folks are the ones that sold their homes in California for lots more money and came to Wisconsin and bought a less expensive home, and in the past, they would have owed a substantial amount of money to the Federal Government in capital gains tax. That is gone. They would no longer owe that money.

Is this not what America is about? It is not just about the money, it is about the idea of people having the freedom to take that job promotion to provide a better life for themselves and their family. It is about the opportunity to live the American dream in our Nation again and the tax policies freeing up people to do what they see as opportunities to provide this better life for themselves and their family. That is what this is about.

Mr. HUNTER. If the gentleman from Wisconsin (Mr. Neumann) would continue to yield, I think he is absolutely right. I thank him for yielding.

Mr. NEUMANN. I turn our attention now to the question that I get asked quite regularly after I get done talking about the tax cuts, and they are very concerned that we are not destroying this Nation to do it.

I start tonight by talking about how we got into the situation we are in today where we have a $5.3 trillion debt staring us in the face. This chart I brought with me shows the growth of the debt and how from 1960 to 1980 it did not really grow very much, but from 1980 forward, it has grown a lot. The chart ends in 1995. And we can see how fast the debt climbed in particular from the late seventies and the early eighties on through the year 1995. It has led us to a point where we are $5.3 trillion in debt.

By the way, a lot of people look at this and say, well, if I am a Democrat, I go, 1980, that is Ronald Reagan; it must be Reagan's fault. If I am a Republican, I go, the Democrats controlled Congress during all those years and they spent out of control, so it is the Democrats' fault.

The facts of the matter are that it is an American problem. It is time we put our partisanship aside and figure out how to solve the problem for the good of the future of this great Nation that we live in. It is a very real problem, and I think it is clear from looking at this picture that this problem cannot be allowed to continue.

This picture is the reason I left the private sector, a very good job in a very good business, providing job opportunities for people as a homebuilder. I left the profession and ran for office because I knew this would bring us down as a Nation if we did not do something about it.

I brought a board along that shows the number, because a lot of folks have never seen how big this number is. We are currently $5.3 trillion in debt as a Nation. This next line shows, if we divide that debt up amongst all the people so everybody pays just their share of the debt, $5.3 trillion divided by the people in the country is $20,000 for every man, woman, and child in America.

Let me say that another way. This Government, the people that have been here in Washington since 1980, saw fit to spend $20,000 more than they collected in taxes for virtually every single American man, woman, and child in the whole country.

For a family of five, like mine, this Nation has borrowed on our behalf $100,000. We are in debt $20,000 for every man, woman, and child in America and $100,000 for a family of five like mine. And the real problem with that is, this is a real debt; interest is being paid on it.

A family of five, like mine, this year will pay $580 a month, every month, to do nothing but pay the interest on that Federal debt. As a matter of fact, one dollar out of every six that the Federal Government spends, i.e., one dollar out of every six that they collect out of your pocket in taxes, one dollar out of every six does nothing but pay the interest on this Federal debt.

It is not just income taxes where they are paying that $580 a month. If you do something as simple as walk into the store and buy a loaf of bread, the store owner makes a small profit on that loaf of bread; and, of course, when the store owner makes a small profit, part of that profit is taxed, and it gets sent out here to Washington to pay interest on that Federal debt. This is a very, very serious problem that must be addressed in this Nation.

How did we get here? Well, each and every year since 1969, this Government has overdrawn its checkbook. It is not a lot different from your checkbook or any other family in America when they will do their bills and figure out their checkbooks each month. The Government takes in a certain amount of money and writes out checks. When they write out checks for more money than they have in their checkbook, what they do is borrow the money. And, of course, that adds to the debt each and every year.

Since 1969, we have not had one single year where the Federal Government did not spend more money than it had in its checkbook. That is a pretty staggering statement. Since 1969, we have not had one single year where Washington did not spend more money than it had in its checkbook.

If that were our home or any home of any of the families across America, the banks would certainly have foreclosed and stopped the checking account before now.

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But in Washington, they have just kept borrowing and borrowing and borrowing, and that is what has led us to the $5.3 trillion debt.

I think it is very significant to talk about what happened during the 1980s and the 1990s that led us to this position, and before 1995 what happened to get us into this mess. Well, time and time again, Washington laid into place a plan to balance the Federal budget, and how many times did the American people hear that phrase, balance the Federal budget.

The Gramm–Rudman-Hollings bill of 1995, and I have the 1997 one up here, this blue line shows what they promised the American people. They promised they would get to a balanced budget by 1993. The red line shows what they actually did. When they promised the people they were going to have a balanced budget and did this, the American people became critical of Washington, and it is very understandable, that criticism that was leveled against Washington, because they promised one thing and did something different entirely, and that is why.

That is what led up to the change in Congress in 1994. That is what brought the American people to change control of the House of Representatives and change control of the Senate. I mean in

all fairness, what they did is turn the House of Representatives from Democrat control into Republican control, and they changed the Senate into Republican control, and in all fairness, they left a Democrat President in this mix. So what the American people saw fit to do was say, we have rejected this idea, we have rejected this group of people that have promised us repeatedly to get to a balanced budget but did something different every time.

So we got to 1993 and we were looking at this picture where, in fact, they had not met their promise and the budget was not balanced. So Washington made a decision about what to do. It is very different than 1997. In 1993, when they looked at this picture and saw that they wanted to balance the budget, they raised taxes. They concluded that they could not control Washington spending, so the only alternative, if they were serious about getting to a balanced budget, was to raise taxes.

So they raised the Social Security taxes on senior citizens. They raised the gasoline tax by 4.3 cents a gallon, but they did not spend the money for extra roads or infrastructure or to provide a better mechanism to get product from one place of production to the marketplace; they raised it by 4.3 cents a gallon and did not spend the money on building roads. On top of that, they tacked on another 2.5 percent that would have expired, and that money is not actually getting spent to build roads either.

Social Security taxes went up, marginal tax rates went up. I think we are getting a pretty clear picture here. We have broken promises because Washington could not curtail its spending, and we have raised taxes as the logical solution, they concluded back in 1993, as the right way to get to a balanced budget.

The American people in 1994 said, wrong, that is not what we want. We do not want these broken promises and we do not want tax increases; we want Washington to control its spending appetite. And they elected a new group to Congress. In 1995 we laid out a plan and we promised the American people again that we were going to balance the budget, and the American people were skeptical, to say the least. But our plan is this blue line. This is the deficit stream that we promised to the American people.

We are now in the third year of this 7-year plan to balance the Federal budget, and I think the American people should be asking, how are they doing? They are 3 years in. Do they warrant our consideration to allow them to stay, or should we throw them out and get a new group in there too?

We are in the third year to balance the Federal budget. We are not only on track to balancing the Federal budget, but we are so far ahead of schedule from what we promised that we will probably have our first balanced budget in fiscal year 1998, 4 years ahead of what was promised.

This picture down here, on track, ahead of schedule, fulfilling the promises made to the American people, is very different than this picture up here. I would add that in the face of this picture, in the face of Washington finally curtailing the growth of Washington spending so that we can actually stay on track and get to a balanced budget sooner, not later, sooner than promised, we have also laid this tax cut package that I was explaining earlier in the hour on the table. So we are not only reducing taxes, we are reaching a balanced budget ahead of schedule.

So the answer to the constituents' question when they ask me, are we wrecking America by cutting taxes, the answer is definitively no. If Washington just curtails the growth of spending, we reach a point where we can both balance the budget and reduce taxes at the same time, and when we say reduce taxes, it is very simple. That means let the people keep more of their own money instead of giving it out here to Washington. That means we understand that the people can do a better job spending their money than the people out here in Washington.

I have another way to show this same thing and it is a similar statement here, but it is another way to look at it, to understand how it is that we have been able to both balance the budget and cut taxes at the same time. This red line shows how fast spending was growing before 1995, before the American people put a new group in control of the House of Representatives. In 1995, this red line started going up a little slower. The spending growth of Washington started going up at a slower rate. It is still going up, and to all our constituents that are concerned that Medicare, Medicaid or some of those important programs are going away, well no, spending is as a matter of fact still going up faster than some of us would like to see.

At the same time, the blue line kept going up as fast or faster. So when spending started going up at a slower rate and revenue started going up at a faster rate, it is easy to see that we are going to start running a surplus in the near term. Again, the good news is we will have the first tax cut in 16 years, we have the first balanced budget since 1969, and Medicare has been restored for our senior citizens.

There is another important chart to take a look at here, because it really emphasizes how different things are. I had a lot of my constituents say, well, you know, Mark, you guys are actually lucky. The economy is doing so good that you all are going to look good no matter what you do out there.

While there are a couple of things to think about in response to that. First, the economy has done good between 1969 and today and it has never led to a balanced budget. Every time the economy has performed well in the past, Washington saw the extra revenues coming in and acted very quickly to spend the extra revenues on every program they could think of.

This Congress has acted very differently. In the face of a very strong economy, we curtailed the growth in spending. This chart shows how fast spending was going up before we got here, 5.2 percent annual growth rate. This shows how fast it is going up under the new House of Representatives, under Republican control, and it is important to note that at the same time the economy has been very strong, the growth of Washington spending has been curtailed.

This chart is important for another reason. A lot of folks say, well, Mark, when you are curtailing or cutting Washington spending and they call it cuts, it is important to note that Washington spending is still going up. Again, I emphasize, too fast for some of our likings, myself included. But Washington spending is still going up, but it is going up at a much slower rate than it was before.

When Washington spending growth is curtailed, that means Washington spends less money. If Washington spends less money, that means they borrow less money, they overdraw their checkbook by less. When they borrow less money out of the private sector, that leaves more money available in the private sector, and from here it gets pretty easy. More money available in the private sector means the interest rates will stay down.

With the interest rates down, of course people buy more houses and cars and they have a better chance of living the American dream. And when they buy more houses and cars, I get excited when I talk about this part, when they buy more houses and cars, of course that means that there will be job opportunities for our kids, because somebody has to build those houses and cars, and that means that my kids can have the hope and dream of living the American dream right here in our Nation. They will not have to go to a Pacific Rim country, China, or someplace else to live the American dream.

When we see this sort of thing happening, Washington borrows less money, more money available in the private sector means lower interest rates, people again have the chance of living the American dream. When they buy those houses and cars, that is job opportunities, and that is what is going to keep our kids right here home in America where they belong.

This chart, I cannot emphasize the significance and importance of understanding that we have two things going on out here at the same time that has allowed us to get to our first balanced budget since 1969 and lower taxes at the same time. The strong economy, coupled with curtailing the growth of Washington spending, has led us to this point, and it is a very nice spot to be at.

The next question I typically hear at my town hall meetings is, who gets

credit for all of this stuff? The first answer to that question is very straightforward. I learned in Washington that there is absolutely no end to what we can accomplish if we are willing to give the credit for doing it to someone else.

So my first answer to our constituents is I do not care who gets the credit. This is so good for America, it does not matter who gets the credit. It is the right thing for our country. A balanced budget, lower taxes, Medicare restored, those are the right things, so it does not matter who gets credit.

I also brought documentation here as to what was going on when we came here in 1995 and what would have happened if we had come and played golf, tennis, basketball and did not do our jobs. On this chart we can see where the deficit was heading when we got here in 1995. This red line shows what the deficit would be as we move toward the year 2002. Had we done nothing, this is what would have happened. The yellow line shows what would have happened after our first 12 months.

In the first 12 months we made progress, and again, I think it is important to remember those first 12 months. That was the 100 days, that was the Contract With America where we did all kinds of things in the first day, and those 100 days were many, many hours out here, lots of disagreement from side to side as to what should be done. But what it did do is it brought this projected deficit line down to this yellow line.

Well, we boldly laid the green line into place and we boldly promised the American people that even though we were looking at this picture, we were going to make this happen. I am happy to report that when we got done with it, we are now 3 years into the plan, and we not only achieved our target, the green line, but we are far ahead of schedule from what was promised.

Again, when we understand all of these pieces of pie put together, curtailing the growth of Washington spending, more money available in the private sector which keeps the interest rates down, people buy more houses and cars, that is more job opportunities so they leave the welfare rolls, when we see all of these pieces fitting together, it is pretty clear how we can be here talking about the first balanced budget since 1969, in addition to the first tax cut, and Medicare being restored.

I have one more thing that I think is important to talk about, because I have talked about the past and the present. I talked about how it was before 1995 with broken promises and tax increases, and how it is now in the third year of a 7-year plan to balance the budget where we are on track and ahead of schedule, and we are also providing the first tax cut in 16 years and Medicare restored. I think the logical question is, what next? Where do we go from here and what kind of problems do we still have facing America?

Well, first, even after we get to a balanced budget, we still have a $5.3 trillion debt staring us in the face. I can see in the gallery above me here this evening some young people. If we do not do anything about that $5.3 trillion debt, it would be like the parents that are sitting up there simply passing this debt on to their children. So the first thing we need to think about after we get to a balanced budget is get on a payment plan so we repay that $5.3 trillion debt.

We have drafted legislation in our office that is called the National Debt Repayment Act, that effectively puts us on a home mortgage repayment plan. It is not a lot different than the people who used to build homes with us and when they got the home done, went to the bank, borrowed the money and put it on a 30-year repayment plan. That is effectively what we have done.

It goes like this: After the budget is balanced, we cap the growth of Washington spending at a rate at least 1 percent below the rate of revenue growth. I have a picture here that shows what happens. If the red line, the spending line is going up at a slower rate than the blue line; again, if the revenue line, the blue line, is going up faster than the red line, the spending line, that creates a surplus, it creates a little gap between those two lines, it creates a surplus.

Here is what our bill does. It says, recognizing that simply by controlling Washington spending growth, we can create this surplus, we are going to take two-thirds of the surplus and make a house payment. We are going to make that payment on the $5.3 trillion debt. So we are going to start making mortgage payments on this debt that has been run up over the last 15 to 20 years.

If this plan is followed, two-thirds of the money, two-thirds of this surplus will literally repay the entire Federal debt by the year 2026.

It does something else that is very important as well. When we are repaying the debt, we are putting the money back into the Social Security Trust Fund that has been taken out over the last 15 years. It is important to understand that Social Security today is taking more money out of paychecks of people than what it is giving back out to our senior citizens in benefits. That extra money that is coming in is supposed to be set aside in a savings account so that when the baby boom generation gets to retirement, there is enough money there that they can go to the savings account, get the money and make good on the Social Security promises. It should come as no surprise so anyone that has followed Washington that the money that has come in for Social Security, that is supposed to be in the savings account, is not there. It has been spent on all kinds of Washington programs, and the Social Security Trust Fund is now all part of the $5.3 trillion debt.

The National Debt Repayment Act repays the entire Federal debt. So when we are repaying the Federal debt, we are putting the money back into the Social Security Trust Fund. So the National Debt Repayment Act restores the Social Security Trust Fund for our senior citizens.

The other third of the surplus, two-thirds is going to make these payments on the national debt, the other one-third is being used to reduce taxes each year for our working families in America. So the good news is we look to the future with the National Debt Repayment Act, our seniors can rest assured that their Social Security will be safe because the National Debt Repayment Act puts the money back in that has been taken out of the Social Security Trust Fund.

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Our children can be assured that the entire Federal debt would be repaid. Think of this legacy. We could pass this Nation on to our children absolutely debt-free. For people in the work force today, they can count on additional tax cuts.

Lord only knows I have heard enough different ideas of which taxes to cut next. My personal preference is that we eliminate the marriage tax penalty, and maybe have some across-the-board tax cuts beyond that. But the good news is, think of the wonderful fight we are about to have: which taxes should we reduce, and how far down should we take those taxes, and how different that fight is from 1993 when the debate was, which taxes shall we raise and how high we should raise them. This is a good debate to have.

To all the folks upset about any portion of the tax cut plan because it should have been a different way, I would simply remind us how different this fight is from 1993, where how high we should raise taxes and which one was the debate, as opposed to 1997, where we are having this debate about which taxes to cut.

So the National Debt Repayment Act provides surpluses as we go forward. Use two-thirds of those surpluses to make a mortgage type payment on the Federal debt. The other one-third goes to tax cuts. If enacted, it guarantees our children a debt-free Nation, a legacy of a debt-free country. Our senior citizens' Social Security would be restored, and the people in the work force today can look forward to additional tax cuts as we move forward. Not a bad plan for 3 years into this new Congress.

We have gone away from the broken promises of the past and the raising taxes to the first balanced budget since 1969 and the first tax cut in 16 years, and we are now moving forward to the next step, which is repaying the Federal debt. We can look forward to passing this Nation on to our children debt-free.

I yield to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, I want to congratulate my friend, the gentleman from Wisconsin, for his leadership on

the budget and tax issues. Because underneath what he is saying, and I have heard him, as I have watched back in my office, allude to this several times, that a lot of this is basically a matter of trust. That is, who do we trust most with our incomes? Do we trust the people in Washington, or do we trust the families, the parents, the individuals around the country to make the decisions for their kids' future education, for their kids' health, for their family decisions on whether they are going to take a vacation with their family or whether they are going to get a certain kind of winter coat or whether they are going to bank it. Rather than have the people in Washington make these decisions, we need the people back home in Indiana and in Wisconsin and in other States to do that. That is in fact what we are doing.

If we do not get control of this deficit that has been mounting up, particularly as it relates to things like the Social Security trust fund, which, if we repay that in the debt repayment plan, well, if we do not do that, not only will we not have short-term balanced budgets, we will not have the income in our families to make those decisions, but we will absolutely bankrupt this country as the baby-boomers, your and my generation, hit the retirement system, which we have paid into all of our lives, but all of a sudden there will not be any money there.

So sometimes what we have to do is plan for the future, in addition to the present. The gentleman is going one step beyond where the current bill goes and saying, hey, look, we have to think out where we are headed, or our kids will be saddled with a double whammy; that is, no reserve, Federal reserve, to pay for our retirement, and having to pay huge taxes and interest rates, because the debt has accumulated.

Mr. NEUMANN. Reclaiming my time, Mr. Speaker, is it not exciting to be standing here having this conversation? We came in together in 1995. Does the gentleman remember what it was like when we first sat in a hotel not far from here as we were going through our original process, and we were committed to getting to a balanced budget? The best hope was 2002.

We talked about, could not our class be the one that would bring it up; instead of 2002, why do we not do it by 2000, or maybe even sooner? And it was just beyond imagination in this city that we could possibly get a balanced budget before the year 2002. And to do tax cuts and the balanced budget at the same time, it was almost like unheard of.

And the idea of actually curtailing and controlling the growth of Washington spending, bringing that growth rate down by 40 percent in 2 years, it is phenomenal what has happened out here in 2½ or 3 short years. It is just exciting to be able to stand here and talk about good things. When I was elected to office I never thought I would go home and say something good has happened in Washington, because so many bad things had happened out here as we watched the broken promises, the tax increases and more government regulation, and it just seemed like it was going to be more and more and more Washington and less and less control of our lives and our families back home in Wisconsin. That is what brought me into this in the first place.

It is really exciting to be out here and have the opportunity to talk about these families, the family with two kids at home and one off at college that keeps $2,300 of their own money, instead of sending it out here. That is just exciting to be able to talk about.

Mr. SOUDER. If the gentleman will continue to yield, Mr. Speaker, I have some points I hope to talk about later tonight, where I am concerned as we get near the end of the appropriations process that the Federal Government is taking too much control.

What the gentleman has pointed out and what we have to keep in perspective is the difference between where we were in 1993 and 1994 and what we are debating about today.

I have a grave concern about the guesstimating in the census, and trying to gain power through that and through bringing in illegal immigrants into our voting system without background checks. I have grave concerns about national testing. I have grave concerns about the desire to allow family planning money to be used for abortions throughout this world. Those are grave concerns.

But we made an earth-shaking change in the election of 1994, when the gentleman and I came in. That is, what we were so upset about in 1993 and 1994 is it seemed that in every category of American life the Federal Government was in an aggressive, expansive mode; that we had this tremendous pressure on the health care system, the greatest health care system in the world. We had the Labor Department going after small businesses and mid-sized businesses and large businesses, saying they were going to turn OSHA into an enforcement agency, when what we were hearing at the grass roots is that they were not concerned about the health and safety of individuals, but rather, in harassment of job-producing industries.

We saw in every category gun owners being restricted and being gone after by the Federal Government. We saw a collapse in a lot of the moral leadership of our country and, in particular, the type of laws that were protecting unborn children and others. We saw a major tax increase, the largest tax increase in the United States history. We saw proposal after proposal that would have expanded the Federal Government's role in every single appropriations bill in every single category of this country.

Now, after the 1994 election, the whole debate has been turned. We are still arguing over different points, important points. But the big questions, was the deficit going to continue to spiral upward or was it going to head down, were we going to give more money to individuals or take more money from individuals, and we now are moving towards a balanced budget this year; an amazing, amazingly low deficit this past weekend, and maybe $23 billion for the fiscal year. We are looking at——

Mr. NEUMANN. Just a second on that point, Mr. Speaker. It will not be long and CBO will be in our court, and they will actually admit that the budget is going to be balanced next year, in fiscal year 1998, for the first time in 30 years. They are slowly coming around to the numbers that the gentleman and I have been working on and putting out regularly over the last 3 months that do demonstrate we are going to hit this balanced budget 4 years ahead of schedule.

Mr. SOUDER. An extraordinary achievement for our children and our families, because our interest rates are staying low, our unemployment rate is staying low. We are not only able to absorb all of the immigrants who are coming into this country, but we have in parts of my district at least 2 percent under what was considered full employment. We are at 2 percent in some of the counties of my district on an unemployment rate.

The consequences of this control of the deficit are huge in terms of interest rates and keeping the employment rates up and the unemployment rate down. But the tax cuts are important, because it will give the maximum flexibility to the individuals. Those of us who are concerned about the growth of the power of government, the best thing we can do is give $500 per child to each family for each child, because what that will do is let parents make the decisions they need to make for their children.

By giving the capital gains changes, people can invest in their homes, and senior citizens can sell off their homes for their retirement income. By having education IRAs, by having family farms be able to be preserved in the families and small businesses be able to be preserved in the families, those are huge steps toward social stability in this country, and toward the moral fabric and restrengthening in this country.

We are going to argue about these other issues, important issues, but we have to keep in mind that in the big picture we have made tremendous strides in changing the entire national debate to how do we give more power to families and individuals, how do we give more power to States, how do we reduce the size of the spending and the deficit in Washington.

Mr. NEUMANN. I know the gentleman made the point on the tax cuts. A lot of times back home people do not understand how possibly could we cut a family's taxes by $2,300, that family of 5 that I keep talking about, a freshman in college and two kids still at home;

how could Washington possibly cut their taxes by $2,300 in a year and not bankrupt the system.

What we forget in general is that Washington is collecting, through all the parts of society, Washington collects $6,500 in taxes for every man, woman, and child in the United States of America. On average, if we take the total amount Washington collects and divide it by the people in the country, Washington is collecting on average $6,500 per person for every man, woman and child in the whole country. So when we put the $2,300 tax cut in that perspective, it becomes pretty clear how we have managed to do this and at the same time balance the budget.

Mr. SOUDER. If the gentleman will continue to yield, my understanding of the gentleman's math, there is a family with two children, they would be paying roughly $24,000 a year in taxes, roughly $26,000 a year, and that is an extraordinary figure. It is not that the government is actually starving. They have been starving out families. What we want to do is get more of those dollars back to those families, empower the families to make those decisions, and less out of Washington.

If I can add one other thing, those tax cuts deserve a ton of credit for the deficit reduction, because what it did by giving more dollars, and the stock market knowing that more dollars were going to be in individual hands, knowing that family businesses and capital gains and inheritance tax changes were coming, it kept the confidence of the consumers up, rather than having the confidence go down. Usually we have these cycles. It was to a large degree the combination of controlling our spending, but even more importantly, the tax cuts that have revived and kept this tremendous economic growth engine going.

So a lot of the reason that we have this deficit decline that we have is not just because of us controlling spending, but in fact, it is because tax cuts gave the markets the confidence, gave the investors the confidence and the individuals the confidence to continue to employ people, to continue to build up inventories, to buy products. That has kept the economy going in a remarkable way.

Mr. NEUMANN. I just want to reemphasize, and the gentleman from Arizona has joined us, and I know the gentleman from California [Mr. HUNTER] would like time, but I want to reemphasize that working model of curtailing the growth of Washington spending that is so important in understanding what has happened out here.

Washington spending, before we got here, a 5.2 percent growth rate. After we got here, 3.2, a 40 percent slower growth in Washington spending. When Washington spending is less, that means Washington borrows less money out of the private sector.

This was a theory in 1995: if Washington borrowed less money there would be more money available that would keep the interest rates down, and with the interest rates down people would buy more houses and cars. Of course, that meant people had to build them. That is what has led to the full employment, is those job opportunities that come as people make decisions, the interest rates are down, they have the opportunity to achieve the American dream.

It is this curtailing of Washington spending, coupled with the strong economy, and they feed on each other, that has allowed this to happen. It was a theory in 1995. It is now a proven commodity. It works and it is being shown in the economy that we are in today.

I want to turn our attention to education. I see the gentleman from Arizona has joined me, and I am happy to yield to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding.

I compliment both my friend, the gentleman from Wisconsin [Mr. NEUMANN] and the gentleman from Indiana [Mr. SOUDER] for bringing out and emphasizing for all of our listeners the importance of curtailing spending. That is indeed critically important, I think, for the future of this Nation, not just for the economic reasons, not just because the government spending is out of control, but also because I think we are discovering that government does not have all the answers.

When we give government too much in the way of resources, it just grows and grows and grows, and not all of what it does is good. As a matter of fact, as government gets bigger freedom gets smaller.

I did want to segue into the education issue. As I listen to you do the math computation, I think, indeed, if certain proposals before this Congress prevail, we could be the last Members of this Congress that can do basic mathematic calculations.

Last week this issue came up. We are in the midst of a fight over an issue called national testing. My colleague came to the floor last week and pointed out that in the midst of that debate, there is a great deal of misunderstanding. Many of my colleagues and friends back home in Arizona say to me, why is it Republicans are against national testing? Why is it you do not want to do the President's national testing idea?

I point out to them that there are grave dangers in the President's proposal, because if we do national testing as the President proposes with the Department of Education setting the tests, we are in serious jeopardy of dumbing down America and America's math skills.

For example, I want to point out an article that appeared in last week's Wall Street Journal by Lynne Cheney, in which she illustrates this point.

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She cites a gentleman by the name of Steven Leinwand who sits on the committee overseeing President Clinton's proposed national mathematics exam. In this column she writes that Mr. Leinwand believes that it is downright dangerous, downright dangerous, to teach students mathematical skills like 6 times 7 is 42.

Mr. NEUMANN. Mr. Speaker, reclaiming my time, I am a former math teacher, and I think it is downright dangerous to listen to that kind of advice from those kinds of experts.

Mr. SHADEGG. Well, it would be downright dangerous not to teach them 6 times 7 is 42. But Mr. Leinwand goes on, according to this article by Lynn Cheney, and says we should not teach students basic computational skills, addition, subtraction, multiplication, and division, because it will anoint the few who master those skills and cast out the many who do not.

This is a national expert who would be in charge of writing this test saying we should not teach children those skills. I was so shocked at his essay saying those things that I asked my staff to go get a copy of the essay, and it is right here. In fact, Mr. Leinwand says, ''We should be beyond teaching children basic mathematics skills. That is, in fact, a bad idea.''

Indeed, he is not alone on this effort. There is a National Association of Mathematics teachers who says specifically we should not teach children certain knowledge and skills such as whole number computation. And what is their reason? Because it will make them feel bad.

What does that have to do with national testing? Why would we not want national testing? The short and clear answer is, if we let people like Mr. Leinwand write a national test which tests kids on thinking or some other theory but does not find out if they can add or subtract or multiply or divide, we are going to create a national disaster across this country.

Mr. Speaker, I know that time is short.

Mr. NEUMANN. Mr. Speaker, reclaiming my time briefly, I think the real question here is, who is going to control what we expect our children to know when they graduate from school? Is it going to be the people in Washington, this national test developer, or is it going to be the people in our communities? And I want to reflect on an experience in my background.

I was a math teacher, and in Milton, WI, I sometimes had people tell me that my students did not know what they were supposed to know when they graduated from high school. I found that personally offensive, because in my classroom we worked very hard to make sure they had these basic skills the gentleman is talking about.

So what we did in Milton, WI, is what I think we should be doing all across America. We developed a survey, and we sent it out to the people in Milton, WI, the parents, the teachers, the community. We sent the survey out to them and said: What do you expect our

math students to know when they graduate from high school?

We got the results back and developed a curriculum and a test to make sure that our students knew what our parents and our teachers and our community wanted our kids to know. We found out that initially we were having 70 percent of our students fail the test. By 2 years later, we were performing in the 90 percent bracket, where our students were now virtually all graduating with the skills that the community expected.

Mr. Speaker, this is how it should be done. It should be done with the active involvement of the parents and the teachers and the community, not by some group in Washington deciding what is appropriate and what is not appropriate, because if we turn that authority over to them, we take the parents and the teachers and the community even further out of the education picture.

Mr. SHADEGG. Mr. Speaker, if the gentleman will continue to yield, I think the gentleman is exactly right. This is the whole question about who is going to write the test, who is going to decide what our children learn. Like the gentleman from Wisconsin, I trust the parents and the teachers and the administrators and, for that matter, the students in my own school a lot more than I trust bureaucrats in Washington.

Let me conclude on that point. This is an issue that is going to be resolved in Washington very soon. The Senate has staked out a position on the Labor-HHS bill which says, well, we will do national testing, but we will assure that it is a good test, not one that has whole math in it, not one that refuses to test children on their computational skills; we will delegate the decision on writing the test to an organization called the National Assessment Governing Board.

Lynn Cheney wrote a subsequent article pointing out that that assumes that this National Assessment Governing Board will be immune from the pressures to test whole math or to test some other radical theory. The problem is not just who in Washington writes it; the problem is that it should not be written in Washington.

The test to test our children's skills ought to be written at least in our neighborhoods, in our schools by our school districts, by our school boards, and by our State departments of education, and not by national organizations who are so remote from those parents and those children.

I thank the gentleman for yielding the time.

Mr. NEUMANN. Mr. Speaker, I am happy to yield to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, as a member of the Committee on Education and the Workforce, I first want to thank Chairman GOODLING for standing firm on this national testing as we come to the final weeks of battle. But I wanted to reiterate a couple of points about the danger of these national tests.

We heard about the math. It is unbelievable that somebody could oppose teaching 6 times 7, and particularly unbelievable that it could be a national leader. What is so amazing about math is that that would be a category you would think this would not happen.

Later, when Lynn Cheney wrote about history standards and some of the other national standards, we had a college art association conference warn faculty members not to teach women artists such as Mary Cassatt because she frequently painted the women and children and thus reinforced patriarchal thought.

We had a 1992 Smithsonian exhibit called ''Etiquette of the Underclass'' that advocated a view of the United States so class ridden that those born at the bottom could never hope to move up. One of the materials accompanying the Smithsonian exhibition said, ''Upward mobility is one of our most cherished myths.''

Mr. Speaker, we know that they have this problem with history standards, which is why it was thrown out. We have problems with art. We have problems with economics being national standards, because they politicalize it. Now we have problems with math.

Mr. Speaker, I want to throw out one other thing. Bill Safire in a column this weekend said that, ''The American tradition has been to entrust such decisions to local school boards run, not always well but usually democratically, by involved parents and teachers in that community, with review by State authorities and with the Feds intervening only when States fail to protect a student's constitutional rights.''

Last Thursday morning, a lady whose son attends Casa Roble High School in Sacramento, CA, gave me a test that was given her son in a technology class on August 29, 1997, supposedly after we got by this. This was not a national test. If this was a national test, we would be in deep trouble. This was a local test. However, it is a local test that spread to five States. But because it is a local test, we can fight it at the local level.

But this is why we fear national tests. It was trying to look at the students' values and things like: I donate to charities. I envy the way movie stars are recognized wherever they go. Things that make us wonder whether they are being too intrusive.

But, Mr. Speaker, I want to read some questions that strike fear in my heart.

Question Number 2: I will regularly take my children to church services.

Question Number 11: I have a close relationship with either my mother or my father.

Question 12: I have taught a Sunday School class or otherwise been active in my church.

Question 24: I believe in a God who answers prayers.

Question 34: I believe that tithing, giving one-tenth of one's earnings to the church, is one's duty to God.

Question 41: I pray to God about my problems.

Question 43: I like to spend holidays with my family.

Question 53: It is important that grace be said before meals.

Question 59: I care what my parents think about the things that I do.

Question 72: I read the Bible or other religious writings regularly.

Question 78: I love my parents.

Question 82: I believe that God created man in his own image.

Question 91: If I ask God for forgiveness, my sins are forgiven.

Question 95: I respect my father and mother.

What business do schools have intruding in the religious life of children and asking intruding questions about how students feel about their mother and father? It may have been well-intentioned, but this is scary. What if this stuff gets in the national tests? At least at the local level we can fight it.

Mr. Speaker, how dare this President propose taking over our children's lives through a national test when we have seen the pattern here? We have seen it in economics, we have seen it in math, we have seen it in history. At least at the local level, we have a fighting chance to change it. If these people nationalize this stuff, it is going to be a scary country to live in, because it is clear where they are headed and this type of stuff scares me to death.

Mr. NEUMANN. Mr. Speaker, reclaiming my time, is this not what this battle is about?

In 1993, they raised taxes so they could maintain all sorts of new Washington programs like Goals 2000, like national testing, like all kinds of things. They raised taxes so they could continue the growth of Washington spending, making Washington and the people here bigger and more powerful and more intrusive in our lives. Is that not what it was all about?

Now as we curtail the growth of Washington spending, as we slow this thing down, we are fighting to keep this sort of situation from developing, where again Washington steps in and takes the responsibility of parents and teachers and communities and Washington decides what is appropriate to be on this sort of national test and what is appropriate to ask our young people.

That is wrong. That is a responsibility of the parents and the teachers and the communities. That should not be Washington's responsibility. We see this fight in almost every time we turn a corner in this city. Whether it be education or anything else, it is every topic. They want more and more control of the lives of the people instead of letting the people have more and more control of their own lives.

We see that in the tax cut/tax increase debate as to, who is going to control the money that the people earn, Washington or the people? In education, who is going to control what our kids learn, Washington or the parents and the teachers and the school district?

Mr. SOUDER. Mr. Speaker, if the gentleman will yield, he is absolutely correct. The people of Wisconsin have an independent tradition and the people of Indiana have an independent tradition. And the Founding Fathers knew, although Indiana and Wisconsin were not in existence at the time, that we have inherited that belief that power corrupts and absolute power corrupts absolutely. We have a healthy skepticism of a concentration of power.

Our Founding Fathers knew that we needed a balance. We needed individuals with rights. We needed a Court, we needed a Congress, a President. We needed strong States. A lot of people believed that going to a Constitution as opposed to Articles of Confederation was consolidating too much power.

Back then, they did not think about departments of education and national tests. That was far from it. They were doing minimal Federal Government. Our Founding Fathers had it right. They were fearful that power concentrated, as it was in Europe, would lead to the type of tracking in the education systems, would lead to the type of monarchy dependency, that we would look to our capital city for all the solutions rather than inside our souls and inside our own families and look to government to fix the problems of the poor rather than sacrificing our own time and money to reach out to those who are hurting.

Mr. Speaker, that is indeed what is happening in America. We need to stand up. And this budget deal and the tax cuts were an important first step. Now we have to follow through on some of the details, because we have the big picture right. We need to make sure that they do not back-door us as we go through the actual appropriations bills.

Mr. NEUMANN. Mr. Speaker, I thought I would conclude my hour this evening by wrapping up what we have been talking about. The discussion has been about more Washington and more Washington control of our lives versus less Washington and less Washington control of our lives, and the integrity of this Government in general.

We started with the past. We started with before 1995. We started with the broken promises of the Gramm–Rudman-Hollings bill, how they promised to get to a balanced budget but never got around to doing it; how in 1993 the way they decided to get to a balanced budget was to raise taxes on the people, and the people in 1994 said: Enough of that stuff; We do not want any more broken promises; We do not want any more tax increases. They elected a new group of people to the House of Representatives.

They elected Republicans to control the House and Republicans to control the Senate and left the Democrat President, in all fairness, to complete this picture.

But from 1995 to 1997, things have been very, very different. We, too, laid out a plan to balance the Federal budget, and we are in the third year of that 7-year plan. We are not only on track but we are going to have the first balanced budget in fiscal year 1998, the first time in 30 years we are going to actually have a balanced Federal budget; Washington is not going to spend more money than it takes in.

Mr. Speaker, how has this happened? It has been done not through tax increases like back in 1993 but at the same time we lower taxes. It has been done by curtailing the appetite of Washington spending.

It has been a battle; there is no question about it. Washington spending is still going up, but at a much slower rate than what it was going up before. It was going up almost twice as fast as inflation before 1995. By slowing that growth of Washington spending, we are at a point where we have both a balanced budget and lower taxes; first time since 1969 for the balanced budget, first time in 16 years that we have had a tax cut, and Medicare has been restored.

At the same time, we have to look forward to the future and ask ourselves what is coming next. The next in the picture is, we are going to put us on a plan to repay the entire Federal debt. As we repay that $5.3 trillion debt, that puts us in a position as a Nation where we can give to our children the legacy of a debt-free country.

At the same time we are repaying that debt, we are putting that money back into the Social Security Trust Fund that has been taken out over the last 15 to 20 years, so Social Security is once again solvent and secure for our senior citizens. This plan entails keeping one-third of our surpluses and dedicating it to additional tax cuts as we go forward.

Mr. Speaker, it is a very, very changed discussion in Washington, from past broken promises and higher taxes, to the present of promises kept on track and ahead of schedule in balancing the budget, lower taxes and a restored Medicare, and a future that includes paying off the Federal debt with additional tax cuts, restoring the Social Security Trust Fund, and, most important of all, as we repay that Federal debt, we can give this Nation to our children absolutely debt free.

What better legacy, what better hopes and dreams could we have in this Nation than that plan for our future?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REDMOND). The Chair would remind all Members to refrain from references to occupants of the gallery.

SLIPPERY SLOPE OF DEFENSE BUDGET CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, a couple of weeks ago I submitted an article for the prestigious military magazine on military affairs, ''Proceedings.'' In that article, I outlined the slippery slope that we are presently on with respect to our deteriorating national defense and where I think we should be going, what I think we should be doing, my opinion, and what future actions should be taken.

Mr. Speaker, my staff mentioned to me tonight when they read the article, and I had mentioned service leaders who had not spoken up over the past several years, ''Do you think people will think you are referring to Chuck Krulak, the Commandant of the Marine Corps?'' And I said, ''Absolutely not.''

Mr. Speaker, I am down here on the floor tonight to make sure that folks understand that that is not the case, because Chuck Krulak is one of the finest Marine Corps Commandants and one of the finest Marine warriors of this century.

☐ 2130

I think of Chuck in the great tradition and legend of guys like Chesty Puller and Gimlet I. Butler, great Marines, and Chuck's own father, Brute Krulak, who is one of the great Marine warriors of all time.

I talked, Mr. Speaker, about the deteriorating infrastructure of national security and the fact that just a few years ago, when we won Desert Storm, we had 18 Army divisions. We are now down to 10. We had 24 fighter air wings. We are now down to 13. We had 546 naval ships. We are now down to 346. And as this decline continues, very few Americans understand what is going on.

I am reminded also that it was General Krulak who spoke up and put down in writing the fact that the Marines are about 93 million M–16 bullets short of what they need to fight and win two regional conflicts; that is, two regional wars and have enough money to continue to keep their training rotations going and keep the troops coming in.

If you look at those two regional wars, we have actually fought both of the wars that we think we might have to have. We fought the war in the Middle East, in Iraq, and we fought the war in Korea. We only have 10 Army divisions today, but when we fought the war in the Middle East, we used some 8 Army divisions. That only leaves 2. And yet when we fought the war in Korea, when the North Koreans, on June 25, 1950 invaded the southern part of the peninsula, we used 7 Army divisions in that war along with a large contingency of Marines. So we used 8 in the Middle East, 7 in the Korean peninsula. That is 15 Army divisions. And yet today we only have 10 Army divisions.

Similarly, we have slashed our air power, almost slashed it in half, from 24 fighter air wings to only 13.

So, Mr. Speaker, we are continuing with this low level defense budget to go

down the slippery slope. That means that when we have a war which surprises us, where the enemy comes at us with better preparation than we expected, which usually is the case, with higher technology than we expected, which is usually the case, and with surprise which, yes, is usually the case, as was the Tet offensive in Vietnam, as was Pearl Harbor, as was the invasion of Kuwait, we are going to be in trouble and we are probably going to have more young Americans come home in body bags because of our rush to cut government spending.

We are cutting the one area where you have to remain strong. That is national security.

Once again, Mr. Speaker, let me applaud my good friend, Chuck Krulak, and all the great service he has given this country. And to everybody who has spoken up similarly, even though they have taken some hits for it, let us try to make the case again to the American people in this new year and bring that defense budget up.

EDUCATION REFORMS

The SPEAKER pro tempore (Mr. REDMOND). Under the Speaker's announced policy of January 7, 1997, the gentleman from North Carolina [Mr. ETHERIDGE] is recognized for 60 minutes as the designee of the minority leader.

Mr. ETHERIDGE. Mr. Speaker, I want to thank my friend, the gentleman from New Jersey [Mr. PALLONE], for joining me this evening. I have a few opening remarks and then I will ask him, if he would like, to join me. I want to thank him for being here this evening and for helping to organize this special opportunity to talk about a very important issue involved in the Democratic effort to reform, to improve and to strengthen public schools in this country.

We have held this series of after hours speeches to engage the American people in a dialogue about the policy choices that are being made that will have a profound impact on the way our children are educated in every community all across this great country. We simply must put the maximum effort we can into improving of our public schools for our children. By that, I mean all the children of this country, not just a select few that we can give vouchers or something else and give a lot of lip service, but I am talking about every child, no matter where they live in this country.

We have a lot of work to do. Some of these things certainly are local responsibilities, no question about that. But we at the Federal level cannot walk away from our responsibility to help every child in this country.

Mr. Speaker, before I became a Member of the people's House, I spent 8 years as the superintendent of public schools in the State of North Carolina. I am proud of the record that we have established in our State in improving education. I had the privilege during those years to spend a good deal of my time in the classrooms, on the front line in the struggle of our schools in the battle against ignorance.

I am here this evening to talk about those North Carolina values that I think have made a difference in our State and certainly can make a difference across this country.

In all the time that I spent in those classrooms, and I still go in them now at least once a week since I have been elected to Congress, no student has ever asked me who paid for the textbooks, who built the building, who paid the power bill, who paid the electrical bill or who bought the school buses they rode to school on. The child does not care who provides them the opportunity to learn. A child only knows what that opportunity is, whether or not they have been provided one and, in many cases, unfortunately an opportunity denied. And once you deny an opportunity for an education, you deny a child an opportunity to have a level playing field to compete and develop their God-given ability.

I think sometimes those of us in public office get too carried away by whose responsibility it is and forget that it is all of our responsibility. It is not just the responsibility of the Federal Government or the State government or local government or parents and children. All of us share a responsibility. That is why public schools in this country are asking parents to be engaged, asking the business communities to be engaged, because all of us share a responsibility for our children.

One issue that we must make a top priority is the issue of school facilities and school construction and, yes, the repairing of those buildings in many cases. All across this country we have crumbling schools, some in our inner cities as well as in rural areas of this country. And we have major overcrowding in schools where areas are growing and growing very rapidly. And in some cases they are adjacent to urban centers where those areas are poor and do not have the resources to match it. I know because my district contains areas, directs spending and faces all of these problems.

My State just passed last November the largest bond issue in the history of our State, $1.9 billion for school construction, by the largest majority of any bond issue in the history of our State. That tells me people care about children. They care about them having quality facilities, and people want action on this important issue. We have to get beyond the dialogue and the rhetoric of whose responsibility it is and just say it is our responsibility, it is our country, and these are our children. We have to deal with all of them.

There are some communities that cannot do it without help, without some leveraging. I think that is an issue that we have to grapple with, and we have to grapple with it at the Federal level. There was a time when it was not our responsibility at the Federal level to determine whether or not people had electric power. But in the 1930's we decided we ought to do that and we put a policy in place that every citizen of this country would have electric power and we put in the REA. We also made the same decision as related to telephones and, shock of all things, we decided that water and sewer was important. It was not a national priority before that.

And I happen to believe if there is anything important to this country beyond the defense of our borders, it is education for the young children of this country, making sure that they have the minds to be able to compete in the 21st century. And, yes, education is all of our responsibilities so that children can develop their God-given ability.

The President made a very sound school construction proposal during the budget talks but, unfortunately, the Republican leadership refused to allow it to be included in the final budget package. That was very disappointing. It was a very disappointing decision by the Republican leadership because the American people need some help to repair their local schools, and this Congress should do more to provide that help. Sure, we have balanced the budget. I am proud of that. And now that we have balanced the budget, we should not shirk our responsibilities to help our children.

While Washington often bickers over what role the Federal Government should and should not take on these issues, our focus should really be on the needs of our local communities and making sure that our children have the best opportunity.

You can walk into a school in any community in America and immediately know where education ranks in that community. As a matter of fact, you do not have to walk into a school. You can drive into a community and find out where the nicest buildings are and you will know what the priority is in that community. We have to change attitudes and support public schools and public education.

Many poor communities do not have the resources to build the quality facilities that they need. We should help them. We must help them. Many growing communities cannot keep up with the pace of expansion that they have to meet the needs of all the children in the school system. We should help them.

I speak to many chambers of commerce, as I know other Members of this Congress do, to business leaders, community leaders and other groups. Sometimes someone will say to me that the quality of buildings really does not make a difference. I have a ready answer for those folks. I say, when you go out and recruit new business and bring jobs to your community, why do you not take them down to the side of town where you have the old run-down warehouses or old run-

down buildings and say the quality of the building really does not make any difference? Why do you not put your business in that old building? It is the quality of the people you put in it that makes the difference.

And yes, it is important, the quality of people you put in it, but the quality of that facility says a lot about what you care about. It also says to your employees that you care about their environment. It also says to children that you care about education when you improve the quality of the facility.

The town fathers always wanted to show off the shiny new facilities that attracted those new buildings. That is why today we are seeing communities all across America and parents and others raise the issue of school facilities and the quality of education, because that is what business interests are asking about. It is their pride and joy. And the quality of the opportunities for our children will be the thing that will make a difference in the 21st century.

I say our schools should be our pride and joy also, because it is important that children see the quality and that we do care about their schools and that we do have the quality of facility they need, because it does have a significant impact. I know. I have seen it. I have been there, as the gentleman has.

It makes all the difference in the world. It has an impact on their attitudes, and it certainly translates into a better learning environment and we see the difference. It also has an impact on discipline, and we see a drop in the number of problems that children have. If you have a nice facility, it is amazing what happens to your attendance rate. It goes up. Children want to be in a nice environment. That should be our top priority. There are a lot of other things we can be doing.

I am working on legislation that will be drafted to help rebuild our schools in our run-down areas and build new schools in areas that are growing. This bill will help direct resources to areas where they are needed most, where school populations are projected to explode in the next several years, and we know what is happening.

We have the largest enrollment in our public schools today that we have ever had in our history. It is projected to increase dramatically over the next 10 years. We have areas of the country that are growing by 10, 15, 20 and some as much as 35 and 40 percent. Those areas can absolutely not meet the needs that they have.

I am very pleased to have my colleague from New Jersey join me this evening, and other colleagues will be joining us later. I know, to the gentleman from New Jersey, this is an an issue of interest to him. I see we have another colleague joining us to talk about this issue of not only facility that is important but the quality of the academic offering and how important it is to have accountability.

□ 2145

And, hopefully, before we finish, we will have time to talk about the proposal the President has made for us to deal with this issue, of how to have accountability in our schools and assure the American public that the schools in North Carolina, in every corner of our State, and in New Jersey and in Texas, as people are mobile and move about, that their children have a quality education.

I yield to my colleague from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from North Carolina for initiating this special order tonight. I know he is probably the most knowledgeable person in the House of Representatives on education issues, primarily because he has lived through it and he knows what he is talking about. He is dealing with these situations firsthand, which is what we really need when we are dealing with education and other issues here in the House of Representatives.

A couple of things the gentleman mentioned here this evening I want to sort of reiterate or go into a little more. First of all, I did listen to some of our Republican colleagues a little earlier when they were talking about the budget and taking credit for achieving or at least trying to achieve a balanced budget.

It is certainly good we did pass the balanced budget proposal, and I do believe that it will achieve a balanced budget, but I would mention that the Democrats fought very hard not only to achieve a balanced budget but also to make sure that there was funding in that budget bill for education priorities. And we made a point, as did the President, that we were not going to go along with the bill unless the Republicans changed their policies and provided a significant amount of funding for education priorities.

A lot of the money that was targeted by the Democrats in that bill went to higher education, because, as the gentleman knows, the cost of higher education has skyrocketed in recent years, in the last decade, or even the last 20 years. And what we were trying to do was to provide programs, tax credits, ways to provide additional funding to students through their parents or through their own families so that they would have access to quality higher education.

I think we succeeded. I am not saying we totally succeeded, because costs are still going up, but we have at least provided some tax credits and some deductions and some scholarship and some expansion that makes more money available for those who do not have it; primarily middle-class students. But what we need to turn our attention to now, and what the gentleman from North Carolina described, is primarily before a person goes to college, secondary schools, grammar school, kindergarten, even preschool. That is where the Democrats now are prioritizing what we think this Congress should do.

I know the gentleman in particular has cochaired the Democratic Task Force on Education, which has come up with a number of basic principles that I think really set the standard for what kind of legislation and what priorities we should have in this Congress on education issues. The gentleman mentioned a couple of those, but I wanted to zero in on two.

One is, of course, the main purpose of our debate this evening, and that is the need to basically provide for the education infrastructure. We know that schools are overcrowded. We know that a lot of them need repair. We know a lot of local school districts need to build new schools because there is so much of an increase in enrollment.

The gentleman also mentioned the fact that the Federal role here should be primarily to support public education and not take dollars away from public education through a voucher system that primarily supports private education.

One of the things that I think needs to be stressed, and I know the gentleman mentioned it but I am going to stress it again, is that throughout this debate that will be occurring in the next few weeks, actually beginning this week with the D.C. appropriations bill, what needs to be stressed is not so much that many of us, including myself, are opposed to vouchers, but that we feel that vouchers take money away from public schools.

In other words, if we had all the money in the world, we had money growing on trees, so to speak, around here, and we were able to say, OK, let us try a little experiment where we send a few thousand kids in the District of Columbia or in the State of New Jersey or North Carolina to try on an experimental basis a voucher system, I might say, OK, why not. That is a small experiment. A few thousand kids here or there. We will try it and see what the result is. But the problem here is that our public schools are strapped for funds. We know when we talk about the infrastructure problems how strapped for funds they are.

So for us to talk in the context of that and say we are going to take resources away from these public schools, where it could be spent on good programs in these public schools, whether it is infrastructure or it is academic excellence or it is training teachers, whatever it happens to be, and we are going to take those dollars and we are going to spend them on voucher systems for private or parochial schools, I do not think that is fair. I think that is counter to the interests of the public school education that the overwhelming majority, I think it is better than 90 percent of the students are educated in public schools.

So we need to stress to our constituents, and I explain this all the time, that the voucher system is not without cost and impact on the public schools, and that is the problem that I have with it.

Mr. ETHERIDGE. I thank the gentleman, because he is absolutely right. We are not talking about putting additional dollars into the system. If we go down that road, then all those who are currently out there who are not in the public schools, who are either in private schools or parochial schools or wherever they may be, they are going to be standing in line for their dollars once we cross that threshold.

What we would be talking about doing is in every public school in America, in the inner city, in the suburbs, and in rural America, we will be taking dollars out of those schools and reducing that opportunity for every single child. And the child that gets hurt the most is the child who is most vulnerable, in most cases, but all of them suffer.

The last time I checked, as our three children went through the public schools, and we still have one in it, the PTA, in almost every school that I am aware of, certainly in our State and I assume it is true in the gentleman's, they do not have enough money. Otherwise, why would they be having candy sales and hot dog sales and book sales and all these other things they do to raise money? They are raising money to supplement the resources in the schools that are not now available.

So if we are to go in and take additional dollars out, we will do one of two things, should it happen: We will increase the sales by the PTA in other areas or we will deprive them of more opportunities than they are now being deprived. And I think that would be a shame and a disgrace at a time when education in America, in my opinion, is at a premium.

I agree with the gentleman. I think he is absolutely right, and I would yield back.

Mr. PALLONE. I will not go on too long, because I know my colleague from Texas would like to speak as well, but what I see the Republican leadership trying to do is to sort of give the impression that the public school system has failed and we need to look for alternatives now.

And that is not what I am getting from my constituents. They believe that the public school system is generally doing OK. It needs improvement, but they do not want to sacrifice it at the expense of or in order to fund a voucher program that primarily sends resources to private schools. They have a sense of community. They like their public school. They want to see it improved. So let us not just throw it to the wind and say, look, it cannot be repaired.

The bottom line is that if we spend some money and spend some Federal dollars the way the Democrats and the way the gentleman's task force has proposed on emphasizing academic excellence, better training of teachers, and there are a whole slew of things, we have not even talked tonight about the safe and well-equipped schools as well, if we spend money on those things and we improve the public schools, then I think that is money well spent. And that is where our constituents are saying they would like to see the dollars spent.

I wanted to briefly say, and I know we have talked about this, but again when we talk about the magnitude of the problem in terms of school overcrowding and the needs because of dilapidated schools, it is really overwhelming. Just some general statistics here. The General Accounting Office has said that approximately one-third of all schools serving 14,000,000 students are in need of substantial repair or outright replacement. School enrollment, 1996–97 school year. Elementary and secondary school enrollment was a record 51.7 million. That has been broken by this year's high enrollment of 52.2 million.

So the number of kids entering the system is increasing rapidly and the demand for more schools is there. And it is not even repairing the infrastructure, but it is also the high-technology needs. As we move into the high-technology era, the computers, the ability to access the Internet. Very few schools have the ability, have the needed infrastructure to access the Internet. They do not have the money to buy the computers.

All we are really saying, I think, is that if the Federal Government was able to spend a small amount of money and leverage, most of the time, in terms of infrastructure need, the gentleman mentioned it before, local school districts bond for infrastructure needs. But what the President has talked about and, unfortunately, as the gentleman mentioned, was not included in this budget, was the fact that we should use Federal dollars to leverage and pay the interest costs on a lot bonding, it allows more school construction and repairs to take place, and it allows the local school districts to make those kinds of investments at less of a cost over the long term.

So that is what we are talking about. We are not talking about anything that is going to violate the basic concept that funding and control is still local with regard to our education system. Because that is what America has always been about: Local education. But there is no reason, just like we do with sewage infrastructure or roads or everything else, why not have some Federal dollars to help the local municipality pay some of these costs.

Mr. ETHERIDGE. It is easy. If we do not want to do something, we can find a thousand reasons. If we want to do it, it is not hard to find a reason.

Last time I checked, I have not heard anyone get up on this floor and say we should not send water and sewer money to our municipalities to clean them up because we might take control of it. They will find another way if they do not want to spend the dollars. But the truth is, if we want to do it, we can find a way to do it.

The gentleman talked about the schools. And the truth is what we really are about in the whole litany of things is reforming, repairing, and renewing. The three R's. We have to reform and certainly go on about doing things.

I really get frustrated, and I was out there 2 years ago when this Congress talked about doing away with the Department of Education and education was under assault, and both of the gentleman here were fighting to make sure we saved it, and we did. But my colleagues cannot imagine what that did for the morale of teachers and principals and people on the frontlines educating children.

They just sort of tuned it out and kept working. They work hard every day. They are some of the hardest working people in our society today. And I think what we need to do is raise up the tremendous job they do and give them an uplift rather than beating them down.

I know my good friend, the gentleman from Texas [Mr. GREEN], his wife is a teacher, and she is an outstanding one, and I yield to the gentleman because I know he has something he would like to contribute to this dialog.

Mr. GREEN. I want to thank my colleagues, Mr. Speaker, for allowing for this special order tonight, particularly on education.

While I was in my office returning some phone calls and listening to my colleagues from the Republican side for the first hour, the fear they have is Federal control of our schools. Well, I think the three of us would agree we do not want Federal control of our schools. We have fought against that. In fact, in 1994 we reauthorized elementary, secondary education funding, and it was a Democratic Congress and a Democratic President who signed that.

We actually freed a lot of the schools from the paperwork and the requirements that we built up, both Republican and Democratic Presidential administrations. Goals 2000 was a great program, and is still a great program for schools to benefit and States to adopt without Federal controls. Just Federal assistance without the Federal Government saying this is what they have to do. They can do it for literacy, they can pay for lots of different programs with it, but this is our effort to help local schools and States to provide for educational opportunities.

I know the gentleman talked about vouchers, and again this week we will talk about experimenting with the District of Columbia. And Lord knows the District of Columbia needs help for their public school system, but I really do not know if we need to use them as an experiment, because those children need an education. We do not need to lose a generation of children by experimenting with some program that may work in the District of Columbia so then we can export it to the States.

I know the gentleman also talked about national standards. And, again, as long as they are voluntary, I think most folks agree with that.

Like the gentleman, I have two children that went through public schools and are now a junior and senior in college, by the way in public institutions in Texas, because we also have some low-tuition rates in our public colleges in Texas. And, sure, they could have gotten a better education, but they also got an adequate education. It is an urban school district, literally a microcosm of our country, probably 70 percent minority students today. And when they were in school it was probably 65 percent minority students.

But they went to public schools and they got an education. Of course, my wife teaches in those schools so she also made sure they had that motivation, not just in school but at home.

One of the concerns I have, and in serving a lot of years in the legislature, was the facilities situation we have. We talked about that in special orders a number of times, our deteriorating schools facilities around the country, whether it be in New York, or Washington, DC, or Houston, TX, or a lot of our districts. Providing opportunity for quality education is one of the most important things we do in Congress.

□ 2200

I always believed that the key to the future of our country was a quality education. Now, we all know we want to make sure we have a strong military. We want to have a strong economic base. But it does not take too far to go. We can go just across the river in Virginia and talk to the folks in the Pentagon, and they will tell us that to have a strong military, we have to have an educated force there, people who can think, people who can respond to different circumstances.

And that is what public education is supposed to do. Granted, does it do it 100 percent of the time? No. That is why we are here. That is why we have teachers every day and legislators across the country and school board members and superintendents trying to make it work.

As the gentleman mentioned, my wife is an algebra teacher. I have to admit, I took algebra and barely struggled through, even college calculus. And if somebody gave me the quadratic formula tonight, I could not solve it without the best tutor I ever had in college, who is my wife.

But that also taught me a way of thinking. So whether it was managing a business or practicing law or serving here in an elected office, we have a way that we can make decisions. And that is what we are trying to teach children.

Sure, we want them to add, subtract, multiply, and divide. We want them to know the history of our great country. We want them to know English. We want them to know lots of things. We want them to know science, although some of us, I have to admit, are not science oriented. That is why I am not on the Committee on Appropriations.

But we also want them to have a way to think and be able to change with the times. So that is why I think public education, the investment we put into it, lots of things, is helping those local districts and the States where most of the funding is raised.

Just as we help our children to read, we must also give them schools that are safe places to learn. Today, our Nation's schools are increasingly run down, overcrowded, and technologically ill-equipped. Too many of our school buildings and classrooms are deteriorating, again, not just in Washington, D.C., that we hear about, as a Nation we hear about all the time, but all across our country, whether it be in an urban area like I represent or rural area.

According to a GAO report, one-third of our schools need major repair or outright replacement. Sixty percent need work on major building features, such as a sagging roof or cracked foundation. Forty-six percent lack even the basic electrical wiring to support computers and modems and modern communications technology that we want our children to be able to respond to not only this decade but the next century, and we cannot do it with the facilities we have today.

These are problems, again, not just in my own district in Houston but also across our country. A number of studies have shown that many school systems, particularly those in urban and high-poverty areas, are plagued by decaying buildings that threaten the health and safety and the learning opportunities of our children. Good school facilities are an important precondition for school learning.

Now, we know that if you have a great teacher, a great teacher can teach you under a tree. But that teacher cannot teach you under that tree if it is snowing or raining outside. So we have to have a facility that is adequate not only for those good days that that teacher may be there, but also for the whole school year.

Numerous studies have linked student achievement and behavior to good physical building conditions. Not only are our schools in a state of disrepair, but we also need to see the accommodating growths in enrollment. And I heard my colleagues talking about that earlier.

In Houston, our school enrollment is skyrocketing. The Texas school population increased by 7.9 percent in 1 year. In the Houston Independent School District, we experienced an increase of 3,700 students just from last year.

We have a solution to that, or at least a down payment, or a start. The Senate Labor-HHS-Education appropriations includes $100 million for provision for school facility infrastructure, and it is a good starting point.

In fact, I think it is ironic when my colleague, the gentleman from New Jersey [Mr. PALLONE], asked me today about doing a special order on education, I am always willing to do it, one of my school superintendents from Aldine School District, Sonny Donaldson, whom I work with on a number of occasions, just happened to send me a letter talking about how important that $100 million provision is for school facility infrastructure in the Senate appropriations bill. Our House bill did not include that $100 million.

I have to admit, $100 million, we can spend that in the State of Texas alone. But it is a help from the Federal Government to leverage, as the gentleman from New Jersey [Mr. PALLONE] talked about, to show that we will provide a dollar for maybe what a local district may provide $10 or $100, but to provide that assistance, that we recognize that that child is also our responsibility on the floor of the House. We cannot just put it off on school board members, we cannot put it off on State legislators or school superintendents; we have to take the responsibility on ourselves.

As we help our communities build and maintain their schools, we must ensure that every school and classroom is connected to the information superhighway. And the President has proposed a 5-year, $2 billion fund that will support grass-roots efforts and again put the fingertips of every child by the year 2000 on modern computers, high-quality educational software, trained teachers in connection with the superhighway.

Again, I appreciate the opportunity to join my colleagues tonight.

Mr. ETHERIDGE. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PALLONE], because I think he has something he wants to add to that.

Mr. PALLONE. Mr. Speaker, I was listening to what the gentleman from Texas [Mr. GREEN] said, in particular with regard to the effects of overcrowded classrooms or decaying schools. There is no question that it affects the quality of education provided to students.

It is much more difficult, and I know my colleague from North Carolina [Mr. ETHERIDGE] mentioned, as well, it is much more difficult to learn in an environment where the building is crumbling around you or the situation where there are too many students in the classroom.

Of course it is true, as my colleague said, that some teachers can teach in the worst situation in the world and some students can learn in the worst situation. But, unfortunately, those are often exceptions, and the reality is, we have to see how the average student is impacted.

The one thing that the gentleman from Texas [Mr. GREEN] mentioned, though, that I particularly want to draw attention to is, it is really ironic that this week, I think it is either Wednesday or Thursday of this week on this floor, we are going to be considering this Republican amendment that would adopt a voucher system in the District of Columbia.

I do not know if it was the last time, but certainly in early September, when the gentleman from North Carolina

[Mr. ETHERIDGE] and I, and I think the gentleman from Texas [Mr. GREEN], we were all here and we were talking about how the schools in the District of Columbia were closed, I believe, for at least 3 weeks, in some cases maybe even more, because the Federal judge in the District of Columbia had ruled that the conditions in the schools were so bad, that the infrastructure conditions were so bad that she, I think it was a woman judge, insisted that the schools be closed until the money was spent to repair the schools.

Now, we have been talking about infrastructure and we have been talking about vouchers all night. But here we have a situation where probably the infrastructure problem in the District of Columbia is one of the worst in the Nation, to the point where they could not even open the schools.

I am sure the judge was motivated by the fact that it was going to be a bad learning experience for these kids and it was going to be hard for them to learn, given these buildings and the shape they were in. And here, where there is such a great need for money to repair schools, we are proposing a voucher system, which I do not know how many, I think there are a few thousand kids that are going to be impacted by it. Why not spend that money on the infrastructure needs when the court has actually had to step in and close the schools for that reason?

Again, it points at directly how the need is there and yet we are wasting the resources. In fact, in some cases, I understand these kids might not even be in the District, they might actually be going to Virginia or Maryland or some other places for their education.

I am not here to defend the District of Columbia and its school system. I am sure there are bad conditions and there are problems, and they have been documented. But it does not make any sense to me to say, okay, forget about that; Let it continue to deteriorate, and we will just set up this voucher system.

Mr. ETHERIDGE. Mr. Speaker, reclaiming my time, if we take that another step and we look at industry, and one of the first things I remember in the D.C. situation that my colleague mentioned was, they went in to put the roofs on the buildings because the buildings were leaking.

It is one thing to have poor lighting. It is another thing to have trash cans in the building catching the water when it rains. And that leads to a multitude of problems of safety and additional deterioration and on and on. There is no question that the quality of the environment makes a difference. There are enough studies.

The gentleman from Texas [Mr. GREEN] mentioned growth. Let me just share a few of the States, if I may, that are growing so rapidly. Over the next 10 years, it is projected, this is just high school enrollment, because it goes back to the point he made about those youngsters showing up at elementary school. I have often said, some people want to know why communities are growing so and schools are growing. I said, well, you know, people move into communities, and when they move there, they tend to want to bring the children with them if they have children. That is normally what happens. And when they bring them there, normally they want to go to school.

And in growing communities, we understand that. And for some communities, they can pretty well determine how large their first-grade class will be by the number of live births that happened 5 or 6 years earlier. The problem most schools have are in those fast-growing communities where you have in-migration; people move in and bring the children.

As an example, in California, over the next 10 years, it is projected that there will be a 35-percent increase in the high school enrollment in the State of California, a State right now that is a large State, a State that most of us think of as being a State that is fairly affluent.

But when we have that kind of growth continue in a State that is right now already struggling to meet the needs, we wind up with major overcrowding. And overcrowding leads to all those problems that we talk about of discipline, lack of academic achievement.

There is no question of the studies, and there will be more studies that will continue to come out, beyond having quality teachers in the classroom and a good curriculum, the next best thing we can do for children to provide for them learning opportunities where they excel is smaller class sizes.

We can talk to any teacher in this country, in urban or rural systems, in elementary grades or high school, and what they will say is, ''Let me have a small class.'' It gets back to the point the gentleman from Texas [Mr. GREEN] made earlier about the teacher teaching under the tree. If we have got a small enough class, you can teach most anywhere. The problem we have is, as those classes grow, we really do need space in the larger classes so that children have places to move around, or students, for that matter, who happen to be in high school.

But let me give my colleagues a couple of other States. For the gentleman from Texas [Mr. GREEN], your State is one that is proposed to grow very rapidly over the next 10 years. High school enrollment will increase by 19 percent. They can take their high school enrollment right now and figure out how many more schools they are going to need across the State and classrooms.

My home State, which happens to be the ninth or tenth largest State in terms of public schools, depending how you measure it, but I think we are about ninth, is going to grow 27 percent at the high school level in the next 10 years. We are building buildings as fast as we can. We will not keep up.

And the list goes. Nevada, 24; Georgia, the tenth or eleventh largest State, depending on how you look at it in terms of numbers, they are always right close to North Carolina, they will grow by 20 percent in population at the high school level. So we are seeing a tremendous need. Virginia, 20 percent.

All across this country, we are going to see the most rapid, the largest growth at the high school level over the next 10 years we have seen at any period since the end of World War II. It is what some are calling the baby boom echo. We had the baby boomers. Now the baby boomers are echoing, and we are having children, and it is growing very, very rapidly.

These numbers in no way reflect the tremendous need that my colleagues have talked about that is out there for repairs, for renovations, for making sure that buildings are wired to take care of the access to the Internet and computers to deal with all the information that is now bombarding society and certainly children and teachers and students have to deal with.

It does not say anything about all the other needs outside those school buildings just in the learning environment, because if we are going to have a large number of students together, we have got all those auxiliary needs at the high school level, for the athletic program, for the extracurricular activities that are absolutely needed. When we get that many young people together, we had better have something for them to do beyond academics. We all know that that is awfully important.

Mr. Speaker, I yield to the gentleman from Texas [Mr. GREEN].

Mr. GREEN of Texas. When we talk about, again, buildings, thank goodness we are going to have those kids in high school, because the other problem we talk about a lot of times is the drop-out.

We do not want to see those children start in the elementary grades and go on to middle school and then drop out before they get to high school. We want to see them complete high school, because that is just another step on the road to their success, but also on the road to our country's success, because our country, as great as it is, is not any good at all if we have an uneducated work force or uneducated people that are defending our Nation.

And we can defend our country not just by carrying a gun or manning a missile; we defend our country every day by being as aggressive in our business. That is what our school system is all about.

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That is why the United States is the greatest country in the world for lots of reasons. One, the free enterprise system; but also, because we educate everyone. We are a diverse country and we want everyone to be educated. We want to give them the opportunity, and granted, some people are harder to educate.

In fact, I had some high school teachers who said I was probably one of those harder to educate students. But I am glad that they persevered because they were preparing me to serve in Congress. And that is why we need to encourage and do better today for those teachers that are out there today doing that, just like the gentleman said. They are hard-working. They not only work their 7 hours a day, but they spend hours and hours in the evening grading those tests, grading those papers that they cannot do during the day.

Also, conferences. I cannot remember, when I was in school, a teacher calling my parents. One, I did not want them to. But today, because most of the schools have it built into the responsibilities, teachers have to contact those parents, not just sending a note home but calling those parents to make sure they bring them in as part of the education system, because we just cannot educate children with teachers and students; it is all of us involved in it, parents, the community, and that is where we see the success in the school districts.

Let me say that the problem in some facilities, some districts have success with their local taxpayers who approve the bond elections. We had some great successes in the districts I am honored to represent. We have a school, Cheneby High School, a small school district on the outskirts of Houston that has a new high school, Cheneby High School that has state-of-the-art computers. There is a hookup in every classroom. We do not have that in most of our districts, because some districts, the voters voted against bonds, so they are having to do creative financing to do it. Galena Park High School in a neighboring district is building a new high school, doing the same thing, because their voters approved it. But we need to help on a national basis because it is a national concern, because we need to make sure that those young people are prepared to take our places here on the floor.

Mr. ETHERIDGE. Mr. Speaker, as the gentleman says, it is part of our national security, and I think it is just as important or certainly measures in importance with defending our borders, because if our young people cannot compete in the economic environment we find ourselves in in the world economy, we are going to be in trouble in the 21st century.

I yield to my friend from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I just wanted to follow up on some of the things that my colleague from Texas said about the way that we are talking about proceeding with this school construction Federal funding. I know the gentleman from North Carolina mentioned basically the legislative proposal.

There have been various proposals, but essentially what we are talking about is to provide these intra subsidies, if you will, for new construction and renovation. When we were talking about the President's budget, the program that was actually negated, if you will, by the Republicans, that was a $5 billion Federal jump start that had a goal of increasing school construction by 25 percent over the next 4 years. But what the gentleman from Texas mentioned, and I think is so important, is that generally, my understanding, it is certainly true in New Jersey, I think in almost every State, is that in order to finance school construction through bonding, one usually has to go to a local referendum to do that.

Part of the reason why local school districts have turned down the bond proposals is because of the exorbitant costs. They cannot necessarily get a good package or get financing at a low interest rate because of maybe the nature of the district, or I do not know how much State funding they get, or whatever.

So we are not forcing anybody to do anything here. What we are saying is if there is a district that needs some help in terms of their putting together a package and doing the financing, the Federal Government is out there to help to provide an intra subsidy, and the idea would be then that the local school district and the voters would still have to approve the bond issue, but it would be more attractive to them because it would be at a lower interest rate and they would have some subsidy, if you will, coming from the Federal Government.

So it is more likely that this is going to help those districts that are having problems getting the financing, because it will make it more attractive to the voters and make it easier to pass these bond issues, is my understanding. But again, it is strictly voluntary. Nobody is stepping in from the Federal Government telling them what to do. If one is willing to spend the money, and the school districts are still going to have to spend the majority of the money on this, it just makes it a lot easier for them to do that.

To me, that is exactly what the role of the Federal Government should be doing, trying to help the school districts that want to help themselves. They have the need, they are having difficulty obtaining the financing, and we step in and we make it a lot easier to do so. But that can go very far in my understanding, just from my own experience in New Jersey, that kind of subsidy can go very far towards achieving the goal of having a lot more renovation, a lot of new schools constructed, just that little bit of Federal help, so to speak.

Mr. ETHERIDGE. Mr. Speaker, I think the gentleman is absolutely correct. What the gentleman was talking about is, the gentleman said we are setting a national priority and he is saying that is important.

I know in my home State in North Carolina we passed a bond issue this year, $1.9 billion, and it may seem like a lot of money, and it is a large sum of money in our State, but we were looking at school facility needs 2 years ago in excess of $5 billion. So the State was going to assist the locals; they had to pass their own referendums on a match, on a sliding scale, for assistance.

Well, now we are growing so fast that a lot of those communities are going to still see themselves with tremendous needs over the next several years. But that is really what the gentleman is talking about, those that show the initiative locally, that draw from a pool, and this money would be used to draw down, to make the interest rates lower. So in effect one is able to have a larger bond issue for less money, is really what the bottom line is.

Mr. PALLONE. Mr. Speaker, if the gentleman will yield again, this proposal, the one that the Republicans knocked down, was very flexible in how the money could be used. I know the gentleman from Texas talked about computers or technology infrastructure, whatever. I just have a list here. It can be used just for basic building purposes, but it also can be used for health and safety problems, with plumbing, heating and lighting; it can be used to improve energy efficiency; it can be used for all kinds of educational technologies, such as communications, closets, electrical systems, power outlets, all of that goes to the computers; and also for after school learning centers, community projects that are linked to the schools.

I know the gentleman from North Carolina has mentioned in the past in different special orders how increasingly schools are learning centers for all kinds of activities, not only during the school day but after school, for extracurricular programs, sports, adult education. So this is a very flexible proposal that can be used for all of those different things.

Mr. ETHERIDGE. Mr. Speaker, the gentleman is absolutely correct. We have schools across this country, and I know in my State, before-school programs for children, before school opens they actually open the school and provide a morning day care, provide breakfast for them, and it is on a sliding scale and the schools actually make money on it. For those who cannot afford to pay and those that can, they put together different programs to work.

I yield to the gentleman from Texas.

Mr. GREEN. Mr. Speaker, let me talk about some innovative things that schools have done. For example, in some of the districts I am familiar with, we have always heard of night school students, but they are using their buildings, because why build new buildings if they are not utilizing them? So they are using them for night students. Those students who may be more motivated by going out and working during the day and coming in and getting their high school diploma during the night in an abbreviated program, schools are doing that. So even

in those opportunities, we are seeing overcrowding on the high school level.

So there are other activities, and the gentleman mentioned other activities. We have great ROTC programs, great band programs; obviously athletics, if one is coming from Texas or North Carolina, I guess. But every way we can reach that child to keep them in school, to encourage them to be in school, again, no matter what we do, any of the extracurricular programs and use it as a motivator.

I just happened to like to play football when I was in high school and that was a motivator. In fact, those coaches could motivate me much better than any English teacher could. But that worked. The same way with ROTC now is so successful, and it is a growing program in our districts, at least in Texas and I think nationwide.

So that is why the infrastructure funding is so important. What my colleague from New Jersey mentioned, we have title I funding that is available for computers. We can go buy the computers now. But to wire the school, we cannot use title I funding. That is why an infrastructure, to bring that school up to grade level for wiring for the public schools for the computers, but also for the health and safety of those children, so not only does the roof not fall in, but the fire safety is there, and I know that is the D.C. problem. The judge said those schools are just not safe for those children. Frankly, if I had a child in the D.C. schools, I would be glad that the judge said that and said, OK, we need to fix them before we put those children in those schools.

Mr. Speaker, I include the following letter from the Aldine Independent School District, Houston, TX, for the RECORD:

ALDINE INDEPENDENT
SCHOOL DISTRICT,
Houston, TX, September 30, 1997.

Hon. GENE GREEN,
Rayburn Bldg.,
Washington, DC.

DEAR CONGRESSMAN GREEN: Enrollment is rising in the nation's public schools and federal incentives are needed to fund critical construction to meet growth. The $100 million provision for school facility infrastructure in the Senate's appropriations bill is a starting point. The House bill, however, does not include school infrastructure funding.

I urge you to contact House conferees who will meet to resolve differences between the House and Senate bills and ask them to accept the $100 million for school infrastructure included in the Senate version. For your convenience, I have included a list of the House conferees from the subcommittee.

For urban school districts such as Aldine, which has experienced 2–3 percent annual growth over the last three years, federal funding is vital. Your assistance in retaining the $100 million appropriations for the Rebuild America's Schools initiative is greatly appreciated by our children, taxpayers, and educators.

Sincerely,

M.B. DONALDSON,
Superintendent of Schools.

Mr. ETHERIDGE. Let me thank the gentleman. He is absolutely correct.

We have talked about after hours, and I just wanted to make a point of that, because I have been in a number of schools where they actually have an after hours program for a number of students who have difficulty at home. They drop out of school. They decide they want to come back to the public schools, they do not want to go to the community college and get a GED. They want to get their high school diploma.

And I know it is happening in North Carolina, where they actually can come to school at night, have a full-time job during the day because they have to earn a living. They may have already gotten married early, but they want to get their degree, and this happens.

The public schools are changing. We can put together another special order very shortly, hopefully before this week is out, and actually talk about some of these things, but more importantly talk about the strengths of our public schools, the academic things that are happening. Our schools certainly have a lot of challenges today, but they are meeting those challenges in a way they have never met them, because as both of my friends have said this evening, they are working harder, our teachers are working hard, they are committed, and we have some of the best qualified people in those classrooms we have ever had and the leadership, the principalship.

I think we need to talk about it. I know we are seeing student achievement go up, as we talk about the National Assessment of Education Progress, which I happen to believe is a better measure than the SAT that we use on an intermittent basis, because NAEP tends to do it by sampling, and that is where we can absolutely sample and they come back with a statistical number and it is accurate. We have seen some dramatic growth in our State and really across the country since 1990 in math and reading, and those are two of the core areas, and we have to see that continue and escalate across this country for all children.

That is one of the things I hope we will be able to talk about and have some data on over the next several days, and that gets back to the issue the President proposed and that others are saying we ought not to do.

Well, that is silly. That is absolutely silly. It is voluntary. We are now giving it to 43 States in this country. Forty-three States are taking the NAEP right now, and they are doing it on a voluntary basis. When I was a superintendent and we met all 50 chiefs, we absolutely said there will not be a national curriculum; we will not support it, we will not have any part of it, but we will participate and want to participate in a voluntary testing program.

Why? Because the people who live in North Carolina today very well may live in Texas next week or New Jersey the year after that, and they have a right to know that their children, as they move from place to place, that it is measured and they are getting the kind of education they want.

I think that is why we are seeing the American public on almost everything we read say they are willing to make sure that their children have a good education, and they want that assessment and they want it on a voluntary basis.

I hope we can talk about that and erase that myth that our schools are not doing better than we are doing, because they really are, because we are doing it with children, as my friend from Texas said, that are coming to school with a lot of baggage these days. They are coming to school when they have not had a chance to sleep the night before; many come when the first meal they have had since they left lunch the day before is the breakfast they get when they show up in the morning.

Mr. PALLONE. Mr. Speaker, if the gentleman would yield, I think we are running out of time, but I just wanted to, if I could, follow up on what the gentleman from North Carolina said.

The gentleman from Texas mentioned earlier about Goals 2000, and we know that the Republicans have many times opposed Goals 2000 and asked that it not be funded. But in my home State of New Jersey we have received funding from Goals 2000. And one of the things that we have done with that funding, and it has been very successful, is not only do testing statewide, but also use the results of that testing to develop core curriculum.

One of the goals of the Democratic education task force that the gentleman cochairs is to emphasize academic excellence in the basics. I think that across the country people understand that we need to have excellence in the basics.

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Obviously, curricula will vary from one school district to the next, or one State to the next. That is the way it should be. That is the American way. But the basics, students need to learn how to read and write. They need basic science courses. These are the kinds of things they need if they are going to be successful.

There is absolutely no reason why the Federal Government cannot provide money to the States to help develop core curriculum, in some cases do testing, to do what the States think needs to be done on a voluntary basis to improve basic skills. I do not think anybody is against that. If they are, I do not care, because I think they are wrong. We need basic skills.

Mr. ETHERIDGE. The gentleman is absolutely correct. I was there when we got the Goals 2000 money. Of all the money the Federal Government sent to our State, that was the most flexible money; very few strings attached, other than fill out about a 2-page form and send to it to the Department of Education on what you were going to do with the money, how you were going

to use it, what results you were going to get. That is the money that has been used in North Carolina, and I would assume in the other 49 States and territories, to allow for the reform, the change that is now taking place all across this country.

I thank the gentleman, and I hope we can get back and spend a whole evening on this whole issue of academic reform and accountability in these areas, and talk about assessment, because I feel very strongly about it and I think the American people do. I thank the gentleman for joining me.

WHY NOT HAVE NATIONAL TESTS FOR MATH AND SCIENCE?

The SPEAKER pro tempore [Mr. REDMOND]. Under the Speaker's announced policy of January 7, 1997, the gentleman from Arizona [Mr. SHADEGG] is recognized for half of the remaining time until midnight, approximately 45 minutes.

Mr. SHADEGG. Mr. Speaker, I appreciate this opportunity to discuss a topic that has also been discussed earlier tonight, and that is the question of education.

I cannot help but comment on my colleagues who were just here on the floor before me. In just a few moments of listening to them I heard one of them, a gentleman who was previously in the educational establishment, either a principal or a superintendent of a school district, say that he supports good education and therefore, supports a voluntary national testing program.

It is, indeed, that subject that I want to talk about tonight, because it is a topic that is very close to me. I have back home in Arizona right now a 13-year-old daughter who is a freshman at Thunderbird High School in the Phoenix area, excuse me, a sophomore, and struggling to get through her education this year, and to try to get into the best school in terms of college that she can possibly get into. I have an 11-year-old son who is in grade school.

Their education is vitally important to me, because I understand that in this global economy we are in, precisely how well they do in pursuing their education goals will determine in many ways to a great extent how well they do throughout the rest of their lives. There simply is no issue which is, at core, more important to me, and more important in a Nation where we are founded on the notion of universal public schools.

I listened to my colleagues from the other side of the aisle talk about public schools and the importance of public schools, yet I have to tell the Members, there are a couple of things that I resent. I want to talk about those tonight. I resent it when my colleagues on the other side of the aisle allege that they are the only ones who care about education and the only ones who care about public education. I think it is wrong to cast those kinds of aspersions and make those kinds of value judgments, because some of us view this issue differently than they do.

I was educated in public schools all the way through, never attended a day of private school in my entire life. Not from kindergarten through law school did I attend anything but public schools. My children are in public schools now. I believe very much in a quality public education.

But just because I believe in that does not mean I have to accept their view of the world, or even the professional educators' view of the world or, as I like to call them, the educrats' view of the world or the Federal Department of Education's view of the world. Instead, I bring to this debate my own rational thought, my own experience about education, my own views about the importance of public education, but mostly about quality education; about challenging my daughter Courtney to do her best every day in school; and about challenging my son Stephen to do his best every day in school.

I listened to the other side and they touched upon this issue of testing, national testing. That is a major topic that I want to talk about tonight. I want to talk about how some of us can believe and believe very strongly that as good and as apple pie and as motherhood and as all-American as national testing sounds, that we can look at our children and see how they are doing in Minnesota versus Arizona, as good as those things sound, in point of fact I believe and I believe deeply that national testing, if we mean by that federally dictated testing, tests written at the Federal Department of Education in Washington, D.C., thousands of miles from my home in Moon Valley, Arizona, if we mean by that a national testing written by a committee set up by this President, or for that matter any other President, if we mean one single uniform Federal test applied to every student in America, and we will judge every student in America by how they do on that test, I submit, it is not only bad, and a bad idea, it could be disastrous.

That does not mean that I do not support education. What it means is that when I look at the idea of one Federal test, I recognize that we are placing all of our eggs in one basket. If that test is written badly, if that test is written, as I fear the test might be written, to test the current fads in education, the newest whole math or new math or the newest whole language or whole English, or some other popular fad within the education establishment, not only will the test not measure real performance by my children, by my daughter Courtney or my son Stephen, but instead, it will do massive damage, and damage to every boy and every girl in public and private school in America, at a time when in this global economy we cannot tolerate that.

Why do I say that? How could just doing a national test, how could just having a national test, how could a national test which was voluntary, and my colleague pointed out that he could not understand, how could a national test that was voluntary be dangerous? How could it be a problem?

I listened to him, and I think many people who view this issue from that standpoint are honest and genuine and sincere, and I can even understand their point. Instead, I get many of my colleagues back home, many of my friends back home, who say, well, explain to me what your concern is about national testing. Why is that such a bad idea? Why should we not have a single test to test the skills of our children across America, so we can look at how they do?

Let me make a point here. I just had a friend move from Arizona to New Jersey this last year. His two boys, a little bit older than my children, are now in high school in New Jersey. He thinks they are being challenged more rigorously in New Jersey than they were in Arizona. So why should we not be able to test that?

A few years ago I had a good friend who moved from Tucson, Arizona, to Maryland, not far from here, Potomac, Maryland. He felt his children were being challenged better at their new school than at their old school. So what can be wrong with national testing, particularly if it is voluntary?

Let me explain that, for people who are listening and watching, and for my colleagues who care about this debate. The problem with national testing begins with the issue of what do tests do. Tests set a benchmark. They set, in and of themselves, an educational standard. They say, we are going to test these subjects and these matters, and if you want your students to do well, they had better know these subjects and these answers. They had better know what is going to be tested and how to answer those questions.

What I am saying here is that my children's teachers, and indeed, I think my teachers and all teachers across America, to a certain degree in a very positive sense, teach to the test; that is, they understand what the students whose lives and whose education they have been entrusted with are going to be tested on, and so they want to be sure that they have that knowledge. If math is going to be tested, they will stress math.

But then the question comes, what about math? What within math does the test test, because I need to make sure as a teacher that my students know those skills that will be tested?

So I believe that one fact we have to begin to entertain a discussion of this topic of a national test is if we agree as a Nation to have a single Federal test, written in Washington, D.C. by the Federal Department of Education or by some consultant hired by the Department of Education, we need to understand that every conscientious teacher in America in public schools, in private schools, wherever, my children's teachers in the Washington Elementary

School District in Phoenix, Arizona, will want to know what is in that test and will want to know what skills my children need to learn to do well on that test.

And they should do that. My teachers must have taught me the skills that were going to be tested, because I was able to make it through my education through grade school and high school into college and on into law school. So someone taught me what was going to be tested on the test.

So we should begin the debate by understanding that this voluntary testing program that my colleagues seem to think is such a great idea in fact is in itself setting a national standard.

Now, you say, well, what is wrong with that? What is the problem with setting a national standard? In a minute I am going to talk about some of the substantive problems in setting a national standard, but first I want to deal with the issue of voluntary.

How can it be a problem if this is voluntary? Congressman, how can it be a problem if we have national test, but you can choose or you cannot choose to have your students in your school or your school district school take that test? The answer is simple and straightforward.

In education in America there are very, very few, a relatively small number of textbook writers. If we as a Nation establish a national test, that tests, for example, math and science, even if we leave out a national test on social studies or some other more controversial topics, then there will be math and science texts written all across America to teach what is on that national test. It is the marketplace. It is reality.

So when the parents and the teachers in my school district, the Washington School District in Phoenix, Arizona, want to select a text, most of the texts they will have to choose from, most of the textbooks that they could give to my student, my child, or my son or my daughter in school in Phoenix, Arizona, will be texts, textbooks that are written to that national test.

So voluntariness at that moment goes pretty much out the window, because we will have a national test, and we will understand that everyone in America is going to be judged on that, and the textbook writers will understand if kids need to learn to pass that test, they need to have a textbook that gives them those subject matters and teaches them the skills to pass that test.

So the notion of, well, it is just voluntary, they can opt not to do it, turns out to be a ruse, a charade, not real, because every teacher in America first will want to teach to the test, because he or she will care about their students' performance. Teachers are genuine, caring, loving people who want their students to do best. So they will teach to that national test. But for a school that wants to opt out, they will feel have a limited choice, because virtually all of the textbooks will be written to that national test.

Why is there then a problem with a national test? Here I want to turn to some experts who have greater experience and knowledge than I do. I have to tell you that when I entered this debate I was not sure that national tests were a bad idea. I had not thought through the idea of teachers teaching to the test. I had not thought through the idea of textbooks being written by the handful of textbook companies in America to that test.

So I did not instantaneously say, this is a bad idea. As a matter of fact, I was much like most Americans who say, gee, what is wrong with a national test? As a matter of fact, I read a syndicated columnist today about how he had gotten into the cab in a major city, here in town, and the cab driver engaged him in a discussion of this issue of national tests. I think America is engaged in that debate. I think they are uncertain about this issue. That is why I wanted to talk about it tonight.

Let me turn to the experts. One of the experts in field, someone I respect a lot, is a woman by the name of Lynn Cheney. Lynn Cheney is a senior fellow at the American Enterprise Institute, and her work in this area I think is very important for all Americans to read and understand, because this is an important issue to every American. What could be more important than our children's education?

What debate is greater than this question about national tests? The President on the floor of this very House from that dais right there told America in his State of the Union this year that he was going to impose national, that is, federally-written, Washington, D.C. tests in math and science, and he called America to rally to that cause.

I am standing here tonight saying, we ought not to rally to that cause. Let me make it clear why. Ms. Cheney in a recent article which appeared in the Wall Street Journal on September 29 addressed this issue. Her column is headed, ''A Failing Grade for Clinton's National Standards.'' Remember, national tests will set national standards.

She begins her column by pointing out that, ''A consultant who sits on the President's committee overseeing the proposed national mathematics exam had written an essay, and in this essay, he explained his views of education.'' It turns out this consultant is not alone. His views are shared by apparently hundreds of mathematics teachers across America, because the test that he advocates he is also helping write for an association of math teachers across America. He is also a consultant to the education department of the State of Connecticut. His name is Stephen Leinwand. I do not know that that matters.

But what he wrote in the essay, according to Ms. Cheney, was that it is downright dangerous to teach students things like 6 times 7 is 42.

□ 2245

''Put down the 2 and carry the 4.'' It is dangerous, he wrote in this essay, to teach children basic mathematical computational skills. Indeed, he goes on to articulate in this article that he does not think we should teach children any calculation skills that involve whole number computation. We have to say, why? Are we missing something here?

The answer is straightforward. He writes if we teach children that 6 times 7 is 42, we will be, and I quote, ''anointing the few'', who master this skill, who learn that 6 times 7 is 42, and learn the rest of the multiplication tables or the division tables. He says we will be anointing the few who master these skills, and I quote, ''casting out the many.''

The bottom line in his view of the world is that we should not teach addition, subtraction, multiplication and division to the students in America, and since we should not teach it, he believes fervently and he advocates we should not test it. We should not teach and we should not test basic mathematical skills to our children in schools in America today because we will be sorting people out. That is, we will be anointing the few and rewarding those who get the answer right, and we will be casting out the many who fail.

Well, I happen to disagree with his numbers right there because I think children in America, the vast majority, do learn the multiplication tables and addition, subtraction, and division, and so we are not anointing the few and casting out many, but we are learning to teach children that there are skills that they will need in their life.

Mr. Leinwand goes on in his essay and explains why the committee on which he sits, a committee which is helping to write the proposed national test, recommends a national math exam that would avoid directly assessing certain knowledge and skills such as whole number computation, and that is a quote.

So, he is anxious to test America and to have a national math test. He is on the President's committee to write this math test, but the test should not test basic knowledge and skills such as whole number computation, that is addition, subtraction, multiplication and division, because we will make children, to put it simply, feel bad. Mr. Leinwand thinks that is a bad idea.

The school that Mr. Leinwand comes from is a whole math school or a new math school. There are other articles that talk about it. Lynne Cheney wrote in the Weekly Standard of August 4 in which she talks about the entire school in America of math teachers who believe that we must throw out computational skills and teach whole math and what is also called in different lingo, ''fuzzy math'' or ''new math.''

Some may believe that new math is the greatest thing in the world and may want their child taught that, but

what I want to point out in discussing this issue is that the potential disaster here is a national one if we set a national test that all children must learn and pass.

If the education establishment in Washington, DC, captures this idea, if the President succeeds in convincing Americans that, by gosh, if we care about our kids we must have a national test, and we write one test and it is fatally flawed because it tests not addition, multiplication, subtraction or division but tests only the newest fad in math, fuzzy math or new math, we will be forever condemning at least a generation of America's children to not learning the basic skills they need.

Mr. Leinwand defends his stand saying, Listen, it is more important that kids be able to think their way through problems. I agree. I think kids ought to be able to think through problems. And he defends his position by saying everybody in America uses a calculator and they ought to be able to bring a calculator to school, do the calculations themselves.

Mr. Speaker, that is a great idea, but I have had the experience of picking up a calculator and using it and looking at the answer and saying wait a minute, that answer is wrong. Sometimes the electronic devices that we rely upon go bad. Somebody spills their glass of water or something on the calculator and the answer we get is wrong. If students were never taught in school addition, subtraction, multiplication and division, then how are they going to have a gut feeling for what is right or wrong?

That concern was expressed by a fellow Arizonian. Marianne Moody Jennings is a woman whom I admire in Arizona. I have never had the pleasure of meeting her, but she became interested in this issue as well. She wrote a column called ''MTV Math Does Not Add Up.'' She is, herself, a professor at Arizona State University. She is the director of the Lincoln Center for Applied Ethics at Arizona State University. Here is her experience with this issue.

She has young children like I do. She said one evening she came home and her blood began to boil because she witnessed her daughter, who I am sure she was a grade school student, I do not know, was at home doing her math home work and she was using a calculator to compute 10 percent of 470.

Think of it. Do we need a generation of Americans, do we need to decide in this Nation that basic math skills are so unimportant that for a task as 10 percent of 470 they need a calculator? And if we do, who at some point in the history of this world will know whether the calculators are right or wrong?

Ms. Jennings became supremely upset about this and began to teach her daughter that she should learn those math skills herself and that the calculation of 10 percent of 470 should be one that she could do in her head in a nanosecond.

Mr. SOUDER. Mr. Speaker, if the gentleman would yield, one of the things that we begin to see in supermarkets are the calculators on the carts. As a practical matter, as somebody who has a business degree as opposed to a law degree, one of the great tactics is to change the size of the box so the new larger style actually has a bigger box but sometimes less in it.

If shoppers cannot do basic math on their feet, they are ripe to be taken advantage of in every supermarket aisle, in every toy department, in every department store. And I say this as somebody who has been and my family have always been retailers, but if people cannot do basic math, they are not going to be able to figure out what is the best buy.

Mr. SHADEGG. Mr. Speaker, reclaiming my time, that is exactly right. Our children in America need these basic skills and they are vitally important. If we say to them, as this national math association proposes to say, and they already by the way have on their tests, those written by I think the National Association of Math Teachers, they have already decreased rather dramatically the amount that current tests used in schools across America test basic skills. But if we adopt a national test, an examination that does not test any or tests almost no basic skills, does not ask eighth graders if they can, without a calculator, add, subtract, divide, multiply basic calculations, we are condemning them to precisely what the gentleman points out. We are condemning an entire Nation to be taken advantage of.

More importantly, we are putting ourselves at a huge disadvantage. But I want to make the point that this is not a debate about Bill Clinton and his test proposal. It is not a debate about Steven Leinwand. It is not a debate about whether we like or do not like the Federal Department of Education. It is not a debate about whether we like or do not like new math or whole English. That is not the issue.

The issue here is a more fundamental one and it is nothing less than, to use a government term, Federalism. But Federalism is nothing more than the expression of belief in individuals to address and solve their own problems.

What really is applied here is the proposition that the parents and the teachers and the administrators at the school down the street from my house, at Lookout Mountain Elementary where my son Stephen goes, or Thunderbird High where my daughter Courtney goes, that those parents and those teachers and those students and those administrators can do a better job of figuring out education at that school. And certainly the Arizona Department of Education, which gets somewhat involved in these issues, can do a better job of listening to the people of the Arizona and they can make those decisions for themselves.

But I mention the word ''Federalism.'' I am not just against national standards because I do not like the Department of Education and I do like the people at my children's schools. I am not just against it because I do not trust Bill Clinton and I do trust the principal at Courtney's school and Stephen's schools. I am against it for a bigger reason and that is the whole notion of Federalism.

It was a part of the genius of this Nation. It was if we had a Nation that was one Nation but made up of 50 different States as we have now come to be, and if we said that basic national policies, national defense, foreign trade, and trade between the States could be regulated by Congress and the Federal Government, but if we left the other decisions, for example decisions about the education of our children, to those 50 different States and to the little communities and localities within those States, the school board association in my neighborhood, then if one of those schools had a great idea, they could pursue that idea and maybe do a great job and it would be picked up in some other State. Or if one a bad idea, and I suggest Mr. Leinwand's idea in my view is a bad idea, and if the State of Connecticut wants to pay him to teach and write a test that does not test the eighth graders in Connecticut basic math skills, so be it. Maybe in 10 years, the Connecticut schools and the schoolchildren will be way ahead of the Arizona schools and schoolchildren on math. Maybe Mr. Leinwand is right; I suggest he is wrong.

But think of it this way. If he is right, Arizona can choose to follow him. If he is wrong, and only Connecticut pursues his radical ideas, then only the children this Connecticut suffer. But if we embrace Bill Clinton's idea, and let us assume it was well-intended, let us assume that my colleagues who were here for the last hour who implored us to adopt a national standard because they think that will help kids, if we follow their lead and if Mr. Leinwand or his colleagues write a national math test which pursues whole math or new math or new new math, the catastrophe to education is not confined to Connecticut; it will spread across America because that national test will set a national standard.

The national test and the national standard will be picked up by the textbooks across America and it will not matter if States voluntarily participate or if the people in Arizona choose not to participate voluntarily, opt out, because the only textbooks they will be able to get will be textbooks that teach that national standard. And that one-size-fits-all national standard which does not teach math computational skills as Mr. Leinwand wants it not to teach it and not to test it, and remember he is not only on the President's committee, but he is also on this National Association of Math Teachers committee which as an association has disavowed teaching basic math skills, we will have a disaster.

The literature here is pretty clear. California has already pursued whole math and it has turned out to be, in

the view of many teachers and parents in California, a disaster. And they have now tried to seize it back, and in many schools, school district by school district they are throwing out the new new math or the whole math and putting back in the basic math.

As a matter of fact in one school district they have forbidden calculators in grades one through three because they want kids to learn the basic skills. But if we pursue a national standard. If the President wins this debate which will occur between the House and the Senate in the conference committee in the next few weeks, we do not have a problem in just Connecticut or just California, we will have a nationwide disaster.

I want to point this out, because this issue is going to go to a conference committee. The Senate has adopted one position on this issue, the House has another position, and the President a third.

The President's position is we should have a national standard written by the Federal Department of Education, a national test written by the Federal Department of Education and if there is a new fad in the Federal Department of Education by the bureaucrats and the ''educrats'' in there, that is fine. Put that fad in the test and we can change that later. It will be hard to change a single Federal standard.

The Senate has taken a middle ground. The Senate's position is let us go ahead and have a national test, but let us pick an independent body to write that national test, that one-size-fits-all national test.

□ 2300

Mr. SOUDER. It is important to note for the record that the independent body is picked two-thirds by the President of the United States.

Mr. SHADEGG. That is scary in and of itself. One of the proposals by the Senate was to give this test writing responsibility to an organization called the National Assessment Governing Board. The idea behind the Senate proposal is we will take it out of the Federal Department of Education, where trends in pop math or popular teaching and writing in the education field is most fervent, and we will put it in a more objective group that is not quite as subject to these trends or fads in education. And the problem with that, Ms. Cheney writes about it in this second article entitled ''Yes to High Standards, No to National Tests,'' a position paper written by Lynne Cheney, senior fellow, American Enterprise Institute, she says the problem with the Senate position is one of naivete; is it assumes that the Federal Department of Education is the only one subject to these national fads in education and that if we just take it away from them and give it to this new organization, the National Assessment Governing Board, that they will protect these national one-size-fits-all tests from fads and trends.

Mr. SOUDER. Mr. Speaker, if the gentleman will continue to yield, the gentleman is being very kind. Mrs. Cheney was being very kind as well. The fact is it was a sham compromise to try to get themselves out of a pickle because the nominees, the overwhelming majority of those nominees would be picked by the President, recommended by the Department of Education, so in fact it is the same body. It looks different but if it walks like a duck, talks like a duck and swims like a duck, it is a duck.

Mr. SHADEGG. Is the gentleman suggesting that this might have been just a political charade so it was not publicly vested in the Federal Department of Education, but the reality is that it would be the exact same?

Mr. SOUDER. I was certainly suggesting that the only difference was that there might be a third minority on the one and the other would be all Clinton appointees.

Mr. SHADEGG. For a moment, Mr. Speaker, it seems to me the House position is the right position. The House position, the idea of a one-size-fits-all national test is a bad one, and it is not bad because of who writes it. It is bad because of the implications of a single test. Letting parents, teachers, school advocates in my home State write our test I think is the right way to go.

There are already many quote unquote national tests. The Iowa Basic Skills Test was given to my school all the time I was growing up. I think they are still given there now. I would be interested in hearing from the gentleman what is given in Indiana. But it is not as though we cannot compare performance from school to school or State to State.

And indeed, if we want a non-Federal, that is a nongovernment written test that people could voluntarily choose to give to their children, that might have some value. But the problem in this debate and the concern I have is that we are going to surrender, in the spirit of doing good for our children, we are going to surrender the notion that that means we need a single national test.

I heard my colleagues on the other side of the aisle tonight say, you cannot care about kids, you cannot support public education, you cannot believe in the process if you do not support national tests. They are wrong. I think every American in their gut that thinks about it knows that they are wrong. We cannot turn education in America over to the latest fad, as embodied either in the Department of Education or in a sham independent group.

That is why I was compelled to come to the floor tonight and talk about this issue, so that the people back home in my district who are just kind of casually thinking about the idea of national standards would think it through one more step and recognize that a national test sets a national standard, and if that national standard is written in Washington, DC, many thousands of miles from my home in Phoenix, AZ, and at least 1,000 miles from your home in Indiana, I think they will recognize they would rather have input at the local level.

Mr. SOUDER. Mr. Speaker, if the gentleman will continue to yield, I would like to reinforce the gentleman's remarks. I may be even more scared than you because Indiana is only 600 miles away from Washington; therefore, we are even more vulnerable than the people in Arizona.

One of the things that is unusual about this Congress is that we are actually having a discussion about the role of federalism and the role of States and the Federal Government. It has been something that we have been pushing. We are at a critical point here on national testing. As an American history buff, I have gone back and forth and wondered at the time of the founding of our country, would I have been more of an anti-Federalist or a Federalist? Where would I have been on the Articles of Confederation? Would I be like Fisher Ames from New England, who was very skeptical of the Constitution and worried that it was giving up States' rights, or Patrick Henry, another hero of mine, ''Give me liberty or give me death,'' when he heard about the Articles of Confederation moving into the Constitution? He said, ''I smell a rat.'' He was worried that the Constitution was going to be abused the way it is being abused today.

I on the other hand, as a business major and a business person, I want to reiterate one other thing that the gentleman from Arizona said. I attended public elementary school, junior high and high school. My wife did the same. All three of my children have done the same. We Republicans care deeply about public education. That is why we are so concerned about these national tests. As we get into this debate, and as a business major and a businessman, I have deep concerns about the quality of education graduates.

A book that had a big impact on me was ''Cultural Literacy'' by Hirsch, and in that book he suggests that we are in danger in America of a vulcanization, the root word that comes over what we are seeing in Bosnia and Croatia right now, that is, overlapping groups of people who cannot communicate with each other. We are in danger of that in America.

We need some commonality of language, some commonality of history. We need high school graduates who can read and write and do basic math. We need people who have the skills with which to come into industry. We are already near the point where private industry has as many teachers as the public schools, because they are so upset about the quality of education. It is not hard to understand what is driving the desire for standards among businessmen and among many people in this country. We need to have standards.

The question is, whose standards? Even though I, as somebody who has certain tendencies, the gentleman from

Arizona and I, who are good friends, often will debate what is the proper role of the Federal Government and State governments. And at times I tend to be a little more proactive in the area of the Federal Government than the gentleman from Arizona. We have had some interesting evenings debating this. But nobody who understands the founding of our Republic and who understands the evolution of our Republic believes that education was intended to be a Federal role.

One of the things that we need to understand up here is to understand why our Founding Fathers were concerned about certain matters falling into the hands of the Federal Government. We have heard the appalling cases that the gentleman from Arizona brought out in math. You would think that math would be relatively noncontroversial. We already saw what happened with history standards.

Mr. SHADEGG. Reclaiming my time, Mr. Speaker, for just one moment, we really did get into this debate because there was an earlier debate where the advocates of national tests said, we will just do national tests. They never pointed out there are subjective areas where what you teach can vary rather dramatically. If you teach American history, you can have one view of it or another, and they can be radically different.

So the President and others responded and said, we will not do subject areas like social studies or history. We will do the black and white, there is a right answer, there is a wrong answer, like math and science. And on the floor of the House here, in his State of the Union, the President proposed only to test math and science.

I think the gentleman from Indiana is about to point out some of the outrageous things that are going on in the other areas. I just want to point out, even when you go to so-called objective subject areas like math and science, you discover that there are these radical trends which say two plus two is not four or you should not teach kids 6 times 7 is 42. And even what we think of as objective in the crazy world of the education bureaucracy has become itself subjective.

Mr. SOUDER. Mr. Speaker, what the gentleman has pointed out is absolutely correct. You have devastated our hardest argument to make, which is that math even is politicized in this day and age, and can be ineffective if consolidated with power in the hands of the wrong people.

I want to hasten to point out, for those who say, but if the Federal Government makes a mistake, they can change it, this national testing is moving forward. Inside the Department of Education, as they prepared the tests without any authorization from Congress, without any appropriations from Congress, in fact with over two-thirds of this House of Representatives going on record against national testing, it still is moving forward. If they passed a bad test and we wanted to try to amend that test, even in most cases, if we could get two-thirds in the House to override, the Senate would block us and certainly the President would veto it and we would have a filibuster in the Senate.

In other words, once it is bad, it will probably not get corrected.

Now, the problem here is that there is a history, so to speak, with this. Lynne Cheney, who we have quoted a number of times tonight, actually was in the humanities art department of the Federal Government and now admits that she made the mistake of granting the first funds for the history exams. She says, ''I was wrong.'' She watched the bias that crept into the history. She has written also how every category in our universities, and do we want to spread this to our high schools, has become politicized.

College Art Association conference warning faculty members not to teach women artists such as Mary Cassatt, who has beautiful oil paintings over in our national art museums, because they frequently painted women and children and thus reinforced patriarchal thought. At the University of Wisconsin, a professor from the University of Wisconsin writing in the Harvard Educational Review, the most prestigious university in our country, at least arguably, urges her fellow professors to be open about their intention to appropriate public resources, classrooms, school supplies, teacher-professor salaries, academic requirements and degrees to further, quote, progressive agendas. Curriculum and instruction 607, in which students learn how to conduct political demonstrations and then conduct these political demonstrations in the library, mall and administrative offices of the university; for these efforts, students receive three hours credit.

In a recent issue of College English, a publication of the National Council of Teachers of English, a professor from California advises university teachers to vary the political strategy they use in the classroom to suit the institution. For example, he says, in his middle class university he tries to show how the United States offers freedom of choice and a chance to get ahead and then challenges their belief in that. Then he shows them in his English class the odds against their attaining room at the top, the way their education has channeled them towards a mid-level professional and social slot and conditioned them into authoritarian conformity in English class.

Then we have the Smithsonian museum in the United States which has been under attack for how they present the American West. They have been under attack for how they tried to rewrite the Japanese American section of World War II and had to have Congress intervene. They said, in an exhibition called Etiquette of the Underclass, they wrote, ''Upward mobility,'' announced materials accompanying the exhibition, ''is one of our most cherished myths.''

Now, what we are seeing is the National Council of English, we are seeing the Harvard Education Review, the College Art Association, we are seeing the Smithsonian institution, all politicizing major statements in the United States.

My concern spreads past this. I read earlier this evening, and I wanted to go through this again, at Casa Roble High School into Sacramento, California, this was a values appraisal scale in a career study in a technology class. This was given to a student. It was given to me last Thursday. It is not something that was done 10 years ago. It was done August 29, 1997. It was not something that is far out. It has been done now, we found it in five States. It appears to be possibly the National Education Association that is circulating this. It is incredibly intrusive.

On the one hand these questions can be innocuous and you can see how they might be valuable to a guidance counselor. On the other hand, think of the dangers of an all-powerful Federal Government getting this kind of information on our children.

Mr. SHADEGG. I just want to clarify, you are going to read to us from a survey given to students at a public school, not a religious or private or sectarian school, and administered by the school asking these questions of public school students; is that right?

Mr. SOUDER. Mr. Speaker, in a technology class. The reason I want to point this out is this is what we do not want to have happen in a Federal test. If it happens in a Federal test, we will never get it changed. Question number one starts off, ''I have a regular physical checkup by my doctor every year.''

Mr. SHADEGG. These questions are put to the student who answers this?

Mr. SOUDER. Yes, and you can have a 10 for definitely true, 7 for mostly true, 5 for undecided, mostly false is a 3, definitely false is a zero.

Mr. SHADEGG. They would be revealing this information, answering these questions about themselves to be handed over to the school and for the school to use for whatever purpose they chose?

Mr. SOUDER. For technology class, and it is a career study. It is to help channel kids as to what they should do. Think of this explosive information. Is this what we want public authorities knowing about our families? And if you do not think this is one of the most intrusive things you have ever heard, then perhaps you are on a different planet than I am.

Number two, ''I will regularly take my children to church services.'' So they are asking these children in high school to anticipate whether they are going to take their children to church services. ''I have a close relationship with either my mother or my father.'' You will see patterns to a number of questions I am reading. Half of them are family intrusive and half of them

are religious intrusive. ''I have taught Sunday school class or otherwise taken an active part in my church,'' if that is any business of the school.

□ 2315

Number 24, I believe in a God who answers prayers. I believe that tithing, giving one-tenth of one's earnings to the church, is one's duty to God. Number 41, I pray to God about my problems. Number 43, I like to spend holidays with my family. Number 53, it is important that grace be said before meals. Number 59, I care what my parents think about the things I do. Number 63, I believe there is life after death. Number 72, I read the bible and other religious writings regularly. Number 78, I love my parents. Number 82, I believe that God created man in his own image. Number 91, if I ask God for forgiveness, my sins are forgiven. Number 95, I respect my father and mother.

EDUCATION

The SPEAKER pro tempore (Mr. REDMOND). Under a previous order of the House, the gentleman from Indiana [Mr. SOUDER] is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, I want to finish this point, because in my kids' own high school in Indiana, a survey was passed out in class through the high school yearbook that led me to get upset in my first term, and we passed some legislation here, but it concerned questions asked about anal sex, among other things, and it was one of the most offensive surveys I have ever read, even worse than this, even though this is probing even deeper into religious beliefs. But in Indiana the school board responded. They changed the rules of the school and they took back the test.

The parent of the child who was in this class is taking it up with her school board and it can have an impact. When something happens in our local schools, we can try to do something about it and try to affect change. But when something happens in Washington, we are virtually powerless to change that. I say that as a United States Congressman. We are virtually powerless. It is very frustrating.

And if we let Washington take over the national testing, it is a frightening scenario ahead.

Mr. SHADEGG. If the gentleman will yield, I just want to conclude what we talked about the last hour. I applaud the gentleman for going into those other areas and pointing out that it is not just the one example that I chose of math, which is what the President is proposing, math and science, but indeed in other areas it goes into far more subjective subjects, far more invasive and intrusive questions, but importantly, as the gentleman pointed out, those invasions, those abuses, those trends occur at the States level where we have a chance to deal with them.

I just want to conclude this hour, or the hour and now 5 minutes we picked up, by saying I hope that our colleagues listening realize that it is not that we do not care about the education of our children. I know the gentleman has young children both in high school, grade school and in college, I guess, and I have mentioned earlier in the hour I have young children. I care very much about their education. And as I said, I resent it when the other side says Republicans do not care about education or Republicans do not care about public education. I care deeply about public education. And as I said, I went all the way through public education myself and both my children are in public education.

I hope that those listening understand that we can deeply believe in education, we can deeply believe in public education, and we can be very concerned and very, very much opposed to national testing, a sound-good motherhood and apple pie idea, because of the dangerous consequences.

What the gentleman said is exactly right. If we have tests written in Fort Wayne, Indiana, or in Phoenix, Arizona, or wherever it might be, we can deal with the problems that might creep into those. But if they are written in Washington, D.C., in a mindless bureaucracy which is hard to penetrate and where, quite frankly, only the views of the most deeply imbedded, entrenched educational bureaucracy are heard, I think we will lose control of our kids' education.

I do want to point out that this is a critical issue; that it is in a conference report. There are members in the United States Senate mentioned in Lynne Cheney's article who are fighting against the Senate position on this issue, who agree with us that as good sounding as national testing is, it is, in fact, bad for education in America. And I would urge our colleagues to talk with their friends on the other side and try to get them to accede to the House position on this issue and let us study this issue further and make sure we do not write a national test.

I also want to point out that having read Lynne Cheney's column, which mentioned Steven Leinwand, I wanted to find his actual article. I have the actual article and it does in fact say it is time to acknowledge that continuing to teach pencil and paper computational algorithms to our students is not only unnecessary but counterproductive and dangerous.

He goes on to say that learning long division and its computational cousins, meaning subtraction and multiplication, is an obsolete notion.

These are rather shocking notions that are written here. I also wanted to point out that several times in my remarks I talked about mathematics association with which Mr. Leinwand is associated and it is called the National Council of Teachers of Mathematics, and they have already written a national assessment which has reduced the math portion of the exam where we do computational skills by 20 percent already.

These are not us talking about crazy ideas that some individual extreme person has. These are trendy ideas that are catching on across America and could be dangerous if they in fact take hold and are embodied into a single national test.

Mr. SOUDER. Reclaiming my time, Mr. Speaker, I want to thank the gentleman from Arizona for bringing the attention of this country to the math standards.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SCHIFF (at the request of Mr. ARMEY) for today through October 24, on account of medical reasons.

Mr. POMBO (at the request of Mr. ARMEY) for today, on account of personal reasons.

Mr. GREENWOOD (at the request of Mr. ARMEY) for today, on account of waiting in hospital with his family while his father has triple bypass surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FALEOMAVAEGA) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mrs. MINK, for 5 minutes, today.

(The following Members (at the request of Mr. CANNON) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes each day, on October 7, 8, and 9.

Mr. BILBRAY, for 5 minutes, on October 8.

Mr. JONES, for 5 minutes, on October 7.

Mr. HULSHOF, for 5 minutes, on October 7.

Mr. SMITH of Michigan, for 5 minutes each day, on October 7, 8, and 9.

Mr. HUNTER, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FALEOMAVAEGA) and to include extraneous matter:)

Mr. POSHARD.

Mr. VISCLOSKY.

Mr. SHERMAN.

Mr. KIND.

Mr. LEVIN.

Mrs. MALONEY of New York.
Mr. SCHUMER.
Mr. RAHALL.
Mr. KLECZKA.

(The following Members (at the request of Mr. CANNON) and to include extraneous matter:)

Mr. ROGAN
Mr. BEREUTER.
Mr. STUMP.
Mr. KING.

(The following Members (at the request of Mr. SHADEGG) and to include extraneous matter:)

Mr. CLYBURN.
Mr. BILIRAKIS.
Mr. BLUNT.
Mr. SABO.
Mr. GOODLING.
Mr. ETHERIDGE.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2378. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

October 2, 1997:

H.R. 1948. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 394. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan.

ADJOURNMENT

Mr. SHADEGG. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 21 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, October 7, 1997, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5359. A letter from the Acting Comptroller General, the General Accounting Office, transmitting an updated compilation of historical information and statistics regarding rescissions proposed by the executive branch and rescissions enacted by the Congress through the close of fiscal year 1996; (H. Doc. No. 105–143); to the Committee on Appropriations and ordered to be printed.

5360. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Missouri [MO 027–1027; FRL–5891–2] received October 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5361. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Code of Federal Regulations; Authority Citations [Docket No. 97N–0365] received October 1, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5362. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Natural Rubber-Containing Medical Devices; User Labeling [Docket No. 96N–0119] received October 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5363. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Lost Securityholders [Release No. 34–39176; File No. S7–21–96] (RIN: 3235–AG99) received October 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5364. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services (Transmittal No. 98–10), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5365. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the Czech Republic (Transmittal No. DTC–49–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5366. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Israel (Transmittal No. DTC–74–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5367. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the United Kingdom (Transmittal No. DTC–99–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5368. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the United Kingdom (Transmittal No. DTC–100–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5369. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Canada (Transmittal No. DTC–105–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5370. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the Republic of Korea (Transmittal No. DTC–95–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5371. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Spain (Transmittal No. DTC–77–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5372. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Japan (Transmittal No. DTC–87–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5373. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

5374. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting the report on the verifiability of the Comprehensive Nuclear Test Ban Treaty, pursuant to 22 U.S.C. 2577(a); to the Committee on International Relations.

5375. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–127, ''CFO Membership on the Health and Hospitals Public Benefit Corporation Board, Council Review of Board Promulgations, and Approval of Organizational and Operational Plan Amendment Act of 1997'' received October 3, 1997, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

5376. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled ''Audit of the District of Columbia's Crime Victims Compensation Program for the Period October 1, 1993 through February 28, 1997,'' pursuant to D.C. Code section 47–117(d); to the Committee on Government Reform and Oversight.

5377. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's strategic plan for fiscal years 1997 through 2002, pursuant to Public Law 103–62; to the Committee on Government Reform and Oversight.

5378. A letter from the Chairman, Occupational Safety and Health Review Commission, transmitting the Commission's strategic plan for fiscal years 1997 through 2002, pursuant to Public Law 103–62; to the Committee on Government Reform and Oversight.

5379. A letter from the Acting Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting the Department's final rule—Department of the Interior Acquisition Regulation; Regulatory Streamlining (RIN: 1090–AA65) received October 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5380. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Adjustments [I.D. 092697C] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5381. A letter from the Assistant Secretary and Commissioner of Patents and Trademarks, Department of Commerce, transmitting the Department's final rule—Changes to Patent Practice and Procedure [Docket No. 960606163–7130–02] (RIN: 0651–AA80) received October 1, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5382. A letter from the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on the storm damage reduction and shoreline protection project for Rehoboth Beach and

Dewey Beach, Delaware, pursuant to section 101(b)(6) of the Water Resources Development Act of 1996 (H. Doc. No. 105—144); to the Committee on Transportation and Infrastructure and ordered to be printed.

5383. A letter from the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on the project for river bank erosion control and bluff stabilization at Norco Bluffs, Riverside County, California, pursuant to section 101(b)(4) of the Water Resources Development Act of 1996; (H. Doc. No. 105–145); to the Committee on Transportation and Infrastructure and ordered to be printed.

5384. A letter from the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on the storm damage reduction project for Long Beach Island, Nassau County, New York, pursuant to section 101(a)(21) of the Water Resources Development Act of 1996; (H. Doc. No. 105–146); to the Committee on Transportation and Infrastructure and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEWIS of California: Committee of Conference. Conference report on H.R. 2158. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–297). Ordered to be printed.

Mr. Taylor of North Carolina Committee on Appropriations. H.R. 2607. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–298). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 258. Resolution providing for consideration of the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact (Rept. 105–299). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 708. A bill to require the Secretary of the Interior to conduct a study concerning grazing use of certain land within and adjacent to Grand Teton National Park, WY and to extend temporarily certain grazing privileges; with an amendment (Rept. 105–300). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1805. A bill to amend the Auburn Indian Restoration Act to establish restrictions related to gaming on and use of land held in trust for the United Auburn Indian Community of the Auburn Rancheria of California, and for other purposes (Rept. 105–301). Referred to the Committee of the Whole House on the State of the Union.

Mr. LIVINGSTON: Committee on Appropriations. Revised subdivision of budget totals for fiscal year 1998 (Rept. 105–302). Referred to the Committee of the Whole House on the State of the Union.

Mr. GILMAN: Committee on International Relations. H.R. 2232. A bill to provide for increased international broadcasting activities to China; with an amendment (Rept. 105–303). Referred to the Committee of the Whole House on the State of the Union.

Mr. GILMAN: Committee on International Relations. House Resolution 188. Resolution urging the executive branch to take action regarding the acquisition by Iran of C–802 cruise missiles (Rept. 105–304). Referred to the House Calendar.

Mr. GILMAN: Committee on International Relations. H.R. 2358. A bill to provide for improved monitoring of human rights violations in the People's Republic of China; with amendments (Rept. 105–305). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2469. A bill to amend the Federal Food, Drug, and Cosmetic Act and other statutes to provide for improvements in the regulation of food ingredients, nutrient content claims, and health claims, and for other purposes; with amendments (Rept. 105–306). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 1710. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, clearance, and use of devices to maintain and improve the public health and quality of life of the citizens of the United States; with an amendment (Rept. 105–307). Referred to the Committee of the Whole House on the State of the Union.

Mr. GILMAN: Committee on International Relations. H.R. 2386. A bill to implement the provisions of the Taiwan Relations Act concerning the stability and security of Taiwan and United States cooperation with Taiwan on the development and acquisition of defensive military articles; with an amendment (Rept. 105–308 Pt. 1).

Mr. GILMAN: Committee on International Relations. H.R. 967. A bill to prohibit the use of United States funds to provide for the participation of certain Chinese officials in international conferences, programs, and activities and to provide that certain Chinese officials shall be ineligible to receive visas and excluded from admission to the United States; with amendments (Rept. 105–309 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on International Relations discharged from further consideration. H.R. 3121 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 5 of rule X the Committee on National Security discharged from further consideration. H.R. 2386 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 967. Referral to the Committee on the Judiciary extended for a period ending not later than October 7, 1997.

H.R. 2386. Referral to the Committee on National Security extended for a period ending not later than October 6, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TAYLOR of North Carolina:

H.R. 2607. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

By Mr. BOB SCHAFFER (for himself, Mr. NEY, Mr. HOSTETTLER, Mr. ARMEY, Mr. BACHUS, Mr. BAKER, Mr. BALLENGER, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BASS, Mr. BATEMAN, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BLILEY, Mr. BOEHNER, Mr. BONILLA, Mr. BONO, Mr. BRADY, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CAMPBELL, Mr. CANADY of Florida, Mr. CANNON, Mr. CHABOT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. COBLE, Mr. COBURN, Mr. COLLINS, Mr. COMBEST, Mr. COOK, Mr. COOKSEY, Mr. COX of California, Mr. CRANE, Mr. CRAPO, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DELAY, Mr. DICKEY, Mr. DOOLITTLE, Mr. DREIER, Mr. DUNCAN, Ms. DUNN of Washington, Mr. EHRLICH, Mr. ENSIGN, Mr. EVERETT, Mr. FAWELL, Mr. FOLEY, Mrs. FOWLER, Mr. FOX of Pennsylvania, Mr. GANSKE, Mr. GEKAS, Mr. GIBBONS, Mr. GILCHREST, Mr. GILLMOR, Mr. GINGRICH, Mr. GOODLATTE, Mr. GOSS, Mr. GRAHAM, Mr. GREENWOOD, Mr. GUTKNECHT, Mr. HANSEN, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HILL, Mr. HILLEARY, Mr. HOEKSTRA, Mr. HULSHOF, Mr. HUTCHINSON, Mr. HUNTER, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. SAM JOHNSON, Mr. JONES, Mr. KASICH, Mr. KINGSTON, Mr. KLUG Mr. KNOLLENBERG, Mr. KOLBE, Mr. LARGENT, Mr. LATHAM, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIVINGSTON, Mr. MANZULLO, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCINNIS, Mr. MCINTOSH, Mr. MCKEON, Mr. MICA, Mr. MILLER of Florida, Mrs. MYRICK, Mr. NETHERCUTT, Mr. NEUMANN, Mrs. NORTHUP, Mr. NORWOOD, Mr. NUSSLE, Mr. PACKARD, Mr. PARKER, Mr. PAXON, Mr. PETERSON of Pennsylvania, Mr. PICKERING, Mr. PITTS, Mr. POMBO, Mr. PORTER, Ms. PRYCE of Ohio, Mr. RADANOVICH, Mr. RAMSTAD, Mr. REDMOND, Mr. RILEY, Mr. ROGAN, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROYCE, Mr. SALMON, Mr. SCARBOROUGH, Mr. DAN SCHAEFER of Colorado, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SKEEN, Mr. SMITH of Michigan, Mr. SMITH of Texas, Mrs. LINDA SMITH of Washington, Mr. SMITH of Oregon, Mr. SNOWBARGER, Mr. SOUDER, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. SUNUNU, Mr. TALENT, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Mr. THUNE, Mr. TIAHRT, Mr. UPTON, Mr. WALSH, Mr. WAMP, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, Mr. WHITFIELD, Mr. WICKER, and Mr. YOUNG of Florida):

H.R. 2608. A bill to protect individuals from having money involuntarily collected and used for political activities by a corporation or labor organization; to the Committee on House Oversight.

By Mr. MILLER of Florida (for himself, Mr. CONDIT, Mr. POMBO, Mr. THOMAS, Mr. CANADY of Florida, Mr. BISHOP, and Mrs. THURMAN):

H.R. 2609. A bill to make a regulatory correction concerning methyl bromide to meet the obligations of the Montreal Protocol without placing the farmers of the United States at a competitive disadvantage versus foreign growers; to the Committee on Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTERT:

H.R. 2610. A bill to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 1999, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes; to the Committee on Government Reform and Oversight.

By Mrs. CHENOWETH (for herself and Mr. TRAFICANT):

H.R. 2611. A bill to amend title 11, United States Code, to declare that donations to a religious group or entity, made by a debtor from a sense of religious obligation, such as tithes, shall be considered to have been made in exchange for a reasonably equivalent value; to the Committee on the Judiciary.

By Mr. EHLERS (for himself, Mr. COBLE, and Mr. HOEKSTRA):

H.R. 2612. A bill to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment; to the Committee on Commerce.

By Mr. ETHERIDGE:

H.R. 2613. A bill to amend the Internal Revenue Code of 1986 to permit the issuance of tax-exempt bonds by certain organizations providing rescue and emergency medical services; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 2614. A bill to improve the reading and literacy skills of children and families by improving in-service instructional practices for teachers who teach reading, to stimulate the development of more high-quality family literacy programs, to support extended learning-time opportunities for children, to ensure that children can read well and independently not later than third grade, and for other purposes; to the Committee on Education and the Workforce.

By Mr. JONES:

H.R. 2615. A bill to prohibit the Secretary of the Interior from permitting oil and gas leasing, exploration, or development activity off the coast of North Carolina unless the Governor of the State notifies the Secretary that the State does not object to the activity; to the Committee on Resources.

By Mr. RIGGS:

H.R. 2616. A bill to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools; to the Committee on Education and the Workforce.

By Mr. BRYANT (for himself and Mr. WICKER):

H.J. Res. 95. Joint resolution granting the consent of Congress to the Chickasaw Trail Economic Development Compact; to the Committee on the Judiciary.

By Mr. LIVINGSTON:

H. Con. Res. 167. Concurrent resolution to correct a technical error in the enrollment of H.R. 2160; which was considered and agreed to.

By Mr. BAESLER (for himself, Mr. BERRY, Mr. BOYD, Mr. CONDIT, Mr. CRAMER, Ms. DANNER, Mr. GOODE, Mr. HALL of Texas, Ms. HARMAN, Mr. JOHN, Mr. MCINTYRE, Mr. MINGE, Mr. PETERSON of Minnesota, Ms. SANCHEZ, Mr. SANDLIN, Mr. STENHOLM, Mr. TANNER, Mrs. TAUSCHER, and Mr. TAYLOR of Mississippi):

H. Res. 259. Resolution providing for consideration of the bill (H.R. 1366) amending the Federal Elections Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on Rules.

By Ms. WATERS (for herself, Mr. OBERSTAR, Mr. KLECZKA, Mr. GUTIERREZ, Mr. HINCHEY, Mr. NADLER, Mr. DICKEY, Mr. CLAY, Mr. LEWIS of Georgia, Mr. PAYNE, Mr. WYNN, Mr. TOWNS, Mr. CLYBURN, Mr. THOMPSON, Mrs. CLAYTON, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. SAWYER, Mr. MOLLOHAN, Mr. WAXMAN, Mr. DAVIS of Florida, Mr. FRANK of Massachusetts, Mr. WISE, Mr. FAZIO of California, Ms. KAPTUR, Mr. GORDON, Ms. PELOSI, Mr. BISHOP, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DEFAZIO, Ms. VELAZQUEZ, Mrs. MINK of Hawaii, Mr. KENNEDY of Rhode Island, Mr. MALONEY of Connecticut, Mr. WATT of North Carolina, Ms. FURSE, Ms. WOOLSEY, Mr. FORD, Mr. STRICKLAND, Mr. MENENDEZ, Mr. BOSWELL, Mr. REYES, Mr. BLAGOJEVICH, Mr. EVANS, Mr. POSHARD, Mr. GEJDENSON, Mr. ANDREWS, Mr. SCOTT, Ms. LOFGREN, Mr. KENNEDY of Massachusetts, Mr. HASTINGS of Florida, Mr. CUMMINGS, Ms. JACKSON-LEE, Ms. HARMAN, Ms. MCKINNEY, Mr. FARR of California, Mr. EDWARDS, Mr. BALDACCI, Mr. HALL of Ohio, Mr. POMEROY, Mr. HOYER, Mr. HEFNER, Mr. CONDIT, Mr. BOYD, Ms. SLAUGHTER, Ms. DANNER, and Ms. HOOLEY of Oregon):

H. Res. 260. Resolution condemning the Nigerian dictatorship for its abuse of United States Ambassador Walter Carrington; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CLEMENT:

H.R. 2617. A bill for the relief of Rosalba Colunga de Medina, Claudia Janet Alexandru Medina, and Jose Armando Medina, Jr.; to the Committee on the Judiciary.

By Ms. ROYBAL-ALLARD:

H.R. 2618. A bill for the relief of Sergio Lozano, Fauricio Lozano, and Ana Lozano; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 2619. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Fjording;* to the Committee on Transportation and Infrastructure.

H.R. 2620. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Pacific Monarch;* to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. WOLF, Mr. MICA, Ms. WOOLSEY, and Mr. HOLDEN.

H.R. 65: Ms. SANCHEZ.

H.R. 80: Mr. WELDON of Florida.

H.R. 123: Mr. EHLERS, Mr. HALL of Texas, Mr. HEFLEY, Mr. KINGSTON, Mr. MCCRERY, Mr. PARKER, Mr. SANFORD, Mr. HASTINGS of Washington, and Mr. WELDON of Pennsylvania.

H.R. 192: Mr. WELDON of Pennsylvania and Mr. EHRLICH.

H.R. 218: Mr. STEARNS, Mr. LEWIS of Kentucky, Mr. CALVERT, Mr. GORDON, Mr. POMBO, Mr. HILLEARY, and Mr. WELDON of Florida.

H.R. 300: Mr. GREENWOOD and Mr. KIND of Wisconsin.

H.R. 367: Mr. DICKEY and Mr. ENSIGN.

H.R. 383: Mrs. MORELLA.

H.R. 399: Mr. VISCLOSKY.

H.R. 414: Mr. EHRLICH.

H.R. 418: Mr. TAYLOR of North Carolina.

H.R. 453: Mr. GUTIERREZ, Mr. DIXON, Mr. CLYBURN, Mr. DAVIS of Illinois, and Mr. STOKES.

H.R. 563: Mr. BARCIA of Michigan and Mrs. MYRICK.

H.R. 600: Mr. SHERMAN.

H.R. 696: Ms. FURSE.

H.R. 768: Mr. EWING.

H.R. 836: Mr. SMITH of New Jersey.

H.R. 991: Ms. PELOSI, Ms. MCCARTHY of Missouri, Mr. POMEROY, Mr. BOYD, Ms. DELAURO, Mr. DOYLE, and Mr. PRICE of North Carolina.

H.R. 1072: Mr. GUTIERREZ and Mr. DAVIS of Illinois.

H.R. 1114: Mr. THOMPSON, Mr. ENSIGN, Mr. EDWARDS, Mr. PAPPAS, Mr. STOKES, Mr. BARR of Georgia, and Mr. BALLENGER.

H.R. 1126: Mr. TRAFICANT.

H.R. 1147: Mr. CRAPO and Mr. BARCIA of Michigan.

H.R. 1227: Mr. MILLER of Florida.

H.R. 1231: Mr. BLILEY.

H.R. 1285: Mr. BURTON of Indiana.

H.R. 1290: Mr. HAYWORTH.

H.R. 1387: Mr. SALMON.

H.R. 1411: Mr. BLILEY, Mr. INGLIS of South Carolina, and Mr. MCHALE.

H.R. 1425: Mr. OLVER and Mr. MORAN of Virginia.

H.R. 1455: Mr. FATTAH.

H.R. 1521: Mr. HERGER and Mr. HOBSON.

H.R. 1531: Mr. WEYGAND.

H.R. 1534. Mr. DOYLE, Mr. TAYLOR of North Carolina, and Mr. THUNE.

H.R. 1577. Mr. WELDON of Florida.

H.R. 1636. Mr. MARTINEZ.

H.R. 1712. Mr. PICKERING, Mr. PORTER, Mr. BLUNT, and Mr. FOLEY.

H.R. 1754. Mr. PETERSON of Minnesota, Mr. COOKSEY, and Mr. SMITH of New Jersey.

H.R. 2021. Ms. DUNN of Washington.

H.R. 2023. Ms. PELOSI, Mr. UNDERWOOD, Ms. WOOLSEY, Ms. KILPATRICK, and Mrs. MALONEY of New York.

H.R. 2053. Ms. KILPATRICK and Mrs. MALONEY of New York.

H.R. 2110. Mr. LANTOS.

H.R. 2118. Mr. THOMPSON.

H.R. 2183. Mr. TAYLOR of Mississippi, Mr. STENHOLM, Mr. SISISKY, Mr. STRICKLAND, Mr. BAESLER, Mrs. SANCHEZ, Mr. CONDIT, Mr. PETERSON of Minnesota, Mr. ETHERIDGE, Ms. CHRISTIAN-GREEN, and Mr. WAXMAN.

H.R. 2211. Ms. WOOLSEY and Mr. TORRES.

H.R. 2321. Mr. BOEHNER, Ms. DUNN of Washington, Mr. GRAHAM, Mrs. LOWEY, Mr. PARKER, Mr. PASTOR, and Mr. STUPAK.

H.R. 2327. Mr. GRAHAM, Mr. WALSH, Mr. SKELTON, Mr. EHLERS, Mr. BLUMENAUER, Mr. NUSSLE, and Mr. SCHIFF.

H.R. 2351. Mr. DEFAZIO and Mr. BLAGOJEVICH.

H.R. 2380. Mr. MORAN of Kansas.

H.R. 2424. Mr. ENSIGN, Mr. LUTHER, Mr. BARRETT of Wisconsin, and Mr. PETRI.

H.R. 2436: Mr. OWENS and Mr. ACKERMAN.

H.R. 2437: Mr. OWENS and Mr. ACKERMAN.

H.R. 2462: Mr. SHAYS, Mr. SHADEGG, Mr. MILLER of Florida, Mr. SMITH of Michigan, and Mrs. MYRICK.

H.R. 2469: Mr. BLILEY and Mr. MCHALE.

H.R. 2493: Mr. CANNON and Mr. PICKETT.

H.R. 2523: Mr. THOMPSON and Mr. KENNEDY of Rhode Island.

H.R. 2535: Mr. GOODLATTE and Mr. THUNE.

H.R. 2551: Mr. MCHUGH and Mr. METCALF.

H.R. 2554: Mr. HINCHEY and Ms. KILPATRICK.

H.R. 2563: Mr. ISTOOK, Mrs. THURMAN, Mrs. EMERSON, and Mr. CRAMER.

H.R. 2565: Mr. BATEMAN and Mrs. MYRICK.

H.R. 2584: Ms. WOOLSEY, Mr. DAVIS of Illinois, and Mr. GREEN.

H.R. 2586: Mr. SPRATT.

H.R. 2592: Mr. PARKER.

H.R. 2599: Mr. HINCHEY and Ms. KILPATRICK.

H. Con. Res. 55: Mr. ISTOOK, Mr. DIXON, and Mr. SHAYS.

H. Con. Res. 107: Ms. DELAURO, Mrs. MINK of Hawaii, Mr. HAMILTON, Mr. GEKAS, and Mrs. MALONEY of New York.

H. Con. Res. 112: Mr. LEVIN, Mr. CAPPS, and Mr. GUTIERREZ.

H. Con. Res. 148: Mr. PAPPAS, Mr. POSHARD, Mr. MCGOVERN, Mr. KENNEDY of Massachusetts, Mr. MANTON, Mr. FILNER, Mr. CAPPS, Mr. BROWN of Ohio, Mr. PALLONE, and Mr. TORRES.

H. Res. 235: Mr. LUTHER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HINOJOSA, Mr. TOWNS, Mr. LANTOS, Mr. REDMOND, Mr. FALEOMAVAEGA, and Mr. BROWN of Ohio.

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Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious Father, thank You that Your power is given in direct proportion to the pressures and perplexities we face. We are given great courage and confidence as we are reminded that You give more strength as our burdens increase, and You entrust us with more wisdom as problems test our endurance. We are cheered and comforted to know that You will never leave nor forsake us. Your love has no end, and Your patience has no breaking point.

Today we want to affirm what You have taught us: that You have called us to supernatural servanthood empowered by Your spiritual gifts of wisdom, knowledge, discernment, and vision. You lovingly press us beyond our dependence on erudition and experience alone. Thank You for giving us challenges that help to recover our humility and opportunities that force us to the knees of our hearts.

Help us, Lord, to move forward with our responsibilities by being attentive to You and obedient in following Your guidance. Give us that sure sense of Your presence and the sublime satisfaction of knowing and doing Your will. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will resume consideration of S. 25, the pending campaign finance reform bill. As announced last week, there will be no rollcall votes during today's session. Senators who desire to speak with regard to the pending amendment or bill are encouraged to do so during today's session. We should be able to get 5 hours or so of debate in today if the Senators are willing to speak.

I also remind my colleagues that a cloture vote is scheduled on the pending amendment regarding paycheck protection at 2:15 tomorrow. Also, under the provisions of rule XXII, Members have until the hour of 1:30 today in order to file timely amendments to S. 25. In addition to the cloture vote on the pending amendment, a cloture vote may occur on Tuesday on the underlying campaign finance reform bill.

On Friday, a cloture motion was also filed on the Mack-Graham amendment on immigration to the D.C. appropriations bill. So it may be necessary to have a cloture vote during Tuesday's session on that also if an agreement is not reached. The Senators are working together. I have spoken with them and I am still hopeful that an agreement can be worked out.

There are some other pending amendments on the D.C. appropriations bill, but we think maybe we will be able to reach a conclusion on those if we can get the immigration amendment by Senator MACK worked out. Therefore, it is possible that we could complete action on the D.C. appropriations bill tomorrow.

This week, the Senate will also be considering other available appropriations conference reports. I talked to the chairman, Senator STEVENS, on Friday. We think maybe there could be as many as three that would be ready in the next couple of days that we can bring up for consideration. We intend, also, to begin consideration of the ISTEA transportation infrastructure legislation, and we hope to be able to go to that on Wednesday or Thursday and spend the remainder of the week, except for interruptions for votes on the conference reports, on that.

I believe we will be in session on Friday and will probably have votes up until around noon. But we will get more information on that as the day progresses.

I yield the floor.

RESERVATION OF LEADER TIME

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

BIPARTISAN CAMPAIGN REFORM ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 25, which the clerk will report.

The assistant legislative clerk read as follows:

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

The Senate resumed consideration of the bill.

Pending:

Lott amendment No. 1258, to guarantee that contributions to Federal political campaigns are voluntary.

Lott amendment No. 1259 (to amendment No. 1258), in the nature of a substitute.

Lott amendment No. 1260 (to amendment No. 1258), to guarantee that contributions to Federal political campaigns are voluntary.

Lott amendment No 1261, in the nature of a substitute.

Lott amendment No. 1262 (to amendment No. 1261), to guarantee that contributions to Federal political campaigns are voluntary.

Motion to recommit the bill to the Committee on Rules and Administration with instructions to report back forthwith, with an amendment.

Lott amendment No. 1263 (to instructions of motion to recommit), to guarantee that contributions to Federal political campaigns are voluntary.

Lott amendment No. 1264 (to amendment No. 1263), in the nature of a substitute.

Lott amendment No. 1265 (to amendment No. 1264), to guarantee that contributions to Federal political campaigns are voluntary.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I have to applaud the opponents of campaign finance reform. They have done a great job. They set out to confuse and distract from the real issue of campaign reform, and they have succeeded. They have diverted attention from the fact that raising money becomes one of the essential items and activities of those of us who serve in Congress just to remain competitive. They have done this by focusing on extraneous matters like who made phone calls, where did they make them from?

We have not focused, as we should, on the continued increased cost of the media in campaigns. Consultants have become more controlling. Self-financing has become the norm. Opponents, Mr. President, of real campaign finance reform are focused on anything to divert attention from the fact that campaigns are very expensive and too long. The Governmental Affairs Committee hearing has clearly shown, at least in this Senator's opinion, that both parties need more constraints, more controls, and more attention.

We must bring attention back to what the real issues are in campaign finance—that is, the fact that Senators and Representatives spend large amounts of their time and their efforts simply raising money in order to pay for escalating media costs. As I have said, we have the never-ending, it seems, self-financing of candidates. Take a small State like the State of Nevada or one like the Presiding Officer's State of Arizona, $4 million, which has a relatively small campaign fund in this modern era, sadly. To raise that much money, you have to raise about $13,000 or $14,000 a week every year. You don't take a week off for Christmas. If you do, you have to raise more money. If you do that 52 weeks a year for 6 years, you can raise enough to be competitive in a race; you will raise about $4 million. As we know, in some States it takes a lot more money. In those States, you have to raise twice that much or three times or four times that much. Instead of raising $13,000 or $14,000 a week, people have to raise $50,000 a week. That is what we should be focusing on, Mr. President—the fact that these campaigns are very expensive.

Eleven years ago, I came to the Senate floor and talked about this campaign I had been through, a campaign where corporate money was used. Complaints had been filed with the Federal Election Commission. It is 11 years now, and a number of those complaints have still never been disposed of by the Federal Election Commission. They are still pending. I thought to myself, I can't believe there would be another election with the same rules in effect. We haven't had one election since then; we have had six since then where the same rules applied to Members of Congress. I, personally, will begin my third campaign using these same rules. In fact, I have to say they are not identical rules; they are worse, because in the early part of this century Congress decided it wasn't appropriate to have corporate money used in campaigns. The Supreme Court came back last year and said, oh, well, you can use corporate money in campaigns. State parties can virtually use the money any way they want. So corporate money is now back into elections for the first time in 85 or 90 years. Now corporate money is important.

I guess we have to be satisfied that there is a debate. I extend my appreciation to the majority leader for allowing this debate to take place; a debate about campaign financing. I have to say, though, Mr. President, that we started out saying, well, McCain-Feingold doesn't do it all, but it is not a bad bill. That is why I joined as a sponsor of that legislation. But now we are here before the Senate, the original McCain-Feingold is long gone, and we are now talking about a mini McCain-Feingold, which we are now happy that we have, that even though the original bill was lacking in many elements, now we are congratulating ourselves for going with a slimmed-down version of McCain-Feingold, which we probably won't get a chance to vote on because of all the extracurricular, extraneous matters being debated in this.

This watered-down version, I hope, can be passed. But because opponents of campaign finance reform have taken it upon themselves to expand a Supreme Court decision, the Beck case, I am not sure we are going to be able to. I have come to the floor today to remind my colleagues that we are not debating campaign finance reform to find out if the President had made phone calls from an inappropriate place or whether he should have gone to his home. Think about that; he could not do that because that is on Federal property. Maybe he should have taken Secret Service agents with him and found a pay phone to make those calls.

The fact is, we should be debating that campaigns take too much time and campaigns are far too long and take too much money. Since 1992, we have had a $900 million election cycle. In 1996, there was a 70-percent increase, in just those 4 years. In the last 20 years, congressional races have increased their spending by some 700 percent. Both political parties, Democrats and Republicans, know that the cost of campaigns is the problem. So I think we should bring back the focus on the real issue of campaign finance reform, which is that there is too much money being spent and campaigns are too long.

I see my friend from Kentucky on the floor. I have to say to him that I appreciate his honesty in this campaign debate. From the very first time that he took this as a campaign issue, he hasn't minced any words. He has said basically that he is opposed to it. We have a lot of people, Mr. President, who don't have the—I won't say courage, but that is a decent word—ability to get up and call things the way he sees them. I disagree with my friend from Kentucky, but he is willing to debate the issues as they stand. He has been willing to do this from the first time it was brought up when Senator BYRD was majority leader and when Senator Mitchell was majority leader. He doesn't hide how he feels about campaign finance reform. I appreciate his approach. Many people are hiding between the nuances of campaign finance reform and side issues. I say to my friend from Kentucky that I appreciate his approach. He says he is against campaign finance reform, and he has never hidden that fact; he has spoken out openly and has been very candid about it. I appreciate his approach to it.

I do say, however, that I wish that there were others like my friend from Kentucky who would stand up and debate the issue. McCain-Feingold, for example, let's debate it, and if there are enough votes to pass it, fine. If not, let's go on to another issue. We don't need filibusters on either side. We need to debate whether or not we need campaign finance reform. We need to go forward.

I personally believe that campaigns, I repeat, are too long, too costly, and we owe an obligation to the American public to do something about that.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, this would be a good time, in the beginning of the debate, to thank my colleague from Nevada for his kind words. I appreciate that very much. Also, Mr. President, I would like to insert a number of things into the RECORD with some explanation, just to make the Record complete, before we go to further debate later this afternoon. There are a number of Senators on my side of this issue who want to speak, and they will be coming over at various times during the course of the afternoon's debate.

First, Mr. President, I would like to submit a sampling of the opinion pieces I have authored in the past year. One is from January of this year, published by the Washington Times, in which I had a premonition that President Clinton, as his own campaign finance scandal deepened, would become campaign finance reform's No. 1 fan. Frankly, it's not that I am particularly clairvoyant, but rather that they are so predictable.

As the Clinton administration and the Democratic National Committee have sunk in a scandalous quicksand of their own making, the more they publicly thrashed around groping for a campaign finance bill as if it were a life preserver. Unfortunately for America, the President and Vice President GORE seek to save themselves from their own embarrassing malfeasance in raising money from foreigners and the

other episodes which have been so much in the newspapers. They want to save themselves at the expense of core constitutional freedoms for all Americans.

Mr. President, I ask unanimous consent that an article I wrote for the Washington Times be printed in the RECORD at this point.

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

[From the Washington Times, Jan. 30, 1997]

KEEP CAMPAIGN REFORM LEGAL

(By Mitch McConnell)

''Offense is the best defense'' is a cliche and a frequently employed political tactic. Diversion, skillfully applied, also can have great utility in politics. President Clinton is hoping both work for him in deflecting attention from the waves of campaign finance scandals lapping up on the White House lawn. That is why Mr. Clinton strives to become campaign finance reform's No. 1 fan.

Mr. Clinton's newfound zeal for campaign finance reform is transparent and dangerous. The McCain-Feingold bill around which he belatedly rallies is a convenient fig leaf. It is also a tremendous threat to political freedom, as it would restrict political speech and participation. The president's party hopes it will prevent collateral damage arising from the latest Clinton scandals. They contend, wrongly, that the campaign finance shenanigans making today's headlines merely illustrate a systemic problem solvable only through comprehensive ''reform.'' Never mind that the foreign contributions and contribution-laundering reportedly done on behalf of the Clinton reelection campaign are illegal, under current law.

Mr. Clinton's ''reform'' agenda, while a clever diversionary tactic, is unconstitutional. It is that element which should disturb us most of all.

The Constitution's First Amendment is America's premier political reform. It should be the touchstone for campaign finance reform. But the McCain-Feingold bill and the president instead treat it as an impediment to be undermined, circumvented, even diminished. The McCain-Feingold bill, with its coerced campaign spending limits and restrictions on independent speech, is a square peg reformers try in vain to pound into the First Amendment's round hole. In tacit recognition of this, the Democrats' House and Senate leaders recently endorsed a constitutional amendment to narrow the First Amendment so that the unconstitutional (the McCain-Feingold bill) could, thus, become constitutional. Audacious, to say the least.

The Supreme Court has for years ruled, in no uncertain terms, that campaign spending is protected by the First Amendment because communication with voters costs money. Hence, spending limits are speech limits which Congress cannot constitutionally mandate. Congress must also tread lightly on the ability of private citizens and groups to participate in campaigns and affect elections via independent expenditures.

Regrettably, while striking down mandatory spending limits, the court ruled two decades ago that the government could pay candidates large sums from the U.S. Treasury in exchange for candidates' agreeing to forgo their First Amendment right to unlimited spending (i.e., speech). However, the spending limit system must be purely voluntary. That is the state of play in the billion-dollar presidential campaign finance system, where every major candidate except John Connally and the circa-1992 Ross Perot (in 1996, Perot's campaign received $30 million from the taxpayers) has opted into the taxpayer-financed spending limits program. Have the tax dollars limited spending or so-called ''special interests''? No. Like a rock on Jello, the spending limits merely redirect the spending into other, unlimited, channels—including party and labor ''soft'' money. Spending limits promote subterfuge, which the 1996 Clinton reelection campaign may have taken to new lows (or highs, depending on your perspective).

Just as it seized upon the Keating Five scandal seven year ago, so does Washington's reform industry now exploit the emerging Clinton campaign finance scandal. The media-anointed reformers seek to complete a job they started 20 years ago—that is, to put (via the McCain-Feingold bill) the discredited presidential model of spending limits on congressional campaigns. It is an absurd proposition, but reform groups and politicians reap gains—including fawning editorials—from the battle. They are adept at massaging the press with snappy soundbites and voluminous ''studies'' to build a case for creating a bureaucratic regulatory regime of extraordinary proportion to micromanage and ration the speech of candidates and millions of private citizens. Why? Because, they contend that: 1) campaigns spend too much; 2) ''legalized bribery'' is rampant; and 3) special interests influence is pervasive.

The truth is, Americans spend far more on yogurt than political campaigns, bribery is illegal and the U.S. always has been and will be a teeming cauldron of ''special interests.'' It is government that is pervasive. It is little wonder that virtually every American has a host of ''special'' interests in their government.

In his State of the Union speech, Mr. Clinton will call for campaign finance reform, specifically, the McCain-Feingold bill. He may be so audacious as to bemoan ''special interest'' influence, leaving unspoken his own culpability in rewarding contributors with White House access and nights in the Lincoln bedroom. It will take great restraint on the part of Congress and the country not to hoot and howl during this brazenly hypocritical call for systemic reform.

President Clinton can do much to restore confidence in the political process by cleaning up his own act. That is why on the subject of campaign finance I have two words of advice for the president: Reform yourself.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that an op-ed of mine which appeared in the Boston Globe in a somewhat altered form on Sunday, September 7, be printed in the RECORD.

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

As with a Rorschach test, different people can view the same campaign finance data and come away with wildly divergent conclusions. Supporters of the McCain-Feingold campaign finance ''reform'' scheme look upon the record spending in the 1996 election cycle and profess to be horrified—hysterically seeing malevolent ''special'' interests at every turn, poised to plunder our democracy. I look upon that same election as the culmination of a fierce, and healthy, philosophical battle over how best to ensure a prosperous future for our nation.

Where I see a vibrant democracy-in-action, the ''reform'' agitators see chaos crying out for a big government remedy. In the 1996 election cycle, the liberal status quo came roaring back from the 1994 elections in which they had been so profoundly rejected. The conservative insurgents of 1994 responded in-kind, fighting to prevail in the 1996 elections with their recently acquired power intact, and the addition of a Republican-held White House. With Democrats desperate to regain control of Congress, Republicans having (after four memorable decades in minority exile) savored majority status, and momentous decisions to be made about the role of government in our society, you may be assured that the next few elections will be similarly boisterous. This political energy should be applauded, not condemned, and certainly not reformed away.

McCain-Feingold proponents have long believed that there is ''too much'' campaign spending, a notion that finds, at first blush, a receptive audience in cynical times. What makes the task of limiting spending so daunting for the reformers and so dangerous for our nation is that, as the Supreme Court has repeatedly ruled, in political campaigns spending limits function as speech limits of the most undemocratic and nefarious sort. Ergo, what the campaign finance reform debate is really about are First Amendment freedoms of speech, association and the right to petition the government. In our modern society, exercising these freedoms is an expensive endeavor. That is why McCain-Feingold's convoluted provisions to limit the speech of private citizens, groups, candidates and parties would surely be struck down as unconstitutional.

The Supreme Court has emphatically rejected the goals of McCain-Feingold's proponents. On whether government can intervene to limit spending, the court has said: ''The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive or unwise.'' As to the reformer contention that campaign spending breeds corruption, the Court held that there is ''nothing invidious, improper or unhealthy'' in campaigns spending money to communicate. And on the reformers' appealing argument that McCain-Feingold would help ''level the playing field,'' the Court is contemptuous: ''. . . the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment.''

In addition to failing the constitutional test, McCain-Feingold cannot, as a practical matter, achieve its stated aims. Level the playing field? What is a famous family name worth? What is the value of incumbency? Spending limits do not take such non-monetary factors into account. Reduce ''special'' interest influence? The reformers cannot even define ''special'' interests (the truth is everyone has ''special'' interests), let alone shoo them out of a democracy. Banish ''legalized bribery?'' That is an oxymoron. Bribery is illegal, period. Restore confidence in government? That is a tall order for any ''reform'' and unlikely to be achieved by a measure such as McCain-Feingold which would necessitate a huge bureaucracy to regulate the political speech of private citizens, groups, parties and thousands of candidates in every election.

To illustrate the absurdity of the McCain-Feingold approach to reform, consider its bizarre spending limit formula. For Senate general elections, reformer nirvana is achieved by limiting campaigns to spending an amount equal to: 30 cents times the number of the state's voting-age citizens up to four million, plus 25 cents times the number of voting-age citizens over four million, plus $400,000. However, if you are running in New Jersey, 80 cents and 70 cents are substituted for 30 and 25. The formula notwithstanding, for all states, regardless of population, the minimum general election limit would be $950,000 and the maximum, $5,500,000. The primary election limit is set at 67 percent of the

general and runoffs are limited to 20 percent. In the unlikely event this atrocity was deemed constitutional, it would be a mess to administrate, a nightmare to comply with, and a blight on the Republic.

To propel their effort to have the government ration political speech, McCain-Feingold proponents have seized upon the White House-Democratic National Committee campaign finance scandal which centers on violations of existing law. They exploit legitimate outrage over illegal foreign contributions in order to restrict political speech and participation by American citizens. It is a brazen and despicable strategy.

Curiously, those most associated with the First Amendment—the news media—display a callous disregard for the political freedom of private citizens, groups, candidates and parties in McCain-Feingold's cross hairs. Newspapers spew forth reams of editorials endorsing McCain-Feingold. Television's talking heads pontificate on the dire need to limit the political speech of non-media political participants. Why is the media an eager accomplice in advancing this unconstitutional and undemocratic ''reform'' agenda? One might reasonably conclude that media poobahs see an opportunity to fill the void left when the political speech of every other player in the political process is limited by McCain-Feingold. Newspaper editorials and articles, not to mention television, exert tremendous influence on elections. Most media outlets are subsidiaries of corporate conglomerates (i.e. ''special'' interests), yet they would not be limited by McCain-Feingold. On this one point alone is McCain-Feingold sensitive to the First Amendment.

That there is no media conspiracy to snuff out competitors in the political sphere makes this confluence of support for a legislative assault on their core First Amendment freedom no less lamentable. Those in the media should consider that they are but one ''loophole'' away—a special exemption under the Federal Election Campaign Act—from having their product regulated by the Federal Election Commission (FEC). Assuming, of course, that the Courts did not intervene. Perhaps some experience with the FEC speech police would sensitize editorial writers, reporters and TV talking heads to the insidious effects of regulating election-related speech.

The Supreme Court astutely observed six decades ago that First Amendment freedom of speech is the ''matrix, the indispensable condition, of nearly every other form of freedom.'' Recognizing this, an extraordinary alliance of citizens groups has coalesced to oppose the McCain-Feingold bill. Ranging from the American Civil Liberties Union and the National Education Association on the left, to the Christian Coalition, National Right to Life and the National Rifle Association on the right, this coalition has little in common except a determination to preserve these core political freedoms for all Americans. In fighting the McCain-Feingold juggernaut, they are doing America a great public service.

No one is arguing that the current campaign finance system is ideal but like so many things in life, ''reform'' is in the eye of the beholder. I believe the current scandal-ridden presidential system of squandered taxpayer funding and illusory spending limits should be repealed. Circa-1974 contribution limits should be updated to make fundraising less time-consuming for all candidates and less formidable for challengers who usually do not have a large base of contributors from which to draw support. All contributions should be purely voluntary which is why union members' compulsory dues should not be diverted to politicking. And more citizens should be encouraged to participate in campaigns through volunteer activities and financial contributions to the candidates and causes of their choosing. Campaign contributions are a laudable and honorable means of participation in campaigns and so long as they are publicly disclosed and continue to be scrutinized by the media, voters can judge for themselves what is appropriate.

Mr. MCCONNELL. Mr. President, this is a piece I authored and which appeared in the National Review in its June 30 edition. This op-ed starts out with the observation that proponents of spending limits are stuck between a rock and a hard place: The Constitution and reality.

It is my hope that some of the signatories to the Project Independence petition drive will read this, and particularly paying attention to the McCain-Feingold bill's absurd spending limits formula—and refrain from signing such a misleading and shallow document in the future.

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

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

THE MONEY GAG

(By Mitch McConnell)

Proponents of campaign-spending limits are stuck between a rock and a hard place: the Constitution and reality.

It is impossible constitutionally to limit all campaign-related spending. The Supreme Court has been quite clear on this matter, most notably in the 1976 *Buckley* v. *Valeo* decision: ''The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.''

For those who do not at first blush see the link between the First Amendment and campaign spending, the Court elaborates: ''A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money.''

The reformers do not care or, in some cases, cannot accept that spending limits limit speech. They believe that spending limits are justified and necessary to alleviate perceived or actual corruption. But the Court slapped that argument aside, holding that there is ''nothing invidious, improper, or unhealthy'' in campaigns spending money to communicate. The reformers cannot that spending limits are essential because campaign spending has increased dramatically in the past two decades, a woefully lame premise the Court easily dispatched: ''The mere growth in the cost of federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending.'' Appealing to Americans' instinct for fairness, the reformers passionately plead for spending limits to ''level'' the political playing field. The Court was utterly contemptuous of this ''level playing field'' argument. ''The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment.''

There you have it. The reformers cannot achieve their objectives statutorily. To realize the reformers' campaign-finance nirvana would require essentially repealing the First Amendment—blowing a huge hole in the Bill of Rights—via a constitutional amendment. Frightfully undemocratic? Yes. Out of the question? No; 38 United States senators voted to do just that on March 18, 1997. These 38 senators voted, in the name of ''reform,';' for S.J. Res. 18, a constitutional amendment to empower Congress and the states to limit contributions and spending ''by, in support of, or in opposition to, a candidate.'' Thus would the entire universe of political speech and participation be subjected to limitation by congressional edict, and enforcement by government bureaucrats.

This wholesale repeal of core political freedom registered barely a ripple in the nation's media. Perhaps reporters and editorial writers do not appreciate that their campaign coverage could be construed as spending ''by, in support of, or in opposition to, a candidate'' and, therefore, could be regulated under a Constitution so altered. It is not a stretch. The television networks and most major newspapers are owned by corporate conglomerates (a/k/a ''special interests'' and the blurred distinction is already acknowledged in federal campaign law, which currently exempts from the definition of expenditure ''any news story, commentary, or editorial'' unless distributed by a political party, committee, or candidate.

I do not advocate regulating newspaper editorials, articles, and headlines. I do not believe that government should compensate candidates who are harmed by television newscasts or biased anchors. However, the political playing field can never be ''level'' without such regulation, and it is the only area of political speech upon which the vaunted McCain-Feingold bill is silent. McCain-Feingold has provisions to enable candidates to counteract independent expenditures by every ''special interest'' in America, except the media industry. This ''loophole'' is the only one which editorial writers are not advocating be closed by the government.

Such regulation of the media may strike one as an absurd result of the campaign-reform movement, but it is a logical extrapolation of McCain-Feingold's regulatory regime. The McCain-Feingold bill's spending-limit formula for candidates is itself ludicrous. For Senate general elections: 30 cents times the number of the state's voting-age citizens up to 4 million, plus 25 cents times the number of voting-age citizens over 4 million, plus $400,000. However, if you are running in New Jersey, 80 cents and 70 cents are substituted for 30 and 25 because of the dispersed media markets. Moreover, the formula notwithstanding, for all states the minimum general election limit is $950,000 and the maximum $5,500,000. McCain-Feingold sets the primary-election limit at 67 per cent of the general-election limit and the runoff limit at 20 per cent of the general-election limit.

Reading the Clinton-endorsed McCain-Feingold bill, one can only conclude that the era of big government is just beginning. The Courts have repeatedly ruled that communications which do not ''expressly advocate'' the election or defeat of a candidate (using terms such as ''vote for,'' ''defeat,'' ''elect'') cannot be regulated, yet McCain-Feingold would have the Federal Election Commission policing such ads if ''a reasonable person'' would ''understand'' them to advocate election or defeat. Out of 260 million Americans,

just which one is to be this ''reasonable person''?

The McCain-Feingold bill seeks to quiet the voices of candidates, private citizens, groups, and parties. Why? Because, it is said, ''too much'' is spent on American elections. The so-called reformers chafe when I pose the obvious question: ''Compared to what?''

In 1996—an extraordinarily high-stakes, competitive election in which there was a fierce ideological battle over the future of the world's only superpower—$3.89 per eligible voter was spent on congressional elections. May I be so bold as to suggest that spending on congressional elections the equivalent of a McDonald's ''extra value'' meal and a small milkshake is not ''too much?''

The reformers are not dissuaded by facts. Their agenda is not advanced by reason. It is propelled by the media, some politicians, and the recent infusion of millions of dollars in foundation grants to ''reform'' groups. Fortunately, the majority of this Congress is not ideologically predisposed toward the undemocratic, unconstitutional, bureaucratic finance scheme embodied in McCain-Feingold. Further, a powerful and diverse coalition has coalesced to protect American freedom from the McCain-Feingold juggernaut.

Ranging from the American Civil Liberties Union and the National Education Association on the left to the Christian Coalition, the National Right to Life Committee, and the National Rifle Association on the right, the individual members of the coalition agree on little except the need for the freedom to participate in American politics. There is perhaps no better illustration of the Supreme Court's observation in 1937 that freedom of speech ''is the matrix, the indispensable condition, of nearly every other form of freedom.'' These groups understand that the First Amendment is America's greatest political reform.

Where do we go from here? After ten years of fighting and filibustering against assaults on the First Amendment advanced under the guise of ''reform,'' I am heartened by the honest debate in this Congress. In the House of Representatives, John T. Doolittle's bold proposal to repeal government-prescribed contribution limits and the taxpayer-financed system of (illusory) presidential spending limits has more co-sponsors than McCain-Feingold's companion bill, the Shays-Meehan speech-rationing scheme. In the Senate, McCain-Feingold's fortunes cling pathetically to the specter that the Government Affairs investigation into the Clinton campaign-finance scandal will fuel public pressure for reform.

My goal is to redefine ''reform,'' to move the debate away from arbitrary limits and toward expanded citizen participation, electoral competition, and political discourse. McCain-Feingold is a failed approach to campaign finance that has proved a disaster in the presidential system. McCain-Feingold would paper over the fatal flaws in the presidential spending-limit system and extend the disaster to congressional elections. Experience argues for scuttling it entirely.

The best way to diminish the influence of any particular ''special interest'' is to dilute its impact through the infusion of new donors contributing more money to campaigns and political parties. Those who get off the sidelines and contribute their own money to the candidates and parties of their choice should be lauded, not demonized. The increased campaign spending of the past few elections should be hailed as evidence of a vibrant democracy, not reviled as a ''problem'' needing to be cured.

My prescription for reform includes contribution limits adjusted, at the least, for inflation.

The $1,000 individual limit was set in 1974, when a new Ford Mustang cost just $2,700. The political parties should be strengthened, the present constraints on what they can do for their nominees, repealed. These would be steps in the right direction.

Mr. MCCONNELL. Mr. President, this is also an op-ed which I did for USA Today—a publication whose word limits its force you to distill your arguments.

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

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

BEWARE SO-CALLED FIXES

(By Mitch McConnell)

The First Amendment of the Constitution is America's premier political reform. To reformers, it's a ''loophole.'' The Supreme Court has repeatedly ruled that because communication with voters costs money, campaign spending is protected by the First Amendment and cannot be rationed by the government. That does not stop the so-called reformers from trying.

The presidential system of campaign finance is the monument to reform excess. Thanks to the Democratic National Committee's apparent penchant for illegal foreign contributions, it is also scandal-ridden. A post-Watergate ''reform,'' the presidential system gives candidates tax dollars for which, in exchange, they agree to campaign spending limits. But like a rock placed on Jello, the spending limits merely shift the money into other channels—notably party and union ''soft'' money.

Political parties, unions and newspapers have a constitutional right to spend as much as they choose to affect elections. Some newspapers want to neuter the political parties under the guise of ''reform.'' The parties are vital components of the electoral process, the only entities that will consistently support challengers—of all ideological stripes. Their only litmus test is party affiliation. They do not have a vote in Congress. They are a buffer between so-called ''special interests'' and government.

The presidential system of taxpayer-funded spending limits is a disaster that should be repealed. But so-called reformers instead want to extend that debacle to congressional elections and exploit the Democrats' scandal to justify eviscerating the political parties.

Rather than admit spending limits have failed, the reformers want to add even more layers of bureaucracy to police American political speech and participation by candidates, political parties, private citizens and groups. Why? The reformers say ''too much'' is spent on elections. Americans spend more on yogurt. The reformers bemoan ''legalized bribery,'' an oxymoron. Bribery is illegal, period. They say special-interest influence is pervasive. Yet they cannot define ''special interest.''

Disclosure—not arbitrary, bureaucratic limits—should be the linchpin of reform. Voters can decide for themselves what is appropriate. Taxpayers should not be called upon to fund a campaign-finance scheme in which the First Amendment is regarded as a ''loophole,'' and so long as America is a democracy, the spending limits can never be more than a facade.

Mr. MCCONNELL. Mr. President, further, I submit for the RECORD four illuminating documents from the American Civil Liberties Union. Say what you will about this organization—one that Members on my side, including me, are infrequently aligned with—they take some gutsy positions. It is tough for a liberal group—a label usually given to the ACLU—to go against the liberal grain, particularly on an issue this high-profile, as this one which we are debating today.

Particularly, Mr. President, I want to single out Laura Murphy, director of the ACLU's Washington office, and no doubt others in that organization, have taken a lot of grief for their brave and resolute position in defense of political freedom for all Americans—liberals, conservatives, and every ideological shade in between. I cannot say enough good things about the work that Laura, Joel Gora, Ira Glasser, and other folks in the ACLU have done on this issue. Their effort against McCain-Feingold has been truly heroic. Two-hundred and sixty million American beneficiaries of the first amendment owe these people a debt of thanks.

With a few notable and admirable exceptions, I have been sorely disappointed by the willingness of liberal groups to walk off a cliff for this blatantly unconstitutional reform effort. I'm told some have made the calculated decision that if the McCain-Feingold bill passed, liberal causes would benefit.

I think they are right on that score but it is shameful that so many would eagerly jettison 200 years of core political freedom—which benefits all citizens and makes America a uniquely free country—in order to stick it to conservatives and anyone else who does not support the liberal agenda.

These liberal, Democrat-leaning groups know McCain-Feingold is outrageous—that its issue advocacy provisions, to name just a few, are unconscionable assaults on the first amendment right of all Americans to petition the government as individuals, and as groups, and to weigh in on public issues. But still some actively promote McCain-Feingold, more simply look the other way—acquiescing on the sidelines of this critical debate over core constitutional freedoms they get paid to exercise.

Perhaps they believe, correctly I might add, that Republicans will save the Nation from McCain-Feingold. I predict that will be the outcome.

Mr. President, I will now read into the RECORD some highlights of the ACLU's most recent denunciation of the McCain-Feingold bill, dated October 1, 1997:

> Ever since the very first version of the various McCain-Feingold campaign finance bills was introduced in the Senate, the ACLU has gone on record to assert that each version was fatally and fundamentally flawed when measured against settled First Amendment principles. Now the Senate is debating a new ''revised'' incarnation of the bill. While we are pleased that the sponsors of the new version have abandoned some of the more egregious provisions that appeared in earlier versions, the ''pared down'' bill still cuts to the core of the First Amendment. We once again urge you to reject McCain-Feingold's unconstitutional and unprecedented assaults on freedom of speech and association.
>
> Although the bill has a number of constitutional flaws, this letter focuses on those

that impose restrictions primarily on issue advocacy. It is important to note at the outset that the recent letter from 126 law professors, commenting on McCain-Feingold, was silent on the issue advocacy restrictions in the bill, which are the subject of this letter.

1. The unprecedented restrictions on issue advocacy contained in the McCain-Feingold bill are flatly unconstitutional under settled First Amendment doctrine.

Last week there was a lot of discussion of a law professor named Burt Neumann at the Brennan Center of New York. I believe it is interesting that everyone believes Brennan wrote the Buckley case, one of the ironies of this debate. Mr. Neumann for 24 years had said the Buckley decision was wrong. And he is free to say that. He wishes it were otherwise. But his position and the position of the man he presumably admires the most, William Brennan, not only prevailed in the Buckley case but has been further elaborated on in 21 years of litigation. Thus, the ACLU says under settled first amendment doctrine:

What we are talking about here is not the law as some wish it were but the law as it is. And that is what the ACLU is referring to.

Further, in another place in the letter, Mr. President, they say:

The unprecedented and sweeping restraints on the ''soft money'' funding of issue advocacy and political activity by political parties raise severe first amendment problems.

At another point in the letter, the ACLU says, ''The same principles that protect unrestrained issue advocacy by issue groups safeguard issue advocacy and activity by political parties.''

So, if issue advocacy has been well laid out by 21 years of court cases for groups, the same thing applies for political parties.

By the way, Mr. President, this letter was signed by Ira Glasser, executive director; Laura Murphy, director, Washington office; Joel Gora, professor of law at Brooklyn Law School.

I might just say a word about Joel Gora. He was cocounsel in the Buckley case. So my side in this argument is that they didn't have to go out and find somebody to certify that they wish the law were what it isn't. These folks know what the law is, were involved in litigating these cases, and are simply certifying as to their opinion based upon deep experience in this field as to the constitutionality of the measure before us.

So, here is what they say at the end of the letter.

Accordingly, we submit that McCain-Feingold's sweeping controls on the amount and source of soft money contributions to political parties and disclosure of soft money disbursements by other organizations continue to raise severe constitutional problems. Disclosure, rather than limitation, of large soft money contributions to political parties, is the more appropriate and less restrictive alternative.

McCain-Feingold's labyrinth of restrictions on party funding and political activity can have no other effect but to deter and discourage precisely the kind of political party activity that the First Amendment was designed to protect.

. . . While reasonable people may disagree about the proper approaches to campaign finance reform, this bill's restraints on political party funding and issue advocacy raise profound First Amendment problems and should be opposed. The bill has a number of other severe flaws, some old, some new, which we will address in a future communication. But we wanted to take the opportunity to share our assessment of two of the most salient problems with the bill now.

So, Mr. President, there it is from America's experts on the first amendment, one of whom was one of the lawyers in the Buckley case. These are people who are experts on this kind of litigation, and that is their opinion about the constitutionality of McCain-Feingold, as revised.

Now, Mr. President, a September 25, 1997, letter from the Christian Coalition. It says:

DEAR SENATOR: The Christian Coalition has long supported campaign finance reform that encourages citizen participation and nonpartisan voter education. Any reform of our system of campaign financing should allow for educational tools such as nonpartisan voter guides, issue advertising, congressional scorecards and newsletters. Christian Coalition vigorously opposes the McCain-Feingold legislation which unconstitutionally restricts these types of issue advocacy.

I will just read one other sentence, Mr. President, from this particular letter. This organization says:

Voter education should be encouraged, not discouraged. An informed electorate is part of the solution, not part of the problem.

I could not agree more.

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

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

CHRISTIAN COALITION,
CAPITOL HILL OFFICE,
Washington, DC, September 25, 1997.

SUPPORT FIRST AMENDMENT—FREE SPEECH OPPOSE MCCAIN-FEINGOLD CAMPAIGN FINANCE BILL

DEAR SENATOR: The Christian Coalition has long supported campaign finance reform that encourages citizen participation and non-partisan voter education. Any reform of our system of campaign finance should allow for educational tools such as non-partisan voter guides, issue advertising, congressional scorecards, and newsletters. Christian Coalition vigorously opposes the McCain-Feingold legislation which unconstitutionally restricts these types of issue advocacy.

Issue advocacy is constitutionally protected free speech. Expressing opinions on issues and informing voters where candidates stand on the issues are constitutionally protected free speech, so long as the election or defeat of a candidate is not ''expressly advocated.'' For over 20 years, the Supreme Court has repeatedly ruled that the test must be objective, not subjective. ''Express advocacy'' is defined by using such words as, ''vote against,'' and ''oppose.'' The McCain-Feingold bill imposes an unconstitutional subjective test.

Voter education should be encouraged, not discouraged. An informed electorate is part of the solution, not part of the problem. Without voter education efforts, our supporters would be forced to rely entirely on slick political advertising and the news media. In fact, newspapers and other media outlets express opinions and even expressly advocate the election or defeat of candidates through editorials. While the media is totally unregulated, as it should be under the First Amendment, some want to prohibit and heavily regulate issue organizations from exercising similar free speech.

Restrictive speech provisions will not withstand constitutional challenge. Therefore we oppose any proposals which attempt to bring constitutionally protected issue advocacy under the regulatory control of the federal government. Thank you for considering our views.

Sincerely,

HEIDI H. STIRRUP,
Director, Government Relations.

(Mr. GORTON assumed the chair.)

Mr. MCCONNELL. Mr. President, I will read just a few of the highlights from the cover letter. This is dated October 3, 1997.

DEAR SENATOR MCCONNELL: Thank you for requesting our comments on the revised McCain-Feingold campaign finance bill. . . .

Much of what the Cato Institute and similar nonprofit research and public policy corporations do could no longer be done or, done only if we are comfortable having research publications, public policy forums, city seminars, conferences and the like classified as ''contributions.'' In this bizarre scenario, these ''contributions'' would have to be paid for out of our ''PAC'' (which, of course, we would never have), and, probably, could not be done at all since much of the ''anything of value'' we produce often costs more than the $5,000 limit on contributions.

Here is a group, Mr. President, not in politics. They do not go out and create a PAC, they do not do voter guides, and they think that the most recent version of McCain-Feingold is going to make it hard for them to function.

The Cato Institute goes on:

For example, if we published a study on the flat tax, or tax reform and ever discussed the issue with Representative Dick Armey—or, heaven forbid, held a policy forum or city seminar with Dick Armey, Steve Forbes, Reps' Paxon, Tauzin, Archer, or any of the other leading proponents of tax reform—under the new McCain-Feingold, these could become contributions.

I guess the good news is, as Bob Levy says, that ''the September 29 version of McCain-Feingold reduces the first amendment to scrap''—so blatantly unconstitutional that it will never become law. As Bob also says, ''McCain-Feingold is an insidious and destructive piece of legislation. It deserves an ignominious burial. To be blunt, either it dies, or we do.''

Mr. President, I ask unanimous consent that the communication from the Cato Institute be printed in the RECORD, along with another letter from the National Taxpayers Union.

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

CATO,
Washington, DC, October 3, 1997.

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

DEAR SENATOR MCCONNELL: Thank you for requesting our comments on the revised McCain-Feingold campaign finance bill. A copy of Bob Levy's detailed analysis is attached (Bob is a senior fellow in constitutional studies here at Cato.) I think you will find the first two and closing paragraphs succinct and to the point.

In summary, much of what the Cato Institute and similar non-profit research and public policy corporations do, could no longer be done or, done only if we are comfortable having research publications, public policy forums, city seminars, conferences and the like classified as ''contributions.'' In this bizarre scenario, these ''contributions'' would have to be paid for out of our ''PAC'' (which of course, we would never have), and, probably, could not be done at all since much of the ''anything of value'' we produce often costs more than the $5,000 limit on contributions. And, of course, if you know anything at all about the Cato Institute and our president, Ed Crane, the last thing we would ever do is allow ourselves to be in a situation that could be interpreted as making contributions to political candidates.

For example, if we published a study on the flat tax, or tax reform and ever discussed the issue with Rep. Dick Armey—or, heaven forbid, held a policy forum or city seminar with Dick Armey, Steve Forbes, Reps. Paxon, Tauzin, Archer, or any of the other leading proponents of tax reform—under the new McCain-Feingold, these could become ''contributions.''

I guess the good news is, as Bob Levy says, that ''the September 29 version of McCain-Feingold reduces the First Amendment to scrap''—so blatantly unconstitutional that it will never become law. As Bob also says, ''McCain-Feingold is an insidious and destructive piece of legislation. It deserves an ignominious burial. To be blunt, either it dies, or we do.''

We hope the above and attached is helpful.

Sincerely,

PEGGY J. ELLIS.

Attachment.

NATIONAL TAXPAYERS UNION,
Alexandria, VA, October 6, 1997.

Attention: Campaign Finance Reform Aide.

DEAR SENATOR: When you took your oath of office you said:

I, (name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I well and faithfully discharge the duties of the office on which I am about to enter: So help me God (5 U.S.C. 3331.)

S. 25, the campaign finance bill by Senators McCain and Feingold, is blatantly unconstitutional under the First Amendment, which says in part that ''Congress shall make no law–.–.–.–abridging the freedom of speech, or of the press; or the right to the people peaceably to assemble, and to petition the Government for a redress of grievances.'' You cannot ''support the Constitution'' by trying the patience of the Courts. Therefore, we believe that every Senator has a constitutional obligation to vote against passage of this bill.

The restrictions are so absurd that, if the bill were law, it would be illegal for any organization to energetically lobby for or against any legislation within 60 days of any election unless it excluded the names of their lawmakers. So for at least four months of every other year, groups could not pay for ''any paid advertisement that is broadcast by a radio broadcast station or television broadcast station'' if they identified the name of a local lawmaker. If the Congress wants such silly rules, then it should also arrange to be out of session during these 60-day periods, and require that all state congressional primaries he held on the same day.

The bill also proposes to ban, year-round, so-called express advocacy while going far beyond the Supreme Court's definition of express advocacy. The definitions are so vague that candidates could complain to the Federal Election Commission that many criticisms of their views constitute ''illegal'' activity. Since there would be no cost to complain, complain they will.

The sponsors of this legislation may claim it would have no cost to taxpayers. We strongly disagree. Since the proposal is so vague and so far-reaching in its application and attempt to regulate speech and political activity, it would take an enormous and costly expansion of the FEC to administer our newly regulated ''free-speech'' rights. Therefore, we will count a vote against this bill as a pro-taxpayer vote in our annual Rating of Congress.

One final note. As a taxpayer organization, we know a thing or two about complex and vague laws such as our tax code. But if this bill becomes law, many of our tax laws will be a model of clarity compared to the election law. And the tax laws will have one advantage. Audits are not set in motion by the frivolous complaints that would be the rule under this legislation.

Sincerely,

DAVID KEATING,
Executive Vice President.

Mr. MCCONNELL. Preferring substance to petitions, I have a couple of constitutional analyses to have printed in the RECORD. I understand from the Government Printing Office that it will cost approximately $12,000 to print this material in the RECORD.

The first is an outstanding dissertation on the constitutional implications of campaign finance reform by law professor and renowned legal scholar Lillian R. BeVier of the University of Virginia, and again I will just read some of the highlights for the information of those listening to the debate.

Professor BeVier appeared before the Rules Committee on several occasions. Her report of September 4, 1997, says:

The shortcomings of current ''reform'' proposals are no small matter, given the First Amendment's crucial historical role in protecting our right to self-government and its sustaining liberty. For the proposals to pass constitutional muster, the First Amendment would have to be itself ''amended'' by judicial fiat.

And that, Mr. President, sums up I think quite well what Professor BeVier goes on to point out in some greater detail and I ask unanimous consent that that dissertation be printed in the RECORD.

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

CAMPAIGN FINANCE ''REFORM'' PROPOSALS—A FIRST AMENDMENT ANALYSIS

(By Lillian R. BeVier)

EXECUTIVE SUMMARY

In the wake of recent reports of questionable campaign finance practices have come ever more draconian proposals to ''reform'' the campaign finance system. Those proposals pose a disturbing threat to the individual political freedom guaranteed by the Constitution. Under current precedents, none of them could survive a First Amendment challenge.

In *Buckley v. Valeo* (1976), the Supreme Court affirmed that giving money to and spending money on political campaigns is a core First Amendment activity. Accordingly, regulations of political contributions and expenditures will not be sustained unless justified by a compelling state interest and crafted to achieve their objective by the least restrictive means.

Current proposals to regulate campaign finance practices cannot survive the kind of scrutiny that the First Amendment requires. This study demonstrates that the ban on political action committees, the PAC ban fallback provisions, the ''voluntary'' spending limits, the restrictions on soft money, the regulation of issue advocacy, and the proposals to expand the enforcement powers for the Federal Election Commission all substantially infringe on core First Amendment freedoms, but none serves a compelling interest with the least restrictive means. And the proposal that broadcasters be required to provide free TV time to federal candidates is constitutionally insupportable.

The shortcomings of current ''reform'' proposals are no small matter, given the First Amendment's crucial historical role in protecting our right to self-government and in sustaining liberty. For the proposals to pass constitutional muster, the First Amendment would have to be itself ''amended'' by judicial fiat.

INTRODUCTION

Since the 1996 elections, campaign finance practices have dominated the news. Reports of unpalatable fundraising strategies, such as renting out the Lincoln bedroom to major donors and using White House telephones to solicit contributions, have appeared with distressing frequency on the nightly news. The media tend to portray those actions not as straightforward individual ethical or legal lapses but as self-evidently symptomatic of the need for stringent new campaign finance ''reforms.'' President Clinton, who claims to have played by the rules in his reelection campaign, also claims to strongly favor ''reform.'' Recently, for example, in a ''stop-me-before-I-kill-again'' move, he petitioned the Federal Election Commission to ban political parties from accepting the ''soft-money'' contributions that provided so much of the fuel for the 1996 presidential contest.

A chorus of those who advocate increased regulation of the political process is always available to chant the reform mantras, and the mainstream press appears credulously willing to broadcast them: ''Well-heeled [unequivocally self-serving and never public-regarding] special interests'' dominate the political process; challengers and incumbents alike, consumed by the need to raise money for their campaigns, spend ''most of their time . . . scrounging for funds.''[1] A *Washington Post* headline declared, ''The System Has Cracked under the Weight of Cash.''[2] ''[F]renized fund-raising and freewheeling spending . . . [of] torrents of cash'' now rule the day, and election contests are conducted principally via expensive ad campaigns that saturate the airwaves.[3] Money—dollars contributed to candidates, given to political parties, and spent on election campaigns—undermines the integrity of and ''defeat[s] the democratic process''[4]—or so it is said.

Despite the overheated rhetoric of dysfunctionality and doom, the debate about the nature of the changes that ought to be made in the present system of campaign finance regulations is often framed as though short-term political advantage were the only thing at stake.[5] Republicans, it is said, are against restricting campaign contributions and expenditures—but only because they are richer and better at raising money. Democrats, on the other hand, favor restrictions—but only because they wish to counter the perceived Republican money-raising advantage. Because Republicans control the present Congress, stringent new giving and spending regulations are thought unlikely.

And finally, it is said that because the incumbents of both parties are ''beneficiaries'' of the present system, political reality suggests that those incumbents are unlikely to change the system in any way that might threaten their reelection.

For all the rhetoric, however, the debate over campaign finance regulation raises issues that genuinely transcend the short run, issues of fundamental and permanent significance that cry out to be acknowledged. Indeed, though they come to us in the benign guise of ''reform,'' many of the campaign finance regulations that have recently been proposed would require us to renege on a central premise of our representative democracy—the individual political freedom our Constitution guarantees.

This study will examine the constitutionality of current campaign finance regulatory proposals. It will also strive to bring the stakes in the campaign finance debate into the sharpest possible focus—to provide a full accounting of regulation's cost to political freedom so that, if they find themselves tempted to adopt a short-term fix to the campaign finance ''mess,'' legislators will not fatally underestimate the price.

THE REGULATORY AGENDA

On the agenda of today's proponents of reform are a number of specific, often shifting legislative proposals. Rather than treat each of those proposals in detail, I will proceed in more generic terms, focusing on the broad outlines of the most frequently recurring—and thus most prominent—individual suggestions for ''reform.'' I will consider the following proposals:

The PAC ban: Eliminate political action committees (PACs) from federal election activities by banning all expenditures by and contributions to them for purposes of influencing elections for federal office, broadly defined, except those contributions and expenditures made by political parties and their candidates.

The PAC ban fallback: If the complete ban if found unconstitutional, lower the permissible amount of PAC contributions to single candidates from the present $5,000 to $1,000 and prohibit any candidate from receiving any PAC contribution that would raise that candidate's PAC receipts above a given percentage (say, 20 percent) of applicable expenditure ceilings; ban the ''bundling'' of individual contributions; ban the receipt by a candidate of PAC monies that exceed 20 percent of the particular election's campaign expenditure ceilings; redefine independent expenditures so as to turn more activities into ''coordinated'' expenditures (thus subjecting them to the contribution limitations); and broaden the definition of ''express advocacy'' so as essentially to prohibit generic partisan communications of any kind (by defining express advocacy to include any ''expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party'' and to include suggestions ''to take action with respect to an election * * * or to refrain from taking action'').

Spending limits and communication discounts: Impose ''voluntary'' spending limits for candidates in House and Senate races and prohibit spending of personal funds in excess of 10 percent of that limit; provide to candidates who agree to be bound by the limits certain amounts of free television time, plus the right to purchase additional time at reduced rates, and give them a reduced rate for mailing to state voters; limit their receipt of out-of-state contributions by requiring them to receive 60 percent of the contributions to their campaign from individuals in their own states or districts; and prohibit candidates who do not agree to be bound by the spending limits from receiving PAC contributions, require them to pay full rates for broadcasting and postage, raise the limits on contributions to their opponents from $1,000 to $2,000, and raise the expenditure limits of their opponents by 20 percent.

Restrictions on soft money: Bar federal officeholders, candidates, and national political parties from accepting unregulated contributions; subject all election-year expenditures and disbursements by political parties, including state and local parties that ''*might affect* the outcome of a federal election''—including those for voter registration, get-out-the-vote drives, generic campaign activities, and any communication that identifies a federal candidate—to the full panoply of Federal Election Campaign Act (FECA) restrictions and compliance and regulatory rules.

Controls on ''issue advocacy'': Regulate communications that do not contain words of ''express advocacy'' as defined by the Supreme Court in *Buckley v. Valeo* (i.e., communications that do not ''in express terms advocate the election or defeat of a clearly defined candidate for federal office'').[6] Define ''issue advocacy'' to include a broader range of communications than does ''express advocacy''; regulate it by subjecting groups funding issue advocacy communications to FECA disclosure requirements and controlling the content of issue advocacy communications by requiring disclosure of funding sources and disclaimers of candidate advocacy.

Free TV: In exchange for, and as a ''public service'' condition of, the allocation to them of spectrum space, require broadcasters to provide substantial amounts of free air time to all candidates for federal office. Require candidates to appear in person in the free time provided to them and to speak for themselves.

Expand Federal Election Commission enforcement powers: Grant broad new enforcement powers to the Federal Election Commission, including the right to go to court to seek an injunction against potential offenders on the ground that there is a substantial likelihood that a violation is about to occur.

FIRST AMENDMENT ANALYSIS: GENERAL PRINCIPLES

The Buckley Framework

To be constitutional, the proposals outlined above must not violate principles of political freedom and free political speech as protected under the First Amendment. The cornerstone of the Supreme Court's First Amendment jurisprudence in this area is *Buckley*. In that case the Court decided several challenges to the FECA amendments of 1974.[7] FECA was at that time Congress's most ambitious effort at election campaign reform. According to its defenders, the act was designed to equalize access to and purify the political process by ridding it of corruption and the appearance of corruption. Among other things, the plaintiffs in *Buckley* challenged the act's stringent limitations on the amounts of money individuals could contribute to and spend on campaigns for federal office and the act's provisions for public funding of presidential candidates who agreed to abide by spending limits during their campaigns. The Court sustained the provisions for public funding of presidential campaigns and the contribution limitations. It invalidated the expenditure limitations.

In resolving the *Buckley* challenges, the Court correctly took as its central premises that ''a major purpose of [the First] Amendment was to protect the free discussion of governmental affairs'' and that contribution and expenditure limitations ''operate in an area of the most fundamental First Amendment activities.''[8] Pursuant to conventional canons of First Amendment review, that meant that contributions and expenditure limitations would be subject to ''strict scrutiny'' by the Court and would not survive unless they were found to serve a ''compelling state interest'' using the ''least restrictive means.'' Due to differences it perceived in the relative magnitudes of the First Amendment interests, the Court distinguished between limits on *contributions* of money to politicians or their campaigns and limits on campaign *expenditures* by citizens and candidates. A contribution limit, said the Court, ''entails only a marginal restriction upon the contributor's ability to engage in free communication,''[9] because ''the transformation of contributions into political debate involves speech by someone other than the contributor.''[10] Hence, such limits could presumably be evaluated using a slightly more lenient standard of review.[11] Limits on expenditures, on the other hand, ''represent substantial rather than merely theoretical restraints on the quantity and diversity of political speech.''[12]

Thus, whereas the Court strongly suggested that limitations on expenditures may well run afoul of the First Amendment regardless of the context or the purported justification for their imposition, it held that limitations on contributions are constitutional if their purpose is the compelling one of preventing corruption (i.e., ''the attempt to secure a political quid pro quo from current and potential officeholders'')[13] or the appearance of corruption. Of particular importance to today's debate, the Court rejected equalization of political power as even a permissible, much less a compelling, justification for restrictions on either contributions or spending, observing that ''the concept that government may restrict the speech of some elements in our society in order to enhance the relative voice of others is wholly foreign to the First Amendment.''[14]

Buckley has proven remarkably robust and has provided the doctrinal framework for all seven of the major campaign finance cases that the Court has since decided. In each of those cases (briefly summarized in the Appendix), the Court has remained committed to *Buckley*'s major conclusions. That is not to say that the *Buckley* framework has gone unchallenged within the Court itself.[15] Still, taken as a whole, *Buckley* and its progeny stand foursquare for the following doctrinal generalizations. Because they represent governmentally imposed constraints on political activity,

Restrictions on political contributions and expenditures infringe on rights of speech and association. Therefore, the Court will strictly scrutinize such restrictions, even when they are directed at corporations instead of at individuals or groups.

Limits on independent expenditures by individuals and political groups are likely to be unconstitutional regardless of the context or the purported justification.

Preventing corruption or the appearance of corruption remains the ''single narrow exception to the rule that limits on political activity'' are contrary to the First Amendment.[16]

Since a ballot measure offers no opportunity to corrupt elected officials with either contributions or expenditures, the First Amendment probably prohibits restrictions on both contributions and expenditures in the context of ballot-measure elections: both kinds of restrictions infringe on First Amendment rights without countervailing benefit since ''there is no significant state or public interest in curtailing debate and discussion of a ballot measure.''[17]

Equalization of political influence is not a permissible justification for restrictions. The Court has never wavered in its view that government may not restrict the speech of some to enhance the relative voice of others.

Applying Buckley: In General

How do the campaign finance regulations that are presently being debated fare when subjected to analysis in light of the *Buckley* framework and the First Amendment foundation upon which it rests? The first step in the calculus of constitutionality is to determine the extent to which each proposal infringes on established First Amendment rights. That step is doctrinally uncontroversial, its analytical path clearly marked, for *Buckley* and its progeny unequivocally establish that regulations of campaign contributions and expenditures operate upon fundamental First Amendment rights to free speech and free association.

Cynically claiming that that central premise of *Buckley* represents nothing more than capitulation to the idea that ''money talks,'' advocates of regulation mock and demean the premise. In doing so, they miss the point entirely. *Buckley* was not written on a blank First Amendment slate. Rather, it was firmly grounded upon, and thus was the natural outgrowth of, a long line of cases that affirmed that the core principles of the First Amendment protected citizens' right to speak, to publish, and to associate for political causes, free from government interference or control. Contributing to and spending money on political campaigns—whether to advocate the election of particular candidates or to take positions with respect to particular issues—was protected in *Buckley* not because money talks but because the central purpose of the First Amendment is to guarantee political freedom. The amendment ensures that individual citizens may exercise that freedom by speaking, discussing, publishing, advocating, and persuading and that they may enhance their individual voices by joining together in groups, organizations, associations, and societies. The specific rights of citizens to contribute to and spend money on political campaigns are merely necessary corollaries of their more general rights to speak freely and to associate with one another to advocate causes in which they believe.

Having established that regulations of campaign contributions and expenditures impinge on fundamental First Amendment rights, the Court will then apply ''strict scrutiny'' and sustain the regulations only if it finds that they serve a compelling government interest and use the least restrictive means to do so. The analytical task implicit in those second and third steps in the constitutional calculus is the identification and evaluation of the government interests that supposedly support regulation and the appraisal of the means deployed to serve those interests.

Performing that task is not as easy as its doctrinal formulation suggests. Although the Court has clearly commanded that strict scrutiny is required, it has not always adhered to the implications of that command by engaging in rigorous examination of both proffered ends and the means chosen to achieve them. In fact, the Court has occasionally been highly deferential and credulous in its assessments of ends and means, making prediction in the present case an uncertain undertaking. Still, if the integrity of First Amendment principles is to be preserved, it is critically important that both legislators and judges take great care that rhetoric and assertion not substitute for the careful analysis that truly strict scrutiny requires. For that reason, the analysis that follows will attempt not merely to summarize but to examine skeptically the arguments and the rhetorical strategies of the advocates of regulation.

Applying Buckley: Specific Proposals

The PAC Ban

In *Buckley*, the Supreme Court held that the only legitimate and compelling government interest in restricting campaign contributions and expenditures is to prevent corruption or the appearance of corruption. And the Court defined corruption precisely and narrowly as entailing a financial quid pro quo: dollars for political favors.

Despite that, advocates of the PAC ban offer justifications unrelated to preventing corruption as the Court defined it in *Buckely*. Instead, such justifications as they offer are directed, in vague terms, at reforming ''an unresponsive government and a political process that has grown increasingly mean-spirited''—a view reformers seem to believe is universally shared. Regarding contribution prohibitions, reformers condemn unspecified ''elected officials who listen more to big money and Washington lobbyists than to their own constituents''; they decry the ''influence-money culture'' and claim that ''our political system is rigged to benefit campaign contributors and incumbent office-holders at the great expense of citizens''; and they see an ''inherent problem''—the nature of which they do not define—''with a system in which individuals and groups with an interest in government decisions can give substantial sums of money to elected officials who have the power to make those decisions.''[18] At bottom, the justification they offer seems to be that special-interest PAC contributions are a dominant force in the financing of federal election campaigns, that members of Congress are dependent on them and influenced by them, that the giving of PAC money is linked to the particular PAC's legislative agenda, and that PAC money goes overwhelmingly to incumbents. Thus, they justify the PAC expenditure ban not with reference to preventing corruption but on the ground that it is a loophole-closing measure: if independent PAC expenditures continue to be permitted for ''purposes of influencing any election for Federal office,'' they will undermine the ability of the contribution prohibitions to achieve their purpose of preventing PACs from wielding influence.

Buckley and its progeny signal quite clearly that those ''justifications'' for the PAC contributions and expenditure ban are neither legitimate nor compelling. The rhetorical parade of horribles cited by the advocates of increased regulation simply does not amount to corruption as the Court has defined it; thus, curing the system of them is not corruption prevention. Even if ridding the political system of the influence of big money and Washington lobbyists were somehow transformed into legitimate ends of government, a total ban on PAC contributions could not survive, for it is grossly over inclusive. Eliminating all political committee activity is not narrowly tailored, nor is it the least restrictive means of ridding the system of the influence of the money culture.

Unless the advocates of increased regulation truly intend to denounce *all* political alliances—regardless of whether they be ideological, issue driven, or public spirited—on the ground that they are *all*, in the very nature of things, bound to represent special interests, and unless they think that *all* attempts by individuals to maximize their political voices by joining together with others of like mind present an inherent problem, it is impossible to imagine how they could justify such a draconian measure as a total ban on PAC giving and spending. Cutting the heart out of the freedom of political speech and association, and conferring what would amount to a permanent monopoly on political parties, is neither necessary nor a narrowly tailored means for attaining even the ill-defined—and probably illegitimate—goal of eliminating the influence of big money and Washington lobbyists.

The PAC Ban Fallback. The fallback provision—which would lower the permissible amount of PAC contributions from $5,000 to $1,000 per election and would go into effect if or, more accurately, when the total ban on PAC contributions was declared unconstitutional—allegedly serves the same interest as the total ban. Since it aims to reduce rather than prohibit permissible contributions, the fallback provision might appear on its face to be less problematic than the total ban. That appearance is deceptive. Although the Court stated in *Buckley* that contribution limits are easier to defend than expenditure limits, it held that strict scrutiny was appropriate for both. Thus, the contribution limits of the fallback provision must run the same strict scrutiny gauntlet, and their chances of surviving are slim to none.

First, note again that the advocates have not claimed during the course of recent debates that the interest being served by reducing the contribution limit from $5,000 to $1,000 is that of preventing corruption in the *Buckley* sense. It seems quite implausible to assert that any politician would be corrupted—or even appear to be corrupted—in the quid pro quo sense by a single contribution of even $5,000. Instead, the interest that the contribution reduction would serve is, again, the diffuse one of ending the ''dominance'' and ''influence'' of PACs. Thus, the problem the fallback limitation confronts at the outset is that, even if precisely defined, it serves an interest that has never been held to be either legitimate or compelling. And second, instead of being narrowly tailored, the limitation appears quite ill-suited to serve the interest asserted for it. Indeed, it is difficult to identify *any* interest that would be served by making it so much more difficut than it presently is for candidates to raise money: candidates will hardly be less distracted by fundraising if they have to raise money from even greater numbers of people because of the smaller amounts that any one individual or PAC may contribute.

Both the contribution ban and the fallback treat all PACs alike, as though whatever cause they espouse and however great (or limited) their resources, they all pose precisely the same danger—and the same degree of danger—of undermining the integrity of our political process. But given the enormous range and diversity of interests that PACs represent, treating them all alike makes little sense—and certainly fails the narrowly tailored, least restrictive means test. Moreover, it is important to note that even while it was sustaining the particular contribution limits in *Buckley*, the Court ''cautioned . . . that if the contribution limits were too low, the limits could be unconstitutional.''[19] Thus, contribution limits so low as significantly to impair the regulated party's ability to exercise First Amendment rights (as a $1,000 limit on PAC contributions would surely do) or so unreasonably below an amount that would give legitimate rise to a perception that the contributor was acquiring ''undue influence'' (as the $1,000 limit would surely be) are constitutionally vulnerable.

The only interest served by the fallback provision's ban on the bundling of small individual contributions to PACs would be that of preventing evasion of the contribution limitation. The bundling ban, however, represents a different sort of burden on First Amendment rights than does the constitutionally doubtful contribution limitation, which it supposedly serves as a backstop. For the bundling ban directly burdens the associational rights of individual PAC contributors. The Supreme Court recognizes that the right to associate is a ''basic constitutional freedom''[20] and has stated repeatedly that ''the practice of persons sharing

common views banding together to achieve a common end is deeply embedded in the American political process.''[21]

Advocates of the bundling ban claim that it is necessary to forestall PACs' evading the contribution limitations. Thus, whether the ban serves a compelling state interest will depend upon whether the interest served by the contribution limitations survives review and, if so, whether the ban is narrowly tailored—whether the Court sanctions a one-size-fits-all prohibition. Since the contribution limitations are unlikely to survive review, and since the one-size-fits-all prohibition is a clumsy solution in any event, the bundling ban is likely to be even more vulnerable than the contribution limitation it serves.

The fallback's prohibition of PAC contributions that raise any candidate's PAC receipts above 20 percent of campaign expenditure ceilings would also, to a large extent, stand or fall with the contribution limitations themselves, since the prohibition is defended in terms of its ability to strengthen the contribution limitations. The First Amendment burden of the 20-percent-of-expenditure limitation is more onerous than first appears, however, for after the 20 percent limit is reached the so-called limitation has the effect of a total ban. How such a limit would serve a corruption-prevention objective, moreover, is very difficult to discern. Corruption arises when large contributions are exchanged for particular political favors. If PAC contributions are not individually large enough to create a risk of corruption or its appearance, the fact that a candidate receives many of them—even were he to receive 100 percent of his campaign funding from them—simply does not increase the risk that he will be corrupted. Thus, the 20-percent-of-expenditure limitation not only is not narrowly tailored to serve a compelling state interest in preventing corruption or its appearance but also is not tailored to serve any identifiable or legitimate interest at all.

Finally, the attempt to redefine ''independent expenditure''—and, in particular, to redefine ''express advocacy'' so as to include any and all partisan communications—runs flatly counter to the *Buckley* Court's explicit effort to immunize issue advocacy from regulation or restriction: ''So long as persons or groups eschew expenditures *that in express terms advocate the election or defeat of a clearly identified candidate,* they are free to spend as much as they want to promote the candidate and his views.''[22]

''Voluntary'' Spending Limits

The proposals for voluntary spending limits keyed to relevant voting age populations are said to serve the interest in curbing excessive and even obscene campaign spending. Spending limits will hold down the costs of running for office and thus prevent one candidate from having an excessive advantage over another by reason of spending more. The limits are also touted for their supposed ability to redress the present imbalance in favor of incumbents (who have a grossly unfair advantage in fundraising because most PAC money goes to them).

Mandatory spending limits confront an impenetrable constitutional wall. The Supreme Court said in *Buckley* that expenditure limits simply do not serve to prevent corruption or the appearance of corruption in the electoral process, which is the only justification that the Court has ever accepted for limiting political expression. Indeed, the Court went further. It explicitly denounced the other justifications for spending limits that proponents had offered in *Buckley,* namely equalizing speech resources and stemming the rising cost of political campaigns. Because it represents such an unequivocal endorsement of freedom from government as the underlying conception of the First Amendment, the Court's aversion to restricting the voices of some in order to enhance the voices of others is worth emphasizing. Moreover, because it represents such a clear and definite rejection of the paternalism of those who think they know how much is too much to spend on political campaigning, it is worth quoting the Court's confirmation that ''the mere growth in the cost of federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending and the resulting limitation on the scope of federal campaigns . . . In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.''[23]

It is, of course, because mandatory spending limits are so clearly unconstitutional that advocates of the proposed spending limits insist that they be voluntary. The transparent objective is to fit the limits into the safe harbor that the *Buckley* Court provided when it qualified its rejection of expenditure limitations by the following footnote:

''Congress may engage in public funding of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.''[24]

For a number of reasons, all reflecting the magnitude of the benefits and burdens attached to accepting or not accepting the limits, it is pure fiction to call them voluntary. They simply do not fit the *Buckley* proviso. To be specific, significant benefits are promised to those who accept the voluntary limits: candidates become eligible for free and reduced-rate television time[25] and reduced mailing rates while their opponents who do not accept the voluntary limits receive neither free time nor reduced rates. Moreover, candidates who agree to voluntary contribution limits when their opponents do not get an added benefit—their contribution limits and expenditure ceilings are raised. But burdens come with the benefits as well: candidates who volunteer to comply with the spending limits must demonstrate a threshold level of support (by raising 10 percent of the limit) before becoming eligible for the benefits; they must agree to raise 60 percent of their funds from individuals who reside in their own states or districts; and they must agree to limit the use of their own resources. In addition, they cannot use their free air time for commercials of less than 30 seconds in length.

When the Court in *Buckley* sustained the exchange of a presidential candidate's right to make unlimited expenditures in his own behalf for the right to receive public funding, it did so because it concluded that the purpose of public funding ''was not to abridge, restrict, or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process.''[26] The purpose of the current proposals to impose voluntary spending limitations along with their accompanying burdens and benefits, however, is quite different.

In the first place, the limits are not imposed in exchange for receipt of public funding and thus could not be defended as necessary to protect the integrity of a government-funded program. Second, the effect of the proposed expenditure limitations—whether they are deemed voluntary or not—will be to reduce substantially the quantity of campaign speech. Indeed, that must be their purpose, since the restrictions are explicitly motivated by the objective of reducing excessive spending. As the Eighth Circuit Court of Appeals recently noted when evaluating analogous provisions of state campaign finance restrictions, one is ''hard-pressed to discern how the interests of good government could possibly be served by campaign expenditure laws that necessarily have the effect of limiting the quantity of political speech in which candidates for public office are allowed to engage.''[27]

The spending limitations also do not serve the posited goal of creating a level playing field between incumbents and challengers because the limitations fail to dissipate the already significant advantages of incumbency. Incumbents begin every electoral race with important advantages; equalizing the amount of money that incumbents and challengers can spend would simply make permanent the incumbent advantages that already exist. When the spending limits are combined with the proposed new restrictions on contributions and the increasingly complicated system of fundraising for challengers, they appear narrowly tailored not to level the playing field for challengers but instead to transform a challenger's initial disadvantage into a practically insurmountable barrier. That is the reason the proposals are so susceptible to the charge of being incumbent-protection measures.

Limits on Soft Money

Advocates of increased regulation of campaign finance often assert that soft money is the most dangerous and destructive money in the political system today. Soft money is money contributed by individuals, corporations, unions, and the like to the national and state parties for party-building activities, voter registration and get-out-the-vote drives, and generic issue- (rather than candidate-) oriented advertising. It is not subject to contribution limitations imposed by FECA because it is not used to advocate expressly the election of any clearly identified candidate. Reformers want to ban soft money because they believe that even though it does not go to support particular candidates it nevertheless has the unseemly propensity to influence elections. Thus, it invites wholesale evasion of the contribution limits now in place.

The reformers are right, of course: soft money *does* influence elections. But the resort to soft-money contributions is exactly what one would expect when people are prohibited from giving more directly.

Yet a ban on soft-money contributions would amount to an unprecedented restriction on political activity, one whose justification is not compelling and whose scope far exceeds what the First Amendment allows. Advocates of a soft-money ban defend it as a contribution-limitation-loophole-closing device: corporations and unions that would not otherwise be permitted to contribute to candidates' campaigns make large soft-money donations to political parties; and individuals often contribute soft money in excess of the amount they would be entitled to contribute to particular candidates. Such arguments assume, of course, that contribution limitations represent an appropriate and inviolable ceiling on the amount of money that individuals, corporations, and unions should be allowed to contribute to the political process *whether or not the contribution funds speech that creates a risk of quid pro quo corruption of particular candidates.* Thus, supporters of the ban make no pretense of establishing a link between soft-money contributions and the appearance or reality of candidate corruption that alone

provides a constitutional predicate for regulation.[28]

Calling the soft-money contribution ban a contribution-limit-loophole closure does not change the basic fact, however: soft money does not fund speech that ''in express terms advocate[s] the election or defeat of a clearly identified candidate for federal office,'' which is the *only kind* of speech for which the Court has held that contributions may be constitutionally restricted.[29] To regulate contributions for speech that is other than express advocacy of the election of particular candidates, the Court said, would create intractable vagueness problems and cause unacceptable chilling of protected, issue-oriented political speech. It would, in other words, thwart speech debating the merits of government policies and addressing the public issues that are at stake in an election—the very kind of speech that the First Amendment was written primarily to protect. Thus, because a ban on soft money aims directly and indiscriminately at core political activity, and because its proponents have not made their case that soft-money contributions pose a danger of quid pro quo corruption, the ban could not pass muster as a finely tuned means of achieving a compelling state interest.

Also bearing on the First Amendment implications of a ban on soft money is the Court's recent decision in *Colorado Republican Federal Campaign Committee v. FEC,* which held limits on independent expenditures by political parties—expenditures not coordinated with any candidate—to be unconstitutional. The independent expression of a political party's views, the Court affirmed, is core First Amendment activity, and limits on it cannot be justified with reference to a corruption-prevention rationale. Indeed, although the majority of the Court did not reach or address the issue, four justices expressed the further view that, given the practical identity of interests between party and candidate during an election, the corruption-prevention rationale for sustaining limitations on contributions did not support *any* limits on party spending, whether coordinated with the candidate or not. Although present law makes coordinated spending illegal, Justice Thomas pointedly questioned its rationale: ''What could it mean for a party to 'corrupt' its candidate or to exercise 'coercive' influence over him?''[30] If the Court were to decide, when squarely facing the issue, that party spending on political activity cannot be limited, whether or not coordinated, then contributions to the party to make those expenditures would likewise seem to be protected from regulation. In sum, from constitutional perspective, restrictions on soft money are among the least defensible proposals for campaign finance reform. Indeed, arguments purporting to support such restrictions serve only to raise questions about limits on direct contributions.

Issue Advocacy

Insofar as they entail broadening the reach of campaign speech regulation to include speech that does not ''in express terms advocate the election or defeat of a clearly identified candidate for federal office,'' proposals to control issue advocacy are constitutionally inform for the same reason that the soft-money ban is constitutionally infirm: they would regulate—and thus unacceptably chill—core political speech about the merits of policies and the proper resolution of public issues without a corruption-prevention rationale for doing so. Proponents of controls on issue advocacy claim that controls are necessary to prevent the acquisition of undue influence by advocates of particular issues. There is, however, no constitutional warrant or means for calibrating what constitutes ''undue'' influence, for the Constitution does not permit, nor does it provide, a metric for discerning how much influence is enough. We have no constitutional Goldilocks to say when the amount of influence possessed by advocates of particular positions is ''just right.'' The inherent payoff for political participation in a democracy is the acquisition of influence, and it is the function of the First Amendment to protect efforts to acquire it, not to limit or constrain them.[31]

The constitutionality of proposals for regulation, insofar as they require disclosure by groups engaging in issue advocacy, is seriously jeopardized by *McIntyre* v. *Ohio Electrons Commission*.[32] In *McIntyre,* the Court had before it an Ohio statute that prohibited the distribution of anonymous campaign literature. Because the statute was a regulation of core political speech, the Court subjected it to strict scrutiny; and, because the statute did not serve a compelling state interest using the least restrictive means, the Court proceeded to strike it down. Unpersuaded that the ban was justified by Ohio's asserted interests either in preventing fraudulent and libelous statements or in providing voters with relevant information, the Court also could find no support for the statute in either *First National Bank of Boston* v. *Bellotti*[33] or in arguably relevant portions of *Buckley*.

In *Bellotti,* the Court invalidated a state law that prohibited corporations from spending money on speech designed to influence the outcome of referenda. In the course of doing so, the Court commented in dicta on the possibility that a requirement that the sponsor of corporate advertising be identified might be thought to be permissible on account of its ''prophylactic effect.'' The *McIntyre* Court realized that the context of the *Bellotti* statement—expenditures by corporations—was not the same as the context of the Ohio statute, which purported to regulate independent expenditures by an individual. And whereas in *Buckley* the Court sustained mandatory reporting of independent expenditures in excess of a threshold level, the justices noted in *McIntyre* that the independent expenditures to which the disclosure requirement applied had been construed to mean only those expenditures that expressly advocate the election or defeat of a clearly identified candidate.[34] Thus, in *Buckley* there was a corruption-prevention rationale to support the expenditure-disclosure requirement. Such a rationale would lend only the most tenuous possible support to required disclosures of issue advocacy.

McIntyre does not purport completely to foreclose disclosure or reporting requirements with respect to independent expenditures. It does, however, reaffirm the Court's commitment to scrutinize strictly such requirements in order to preserve the right to engage in issue advocacy unencumbered by regulations that burden speech without producing a reciprocal benefit in corruption prevention.

Free TV

The proposals to require broadcasters to provide ''free'' TV time to federal candidates do not come under the *Buckley* rubric. Instead, insofar as they apply to broadcasters, their constitutionality is a function of the unique First Amendment jurisprudence that the Court has developed for the electronic media. That jurisprudence had its beginnings in *Red Lion Broadcasting Co.* v. *FCC*,[35] in which the Court, pointing to ''spectrum scarcity,'' upheld the Federal Communication Commission's rule that those attacked editorially by the broadcast media had a right of reply. Thus it denied the broadcasters' First Amendment claim that such an obligation impinged on their editorial freedom.

It is clear beyond peradventure that Congress could not constitutionally compel the *print* media to provide free space to similarly situated political candidates.[36] *Red Lion* sanctioned a different set of First Amendment rules for the broadcast media because the Court was persuaded that the scarcity of broadcast spectrum warranted content regulation of spectrum licensees' programming in the interests of diversity and fairness.

Many commentators questioned the rationality of the spectrum scarcity argument even at the time *Red Lion* was decided.[37] Regardless of whether it provided a plausible rationale at that time, however, spectrum scarcity has been rendered obsolete by the advent of cable and other technological advances. And courts, too, have increasingly criticized the argument as a justification for government control of the content of broadcast programming.[38]

There is no longer a factual foundation for the argument that spectrum scarcity entitles the government, in the public interest, to control the content of broadcast speech. Without the spectrum scarcity rationale to support it, the attempt to control broadcasters' speech by requiring them to provide *free* TV time to candidates for office would seem doomed to constitutional failure. Even were the spectrum scarcity rationale still viable, the Court has never held that *Red Lion* sanctioned ''government regulations that impose specifically defined affirmative programming requirements on broadcasters.''[39] The Court has been suspicious of any government action that ''requires the utterance of a particular message favored by the Government,'' and it has been alert to guard against the ''risk that Government seeks not to advance a legitimate regulatory goal but to suppress unpopular ideas or information or manipulate the public debate through coercion rather than persuasion.''[40]

With respect to all speakers except the broadcast media, and most certainly with respect to candidates for political office, it goes almost without saying that any attempt by the government to dictate the format or control the content of speech is constitutionally suspect. In addition to commanding broadcasters to donate time so that political candidates may speak, the free TV proposals contemplate requiring candidates themselves, and not any surrogates, to speak in the donated time, thus dictating the format of their speech; and several suggestions have been made that the candidates must not engage in ''negative'' campaigning if they are to receive the free time, thus controlling the content of their entire speech. Those highly questionable aspects of the free TV proposals cannot be defended on the ground that the government, in pursuit of the public interest, is subsidizing certain candidate speech—thus conditioning receipt of its funds on the candidates' agreement to respect the contours of the government program. Such was the rationale that underlay the Court's holding in *Rust v. Sullivan*,[41] where the Department of Health and Human Services' ''gag rule'' prohibited recipients of federal family planning funds from providing abortion information. The *Rust* rationale could not support the format and content controls envisaged by the free TV proponents for the simple reason that the speech would be subsidized not by the taxpayers but by the broadcasters.[42]

In fact, what the free TV time proposals contemplate seems to be a bold end-run around traditional and well-established First Amendment principles. The broadcasters have no First Amendment right to resist compliance, proponents say, because spectrum scarcity permits the government to

regulate their editorial judgments in the public interest. And the candidates have no First Amendment right to resist compliance with format or content controls because they are being permitted to speak for free. As the analysis above has demonstrated, the First Amendment stands as a more effective defense of freedom than the proponents imagine, and the Supreme Court would surely have little difficulty detecting the constitutional shell game that the free TV proposals epitomize.

Expanded Federal Election Commission Enforcement Powers

Many of the proposals for increased regulation of campaign finance envision a hugely enlarged enforcement role for the already overburdened and generally ineffectual Federal Election Commission.[43] The wisdom of imposing such a monumental burden on any federal agency, much less on this particular one, is questionable; but whether the enforcement mechanisms that Congress devises for implementing particular regulatory strategies are feasible or not does not usually raise First Amendment issues.

One enforcement proposal does raise such issues, however: the proposal to give the FEC power to seek to enjoin potential offenders on the ground that ''there is a substantial likelihood that a violation is about to occur.'' The proposal is vulnerable to two different First Amendment challenges. The first involves vagueness. Many of the proposed substantive violations are themselves vague, and the ''substantial likelihood'' criterion for FEC action is also vague. The threat of FEC action based on either vague element of that ground would *not* only have an unacceptable chilling effect on many activities that are not violations; more significantly, it would also invite precisely the kind of arbitrary exercise of government power that the vagueness doctrine is designed to forestall.[44]

The second First Amendment challenge to giving the FEC power to enjoin campaign activity involves prior restraint on speech. Prior restraints are the ''most serious and the least tolerable infringement of First Amendment rights,''[45] and they will not be sustained unless the Court is convinced that ''the gravity of the evil, discounted by its probability, justifies such invasion of free speech as is necessary to avoid the danger.''[46] It seems unlikely that the Court would hold that the mere possibility of violating campaign finance regulations poses the kind of threat to the national interest that would justify imposing prior restraints on speech, especially since the kind of speech put at risk by such an injunction—political speech during the course of an election campaign—lies at the very core of the First Amendment.

THE FIRST AMENDMENT ACCORDING TO THE REGULATORS

When one looks at Supreme Court precedents—in particular at *Buckley* and its progeny—the First Amendment case against current proposals for more stringent campaign finance regulations appears impregnable. But, given the vehemence and surety with which those proposals are advocated, perhaps it is well to look more closely both at the precedents for *Buckley* and related cases and at the conception of the First Amendment the reformers embrace and how that conception differs from the First Amendment that is presently embodied not only in our democratic traditions but in our supreme law.

An important question to ask is to what extent the precedents—which stand as barriers to so-called reform efforts—are rooted in traditions and ideas of freedom that we wish to preserve. *Buckley* may be the cornerstone of the Supreme Court's modern campaign finance jurisprudence, but it is important to appreciate that it was not a novel, isolated case. Rather, it was laid upon an already existing, solidly constructed First Amendment foundation. Thus, to appreciate its true significance, and understand what is at stake in the present debate, it helps to see *Buckley* as sustaining a First Amendment tradition that was already deeply embedded at the time the case was decided. *Buckley* was one in a long and continuing line of cases that have articulated and upheld, in a wide variety of contexts, the principles of free political speech and individual political freedom that lie at the very heart of the First Amendment.

The Constitution is the fundamental charter of our representative democracy, the embodiment of our right to self-government and of all our corollary liberties. The First Amendment's specification that ''Congress shall make no law . . . abridging freedom of speech or of the press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances'' plays a crucial role in determining the character of our democracy. ''A major purpose of [the] Amendment was to protect the free discussion of governmental affairs.''[47] Accordingly, it guarantees that individual citizens may speak, publish, and join together in groups to engage in political activity to try to achieve the substantive ends they deem desirable.[48] They may attempt to persuade others and to acquire political influence, and the government may not interfere with, punish, repress, or otherwise impede their efforts.[49]

That conception of the First Amendment is fleshed out in Supreme Court opinions that both pre- and post-date *Buckley*. Those opinions make it clear that implicit in the First Amendment guarantee of freedom from government control over what citizens may say and with whom they may associate as participants in the political process is the important corollary that citizens may freely contribute or expend the resources at their command—their intellect, their time, their talent, their organizational or rhetorical skills, their money—to or on political activity.[50] The government may not interfere in their efforts to persuade their fellow citizens of the merits of particular proposals or of particular candidates,[51] nor may it disrupt the free communication of their views,[52] nor penalize them for granting or withholding their support from elected officials on the basis of the positions those officials espouse.[53] Government may neither prescribe an official orthodoxy,[54] require the affirmation of particular beliefs,[55] nor compel citizens to support causes or political activities with which they disagree.[56] Government may neither punish its critics nor impose unnecessary burdens on their political activity.[57] Those are the bedrock principles of political freedom with which *Buckley* and its progeny are consistent; those are the principles that impelled the *Buckley* Court's conclusion that government may not restrict independent political expenditures and may limit political campaign contributions only in the name of preventing corruption.

To remain faithful to those principles, one must be vigilant to detect the costs to freedom lurking in reform proposals that come dressed as benign efforts to achieve a healthy politics. In the course of explaining why the First Amendment should be amended, House Minority Leader Richard Gephardt (D-Mo.) baldly stated that formal amendment was needed so that Congress could enact new and stringent campaign finance restrictions because ''[w]hat we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both.''[58] That breathtaking assertion performs a real service. It alerts us to the fact that, in the eyes of advocates of reform, freedom as we know it cannot survive an ambitious program of campaign finance regulations. Of equal importance, it begs the all-important questions about what a ''healthy democracy'' would look like and why a healthy democracy is not *by definition* one, like ours at present, in which freedom of speech reigns.

Nevertheless, the regulatory proposals that have recently been placed on the legislative agenda do claim to embody a First Amendment vision of sorts. Based not on legal precedent but crafted by legal scholars and judges who adumbrated it in the pages of scholarly journals and treatises, the conception of the First Amendment that animates proposals for campaign finance regulation bears almost no resemblance to the freedom-oriented conception that actual First Amendment doctrine embodies. Indeed, it distorts our traditional understandings of what the very words of the amendment mean and imparts an extraordinary and unprecedented significance to the phrase ''freedom of speech.'' Precisely because it animates the present reform agenda, however, it warrants a brief summary.

The conception of the First Amendment that underlies the regulatory agenda of proponents of campaign finance reform is best understood as a rejection of the traditional understanding that freedom of speech necessarily implies individual political liberty and the absence of substantive or qualitative regulation of political debate. Proponents of reform do not perceive that they utter a contradiction when they assert that freedom of speech can be ''enhanced,''[59] its purposes ''furthered, not abridged,''[60] by legislation that regulates and restricts political speech. That is because the proponents of regulation believe that freedom is a quality of political life that can be regulated into existence rather than an aspect of democracy that government regulation necessarily and by definition destroys. They think that the guarantee of freedom of speech is in fact *a grant of power to,* rather than *a withholding of power from,* the government. With such power, government can control the content of political debate and fix the political process so that ''political reason-giving'' will prevail. Political influence will be distributed equally among groups so that ''people who are able to organize themselves in such a way as to spend large amounts of cash [will] not [be] able to influence politics more than people who are not similarly able.''[61] Then money will no longer play a role in our politics.

The regulators appear to distrust deeply the American people. They unselfconsciously express the concern that ''completely unregulated [i.e., free] political campaigns will degenerate in such a way that the electorate would be divested of its power to make a reasoned choice among the candidates.''[62] In other words, they believe that the American people cannot be trusted with the choices and political responsibilities entailed in a free political system; instead, the government must regulate the political process in order to help the people to make appropriate decisions.

In the First Amendment context, three aspects of the regulators' conception deserve particular emphasis. The first has already been mentioned: the regulators' conception perverts the meaning of the word ''freedom.''

Second, while decrying the polluting effect of wealth on the democratic process and celebrating spending and contribution restrictions purporting to keep the voices of individual citizens from being drowned out, reformers exempt the press from their reform proposals. In the recent debate, of

course, the press has largely bemoaned the vices of the current system, and ''its myth-making has been especially important in the shaping of mass opinion about reform.''[63] Simply by virtue of their ability to influence the public agenda, the media distort debate, and the distortion of the political process that results from media treatment of particular candidates or issues is likely to be significant.[64] The Supreme Court has explicitly eschewed defining the rights of the press more broadly than speech rights of ordinary citizens.[65] Yet under the reformers' conception of the First Amendment, the media and media corporations enjoy privileges not enjoyed by ordinary citizens.

The third noteworthy aspect of the reformers' conception of the First Amendment is that the agenda that conception is used to promote is neither premised on empirical analysis, nor derived from established postulates, nor defended in terms of predictions about testable results. Rather, it rests on pejorative and highly charged rhetoric, is formulated in ill-defined but evocative terms, and is defended with extravagant claims about benign effects. Yet upon analysis, the picture the regulators paint—both of political reality and of the goals of reform—is so vague that it begs all the important questions.

Thus, when the late Judge Skelly Wright, long in the reform camp, surveyed the political process, he was dismayed to find ''the polluting effect of money in election campaigns.'' He worried that ''[c]oncentrated wealth . . . threaten[ed] to distort political campaigns and referenda,'' and he announced that ''[t]he voices of individual citizens are being drowned out'' by the ''unholy alliance of big spending, special interests, and election victory.''[66] Similarly, Professor Cass Sunstein of the University of Chicago more recently asserted that '''[m]any people think that the present system of campaign financing distorts the system of free expression, by allowing people with wealth to drown out people without it. . . . [C]ampaign finance laws might be thought to promote the purpose of the system of free expression, which is to ensure a well-functioning deliberative process among political equals.''[67]

What do all those words mean? What does the ''pure political process''—the one that is being ''polluted''—actually look like? How rich are ''people with wealth''? How poor are ''people without it''? Apart from one person, one vote, what does it mean to be a ''political equal''? If it means that one cannot legitimately attempt to acquire any more political influence than anyone else has, what point is there in participating in even a ''well-functioning deliberative process''? And why isn't the individual political freedom that is guaranteed by present First Amendment doctrine the best means of securing a ''well-functioning'' democracy?

The reason questions like those are important is that the Supreme Court engages in strict scrutiny of legislation that restricts campaign giving and spending. That requires the Court to analyze carefully the asserted relationships between ends and means—a process that can hardly go forward when the ends of the legislation cannot be precisely defined and the means can be rhetorically invoked but not actually spelled out. Moreover, since campaign finance reforms have so often turned out to have unintended—indeed perverse—consequences for the political process, and since past reforms, far from having leveled the political playing field, have only entrenched incumbents, it appears doubly important that the goals of proposed new regulations be precisely specified and that the means chosen to achieve them be persuasively shown to be well targeted and genuinely likely to hit their mark.

CONCLUSION

In conclusion, current proposals for new regulation of federal election campaign finance practices are constitutionally indefensible. In their general conception, they are nothing short of a practically complete rejection of the individual and associational rights of expression and political participation that the First Amendment guarantees. In their specifics, the governmental interests they claim to serve are neither compelling nor even legitimate. And the means they deploy are neither the least restrictive nor finely tailored. If they were to be enacted, and were challenged in court and subjected to genuinely strict scrutiny, none of the proposed regulations could survive review. They could survive only if the Supreme Court decided to amend the First Amendment by judicial fiat.

APPENDIX: BUCKLEY'S PROGENY

Bellotti, widely known as the ''corporate speech'' case, invalidated a Massachusetts law that prohibited banks and business corporations from making expenditures to influence the vote on ballot referenda that did not materially affect their business, property, or assets. The Court strictly scrutinized the state interests asserted in behalf of the statute and the relationship between those interests and the spending limitations alleged to be the means of securing them and rather easily concluded that there was an insufficient means-end relationship to justify the limitations.

Sustaining FEC limits on the amount of money that an unincorporated association is permitted to give to a multicandidate political committee, the Court in *California Medical Association v. Federal Election Commission* engaged in lenient review. Contributions are ''speech by proxy,'' the Court declared, so limiting them did not ''restrict the ability of individuals to engage in protected political advocacy.''[68]

Insisting that ''there is no significant state or public interest in curtailing debate and discussion of a ballot measure,'' the Court in *Citizens against Rent Control v. City of Berkeley*[69] strictly scrutinized a limitation on contributions to committees formed to support or oppose ballot measures. It invalidated the limitation.

Federal Election Commission v. National Right to Work Committee was a challenge to a section of FECA that limited the National Right to Work Committee to solicitation of ''members.'' Declaring that it would not ''second-guess a legislative determination as to the need for prophylactic measures where corruption is the evil feared,''[70] the Court narrowly construed the section and, as so construed, sustained it against a First Amendment challenge.

But in the next case, *Federal Election Commission v. National Conservative Political Action Committee*,[71] the Court reasserted its intention and authority strictly to scrutinize corruption-prevention justifications, at least when they were offered in support of limitations on expenditures. The decision invalidated §9012(f) of the Presidential Election Campaign Fund Act, which prohibited political committees from making independent expenditures in excess of $1,000 to support the election of a presidential candidate who had opted to receive public funding. ''When the First Amendment is involved,'' then-Justice Rehnquist said, a ''rigorous'' standard of review is called for and deference to a legislative judgment is appropriate only ''where the evil of potential corruption had long been recognized.''[72]

Federal Election Commission v. Massachusetts Citizens for Life[73] was the next major campaign finance reform case. Massachusetts Citizens for Life, a nonprofit, nonstock corporation organized to ''foster respect for human life and to defend the right to life of all human beings . . . through . . . political . . . activities,'' violated FECA restrictions on independent spending by corporations when it financed a special edition of its newsletter in which it identified and advocated the election of ''pro-life'' candidates. The Court held, however, that as applied to MCFL's expenditure in this case FECA was unconstitutional. First, it burdened the right of the organization to make independent expenditures—''expression at the core of our electoral process and of the First Amendment freedoms.''[74] Second, because ''it was formed to disseminate political ideas, not to amass capital,''[75] MCFL did not pose a threat of ''unfair deployment of wealth for political purposes,'' nor did it ''pose [a] danger of corruption.''[76] Thus the ''concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL.''[77] The commission's argument that it needed a broad prophylactic rule like the one the Court had sustained in *National Right to Work Committee* did not persuade the Court. *National Right to Work Committee* involved restrictions on solicitation for a political committee that made *contributions* to candidates, whereas the regulation at issue in *MCFL* was a restriction on *independent expenditures*; moreover, the administrative convenience of a bright-line rule is of insufficient weight to count as a compelling interest in treating two unlike entities—business corporations and groups like MCFL—alike.

The particular restrictions on independent expenditures at issue in *MCFL* were held unconstitutional. On the way to reaching that result, however, the Court appeared to suggest that if MCFL had been an ''ordinary'' corporation—one that posed a threat of corruption by ''*unfair* deployment of wealth for political purposes'' instead of one formed for the particular purpose of engaging in political advocacy—the case might have come out differently.

That suggestion bore fruit in *Austin v. Michigan Chamber of Commerce*,[78] in which the Court sustained a state law prohibiting the use of corporate treasury funds to make independent expenditures in support of or in opposition to candidates in elections for state office. The state defended the expenditure prohibition on the ground that ''the unique legal and economic characteristics of corporations necessitate some regulation of their political expenditures to avoid corruption or the appearance of corruption.'' Justice Marshall's majority opinion upholding the restriction accepted that formulation of the corruption-prevention rationale and in doing so seemingly embraced a conception of legislative power to define and prevent ''corruption'' different from, more expansive than, and much less precise than that which the *Buckley* court had endorsed. *Buckley* and its progeny had limited legislative power to define corruption by focusing on corruption's deleterious effect on the integrity of elected officials. Corruption that legislatures may prevent occurs only when ''[e]lected officials are influenced to act contrary to their obligations of office by the prospect of financial gain to themselves or infusions of money into their campaigns. The hallmark of corruption is the financial quid pro quo: dollars for political favors.''[79] The *Austin* opinion implied that legislatures could choose to define ''corruption'' to include imprecisely defined untoward effects that spending might have not just on the behavior of elected officials but also on the electoral process itself.[80]

Although it may signal a departure from *Buckley*'s limiting principles, the precise extent to which *Austin* undermines *Buckley*'s

constraints on legislative power to define corruption remains unclear for at least two reasons. First, the *Austin* Court made much of the fact that the restriction at issue there was imposed on corporate expenditure of treasury funds, thus hinting that had the prohibition applied to independent expenditures by individuals, or even by separate segregated corporate political action committees, the result would have been different and the prohibition would have been struck down. Second, Justice Marshall's opinion is obscure about the meaning it ascribes to the term ''corruption.'' Although the opinion is larded with prejorative and evocative references to the ''influence of political war chests''[81] and the ''corrosive and distorting effects of immense aggregations of wealth,''[82] it does not describe a normative baseline of legitimacy that would permit a disinterested observer to detect a genuine threat of ''corruption'' in any particular campaign finance practice. The most the opinion does in that regard is to suggest that the distortion that is a permissible target of the legislature's concern stems from the fact that ''the resources in the treasury of a business corporation . . . are not an indication of popular support for the corporation's political ideas.''[83] Unfortunately, the opinion fails to explain the First Amendment principle that gives that fact the power to transform the most highly protected category of core political speech into an activity subject to complete legislative proscription.

The Supreme Court's most recent pronouncement on the constitutionality of campaign finance regulations came in the 1996 case of *Colorado Republican Federal Campaign Committee,* in which the Court held seven to two that independent expenditures by political parties cannot constitutionally be limited by Congress. Two justices, Stevens and Ginsburg, dissented. They signaled that they were prepared to retreat from *Buckley;* they would have held that any spending by a political party represents a contribution to a candidate and can accordingly be limited, and they were prepared to defer to Congress's judgment that measures to level the political playing field were necessary and that there was too much spending on political campaigns. The other justices stayed well within the *Buckley* framework, and four of them would have gone further to safeguard the First Amendment than did Justice Breyer's opinion for the Court. Justice Kennedy, for example, got the support of Chief Justice Rehnquist and Justice Scalia for his position that spending by political parties, even if it is coordinated with candidates, cannot be restricted pursuant to the First Amendment because to restrict party spending is to stifle what parties exist to do. Justice Thomas, in a strongly argued opinion, endorsed abandoning *Buckley's* dichotomy between contributions and expenditures and advocated treating contribution and expenditure limitations the same for First Amendment purposes, subjecting both to strict scrutiny and not permitting broad prophylactic corruption-preventing measures.

NOTES

1. John V. Lindsay, ''Free TV for Political Candidates? Yes, to Cleanse the System,'' *New York Daily News,* February 20, 1996.

2. Ruth Marcus and Charles R. Babcock, ''The System Cracks under the Weight of Cash: Candidates, Parties and Outside Interests Dropped a Record $2.7 Billion,'' *Washington Post,* February 9, 1997, p. A1.

3. Ibid, pp. 20–21.

4. Frank J. Sorauf, ''Politics, Experience, and the First Amendment: The Case of American Campaign Finance,'' *Columbia Law Review* 94 (1994): 1350 (citing the amicus brief of Common Cause that was filed in *Buckley v. Valeo*).

5. Helen Dewar and Guy Gugliotta, ''In Campaign Finance, One Party's 'Level Playing Field' Is Another's Shaky Ground.'' *Washington Post,* April 7, 1997, p. A6.

6. *Buckley v. Valeo,* 424 U.S. 1, 44–45 (1976) (per curiam).

7. Pub. L. no. 93–443, 88 Stat. 1263 (1974).

8. *Buckley* at 14 (quoting *Mills v. Alabama,* 384 U.S. 214, 218 (1966)).

9. Ibid. at 20.

10. Ibid. at 21. The different treatment accorded to contributions and expenditures has been subjected to scathing criticism both on and off the Court, most recently in *Colorado Republican Federal Campaign Committee v. Federal Election Commission,* 116 S. Ct. 2309, 2325 (1996) (Thomas, J., concurring in the judgment and dissenting in part).

11. *Buckley* at 25 (Contribution limitations may be sustained if the state demonstrates a sufficiently important interest and deploys means closely drawn to avoid unnecessary abridgment).

12. Ibid. at 19.

13. Ibid. at 26.

14. Ibid. at 48–49.

15 The Appendix to this study contains a more detailed analysis of how the cases decided since *Buckley* have implemented the *Buckley* framework.

16 *Citizens against Rent Control v. Berkeley,* 454 U.S. 290, 296 (1981).

17 Ibid. at 299.

18 Ann McBride, president of Common Cause, Testimony before the Senate Rules Committee, February 1, 1996. See also, to the same effect, Joan Claybrook, president of Public Citizen, Testimony before the Senate Rules Committee; and Becky Cain, president of the League of Women Voters, Testimony before the Senate Committee on Rules and Administration, March 13, 1996.

19 *Carver v. Nixon,* 72 F.3d 633, 637 (1995) (citing *Buckley* at 30).

20 *Kusper v. Pontikes,* 414 U.S. 51, 57 (1973).

21 *Citizens against Rent Control* at 294.

22 *Buckley* at 45.

23 Ibid. at 57.

24 Ibid. at 57n. 65.

25 ''Free'' in the sense of no cost to them, but not free in the sense of ''costless.'' The cost would be borne by the broadcasters.

26 *Buckley* at 92–93.

27 *Shrink Missouri Government PAC v. Maupin,* 71 F.3d 1422, 1426 (8th Cir. 1995).

28 People who favor increased regulation indulge in a rhetorical strategy that implicitly equates big money with corruption and undue influence. It is thus important to recall that seeking to influence policy is what political activity—and free speech—is all about. We have no metric to tell us when influence is undue. And the Court has squarely held that *only* activities that create a danger of *quid pro quo corruption* can be constitutionally regulated.

29 *Buckley* at 44–45.

30 *Colorado Republican Federal Campaign Committee* at 2330–31 (Thomas, J., concurring in the judgment and dissenting in part).

31 See Douglas Johnson and Mike Beard, '''Campaign Reform': Let's Not Give Politicians the Power to Decide What We Can Say about Them,'' Cato Institute Briefing Paper no. 31, July 4, 1997.

32 *McIntyre v. Ohio Elections Commission,* 514 U.S. 334 (1995).

33 *First National Bank of Boston v. Bellotti,* 435 U.S. 765 (1978).

34 *McIntyre* at 445.

35 *Red Lion Broadcasting Co. v. FCC,* 395 U.S. 367 (1969).

36 See *Miami Herald Publishing Co. v. Tornillo,* 418 U.S. 241 (1974).

37 See, for example, David Lange, ''The Role of Access Doctrine in the Regulation of the Mass Media: A Critical Review and Assessment,'' *North Carolina Law Review* 52 (1973): 1. See also Scot Powe, ''Or of the [Broadcast] Press,'' *Texas Law Review* 55 (1976): 39.

38 See, for example, *Turner Broadcasting System Inc. v. FCC,* 512 U.S., 622, 637–38 (1996) (noting that both courts and commentators have questioned the validity of the scarcity rationale for disparate treatment of broadcast and print media); *Telecommunications Research & Action Center & Media Access to Project v. FCC,* 801 F.2d 501 (DC Cir. 1986).

39 Rodney A. Smolla, ''The Culture of Regulation,'' *CommLaw Conspectus* 5 (1997): 193, 199.

40 *Turner Broadcasting* at 641.

41 *Rust v. Sullivan,* 500 U.S. 173 (1991).

42 Cf. *CBS, Inc. v. FCC,* 453 U.S. 367 (1981), in which the Supreme Court sustained the FCC's reading of §312(a)(7) of the Communications Act of 1943, to the effect that the section created an affirmative, promptly enforceable right of reasonable access to the use of broadcast stations for individual candidates seeking federal office. *CBS v. FCC* provides no comfort to the proponents of free TV, however, since §312(a)(7) required only that networks provide access *for which candidates were willing and had offered to pay.*

43 Benjamin Weiser and Bill McAllister, ''The Little Agency That Can't: Election Law Enforcer Is Weak by Design, Marginalized by Division,'' *Washington Post,* February 12, 1997, p. A1.

44 See, for example, *Smith v. Goguen,* 415 U.S. 566, 572–73 (1974) (The vagueness doctrine ''requires legislatures to set reasonably clear guidelines for law enforcement officials and triers of fact in order to prevent 'arbitrary and discriminatory enforcement.' Where a statute's literal scope, unaided by a narrowing state court interpretation, is capable of reaching expression sheltered by the First Amendment, the doctrine demands a greater degree of specificity than in other contexts.'') (Citation omitted.)

45 *Nebraska Press Association v. Stuart,* 427 U.S. 539 (1976). See also *New York Times Co. v. U.S.,* 403 U.S. 713 (1971) (''Any system of prior restraint of expression comes to this Court bearing a heavy presumption against its constitutional validity.'')

46 *Nebraska Press Association* at 561. (Citations omitted).

47 *Mills v. Alabama,* 384 U.S. 213, 218 (1966).

48 *NAACP v. Button,* 371 U.S. 415 (1963); *NAACP v. Alabama,* 357 U.S. 449 (1958).

49 *Hague v. CIO,* 307 U.S. 496 (1939).

50 *Meyer v. Grant,* 496 U.S. 414 (1988).

51 *Pickering v. Board of Education,* 391 U.S. 563 (1968).

52 *Mt. Healthy City School District Board of Education v. Doyle,* 429 U.S. 274 (1977).

53 *Elrod v. Burns,* 427 U.S. 347 (1976).

54 *West Virginia Board of Education v. Barnette,* 319 U.S. 624 (1943).

55 *Wooley v. Maynard,* 430 U.S. 705 (1977).

56 *Communication Workers of America v. Beck,* 487 U.S. 735 (1988); *Abood v. Detroit Board of Education,* 431 U.S. 209 (1977).

57 *Village of Schaumburg v. Citizens for a Better Environment,* 444 U.S. 620 (1980).

58 Quoted in Nancy Gibbs, ''The Wake-Up Call: Clinton Makes Serious Noises about Campaign Reform, But That May Not Be Enough to Change a Cozy System That Loves Special Interest Money,'' *Time,* February 3, 1997, p. 22.

59 Laurence H. Tribe, *American Constitutional Law,* 1st ed. (Mineola, N.Y.: Foundation Press, 1978), §13–27, pp. 802–3.

60 Daniel Hays Lowenstein, ''Campaign Spending and Ballot Propositions: Recent Experience, Public Choice Theory, and the First Amendment,'' *UCLA Law Review* 29 (1982): 581–82.

61 Cass R. Sunstein, ''Political Equality and Unintended Consequences,'' *Columbia Law Review* 94 (1994): 1392.

62 Tribe, §13–26, p. 798.

63 Frank J. Sorauf, ''Politics, Experience, and the First Amendment: The Case of American Campaign Finance,'' *Columbia Law Review* 94 (1994): 1356.

64 Cf. Sanford Levinson, ''Electoral Regulation: Some Comments,'' *Hofstra Law Review* 18 (1989): 412 (''I am unpersuaded by any analysis that expresses justified worry about the impact of money on the behavior of public officials and, at the same time, wholly ignores the power of the media to influence these same public officials in part through the media's ability to structure public consciousness.'')

65 Cf. *Pell v. Procunier,* 417 U.S. 817, 834 (1974) (''The Constitution does not . . . require government to accord the press special access to information not shared by members of the public generally.'')

66 Skelly Wright, ''Money and the Pollution of Politics: Is the First Amendment an Obstacle to Political Equality?'' *Columbia Law Review* 82 (1982): 614, 622.

67 Cass R. Sunstein, *The Partial Constitution* (Cambridge, Mass.: Harvard University Press, 1993), p. 84.

68 *California Medical Association v. Federal Election Commission,* 453 U.S. 182, 196, 199n. 20 (1981).

69 *Citizens against Rent Control* at 291.

70 *Federal Election Commission v. National Right to Work Committee,* 459 U.S. 197, 210 (1982).

71 *Federal Election Commission v. National Conservative Political Action Committee,* 470 U.S. 480 (1985).

72 Ibid. at 500.

73 *Federal Election Commission v. Massachusetts Citizens for Life,* 479 U.S. 238 (1986).

74 Ibid. at 251 (citations omitted).

75 Ibid. at 259.

76 Ibid. at 260.

77 Ibid. at 263.

78 *Austin v. Michigan Chamber of Commerce,* 494 U.S. 652 (1990).

79 *Federal Election Commission v. National Conservative Political Action Committee* at 497.

80 *Austin* at 659–60.

81 Ibid. at 659 (quoting *Federal Election Commission v. National Conservative Political Action Committee* at 500–501).

82 Ibid. at 660.

83 Ibid. at 659 (quoting *Federal Election Commission v. Massachusetts Citizens for Life* at 258).

Mr. MCCONNELL. Mr. President, I will ask to have printed in the RECORD an excellent treatise on campaign finance reform and the Constitution by Professor of Law Kathleen M. Sullivan of Stanford which was recently published in the law journal published by the University of California at Davis.

Professor Sullivan examines and dismisses what she terms the reformers' ''Seven Deadly Sins'' of political money. This is must reading for anyone desiring a better understanding of the first amendment's role in this debate.

Mr. President, I ask unanimous consent that that treatise be printed in the RECORD.

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

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POLITICAL MONEY AND FREEDOM OF SPEECH

(By Kathleen M. Sullivan)

[Stanley Morrison Professor of Law, Stanford University. This Essay was originally the Edward L. Barrett, Jr. Lecture on Constitutional Law, delivered at the University of California, David School of Law on February 13, 1997. The author is grateful for the hospitality of Dean Bruce Wolk and the Law School on that occasion. For helpful comments, the author thanks Alan Brownstein, Floyd Feeney, and participants in a GALA workshop organized by Sanford Kadish at the University of California, Berkeley. For research assistance, the author thanks Matthew Shors.]

INTRODUCTION

There is much talk about political money in the wake of the 1996 election. Some find the sheer volume of money spent impressive: an estimated $3 billion on all elections, $660 million on electing the Congress, and $1 billion on the presidential election. Others focus on the questions raised about alleged fund-raising activities that are forbidden by existing laws, such as contributions to political parties by foreign nationals. Still others focus on ''loopholes'' in the existing laws that allow their nullification as a practical matter. Nearly all focus on the presumed special influence of large contributors on political outcomes.[1]

Against this backdrop has arisen a hue and cry for campaign finance reform. Senators McCain and Feingold have revived a proposed Senate campaign finance reform bill that withered under filibuster in the 104th Congress;[2] Representatives Shays and Mechan have introduced comparable bipartisan legislation in the House. President Clinton has endorsed those bills.[3] Newly retired Democratic Senator Bill Bradley has called the McCain-Feingold proposal timid and advocates more sweeping reforms; he favors a constitutional amendment to overrule *Buckley v. Valeo*,[4] the 1976 Supreme Court decision holding that some campaign finance limits violate the right of free speech.[5] Other prominent advocates of the overrule of *Buckley* include twenty-six legal scholars led by Ronald Dworkin,[6] and twenty-four state attorneys general who argue that political money threatens the integrity of elections that it is their job to defend.[7] Countless newspaper editorial pages have opined that the time is ripe—while public outrage is high—to finally do something about campaign finance reform. Voters in states such as California and Oregon have adopted ballot measures imposing limits on the financing of state election campaigns.[8]

In short, the view that political money should be limited has become mainstream orthodoxy. Against this formidable array of thoughtful opinion, I offer here a contrary view. This Essay first lays out briefly the current law of political money and the current landscape of proposals for its reform. It then offers a critical guide to the reformers' arguments by examining the political theories that more or less explicitly underlie them. It concludes that the much belittled constitutional case against campaign finance limits is surprisingly strong, and that the better way to resolve the anomalies created by *Buckley v. Valeo* may well be not to impose new expenditure limits on political campaigns, but rather to eliminate contribution limits.

I. The law of political money

In our political system, political campaigns are generally funded with private money—the candidates' own resources plus contributions of individuals, political parties, and organized groups. The presidential campaign is an exception, funded publicly since the 1976 campaign.[9] In our system, candidates also communicate primarily through entities that are privately owned—the print and electronic press that provide candidates free news coverage and opportunities for paid political advertisements. One could imagine alternate systems, such as public funding of parties and candidate elections or public ownership of the communications media, but such systems are not our own, nor likely to be our own any time soon.

In the 1976 *Buckley* decision, the Court held that restrictions on political spending implicate freedom of speech. Invalidating some portions of the post-Watergate amendments to the Federal Elections Campaign Act but upholding others, the Court held that *contributions* to a candidate could constitutionally be limited, but *expenditures* could not, except as a condition of receiving public funds.[10] Thus, after *Buckley*, candidates may spend all they want, unless they are presidential candidates who have taken public money; so may political parties, individuals, and organized groups such as political action committees (PACs)—as long as they act independently of the candidate.[11] But direct donations to a candidate's campaign may be limited in amount. Under current federal law, an individual is limited in each election to contributing one thousand dollars to a candidate, five thousands dollars to a PAC, and twenty thousand dollars to a national party, and must keep the grand total to twenty-five thousand dollars. PACs may give only five thousand dollars to a candidate, five thousand dollars to another PAC, and fifteen thousand dollars to a national party.[12] Political parties, too, face spending limits when they contribute to the campaigns of their candidates, though these are higher than those for PACs.[13]

The split regime of *Buckley* thus authorizes government to limit the *supply* of political money, but forbids it to limit *demand*. Why the distinction? *Contributions*, the Court said, implicate lesser speech interests; they merely facilitate or associate the contributor with speech. They also raise the specter of ''corruption'' or the appearance of corruption—that is, the danger of a quid pro quo.[14] *Expenditures*, the Court said, are more directly expressive, and involve no corruption—a candidate cannot corrupt herself, and those who spend independently of the candidate's campaign cannot reasonably expect a pay-back.[15] Nor, held the Court, could spending limits be justified by the alternative rationale of equalizing political speaking power, because that rationale, the Court said, is ''wholly foreign to the First Amendment.''[16] Thus, the Court held, the only way government may bring about political expenditure limits is through a quid pro quo of its own: government may induce a candidate to accept expenditures limits in exchange for public subsidies.

Various cogent criticisms have been leveled at the contribution/expenditure distinction. First, both contributions and expenditures may equally express political opinions. As Justice Thomas wrote last summer:

''Whether an individual donates money to a candidate or group who will use it to promote the candidate or whether the individual spends the money to promote the candidate himself, the individual seeks to engage in political expression and to associate with likeminded persons. A contribution is simply an indirect expenditure.''[17]

This argues for protecting both expenditures and contributions alike. Second, an ''independent'' expenditure may inspire just as much gratitude by the candidate as a direct contribution. This argues for regulating them both alike. Finally, it has been objected, it is unclear why expenditure limits may be induced with carrots if they may not be compelled with sticks.[18] This argues for precluding private expenditure limits even as a condition of public subsidies.

These inconsistencies arise from the *Buckley* Court's attempt to solve an analogical crisis by splitting the difference. *Buckley* involved nothing less than a choice between two of our most powerful traditions: equality in the realm of democratic polity, and liberty in the realm of political speech. The Court had to decide whether outlays of political money more resemble voting, on the one hand, or political debate, on the other. The norm in voting is equality: one person, one vote. The norm in political speech is negative liberty: freedom of exchange, against a backdrop of unequal distribution of resources (it has been said that freedom of the press belongs to those who own one[19]). Faced with the question of which regime ought to govern regulation of political money, the Court in effect chose a little of both. It treated campaign contributions as more like voting, where individual efforts may be equalized, and campaign expenditures as more like speech, where they may not.

II. Leading reform proposals

Currently on the table are three type of reform proposals to impose new restrictions on political money. One advocates further limiting campaign contributions. The second proposes more conditioning of benefits upon corresponding ''voluntary'' limits on private spending. The third would place outright restrictions on campaign expenditures. The first two seek to operate within the *Buckley* framework; the third would overrule *Buckley* in part.

The first type of reform proposal would ''close loopholes'' in the existing regulatory scheme by extending the reach of contribution limits. For example, there are currently no restrictions on contribution ''bundling'' by intermediaries. One political entrepreneur may collect several individual contributions of one thousand dollars each and turn over the entire sum to the candidate, PAC, or party—taking political credit for a much larger amount than she personally could have contributed. Some reform proposals, such as McCain-Feingold, would treat such ''bundled'' contributions as contributions by the intermediary, and therefore subject to the otherwise applicable contribution limits.[20] In other words, no more bundling.[21]

Other such proposals would impose contribution limits on so-called ''soft money''—

[1] Footnotes at end of article.

those sums that now may be given without limit by individuals, PACs, and even corporations and labor unions (who are forbidden to give directly to candidates) to political parties for purposes of grass-roots ''party-building'' activities. Since the 1988 campaign, use of soft money to finance de facto campaign advertisements has proliferated. Advertisements celebrating one's party, its stand on issues, or the accomplishments of its leadership, after all, do serve to build party loyalty; but to the untutored eye, they may be difficult to distinguish from campaign ads. The same is true of soft money ads attacking the other party. The amount of soft money raised by the two major parties combined has increased from $89 million in 1992 to $107 million in 1994 to roughly $250 million in 1996.[22] Some reform proposals, again including McCain-Feingold, would limit soft money contributions.[23] The Democratic National Committee has announced its intention to limit annual soft money contributions from an individual, corporation, or union to one hundred thousand dollars, and President Clinton said that the Democratic Party would stop taking any soft money if the Republicans would do the same.[24]

Would such new contribution limits be constitutional under the *Buckley* regime? Any limit on party *expenditures* of soft money would likely be struck down by the current Court in light of its recent decision that political parties may make unlimited independent expenditures on behalf of a particular candidate.[25] But limits on contributions, under *Buckley,* are another matter. The Court has previously upheld ceilings on individual contributions to PACs on the ground that such restrictions prevent end runs around limits on contributions to candidates.[26] Bundling and soft money contribution limits might be defended along similar lines, although they also raise novel and questionable burdens on the right of association.[27]

The second category of reform proposal would find new means to use public funds or other public benefits to induce candidates to agree to ''voluntary'' spending limits—a practice that *Buckley* held constitutional, at least as to full public financing of presidential campaigns. Extending full public funding with attached spending limits from presidential to congressional campaigns would be the most obvious version of such reform, but is probably politically infeasible. Some proposals seek to offer smaller carrots, including ones that would not directly incur public expense. For example, the McCain-Feingold Senate bill would extract from broadcasters free and discounted broadcast time. The bill would in turn give the time, as well as postage discounts, to those Senate candidates who complied with specified spending limits.[28] California's Proposition 208 would give free space in the ballot statement and allow higher contributions to candidates who adopted spending limits.[29]

Such proposals too raise First Amendment questions despite the public funding ruling in *Buckley*. For example, while a private funding ban might reasonably further the goal of full public financing of an election—in order to level the playing field—it is hardly clear that private spending limits are equally justified by the relatively trivial communications subsidies proposed in these bills. And of course, the broadcasters might object to the extraction of ''free'' air time as an unconstitutional compulsion of speech.[30]

The third, most dramatic type of proposal would overrule the expenditure holding in *Buckley* and permit spending limits outright. Since the current Court seems quite uninterested in overruling *Buckley,* the most plausible vehicle for such a reform would be some type of constitutional amendment. Most advocates of such a reform support an amendment authorizing Congress to reimpose expenditure limits as under the pre-*Buckley* status quo, while leaving the authority to impose contribution limits intact.

III. The political theory of campaign finance reform, or the supposed seven deadly sins of political money

What political theory supports arguments for campaign finance reform? Arguments for greater limits on political contributions and expenditures typically suggest that any claims for individual liberty to spend political money ought yield to an overriding interest in a well-functioning democracy. But what is meant by democracy here? The answer is surprisingly complex; several distinct arguments that democracy requires campaign finance limits are often lumped together. I will try to disaggregate them and critically assess each one. The reformers might be said to have identified seven, separate, supposedly deadly sins of unregulated political money.

A. Political inequality in voting

The first argument for campaign finance limits is that they further individual rights to political equality among voters in an election. This argument starts from the principle of formal equality of suffrage embodied in the one person, one vote rule that emerged from the reapportionment cases.[31] Each citizen is entitled to an equal formal opportunity, ex ante, to influence the outcome of an election. Moreover, each person's vote is inalienable; it may not be traded to others for their use, nor delegated to agents. Literal vote-buying is regarded as a paradigm instance of undemocratic conduct. We no longer countenance gifts of turkeys or bottles of liquor to voters on election day, nor the counting of dead souls. These qualities of voting distinguish the electoral sphere from the marketplace, where goods and services, unlike votes, are fungible, commensurable, and tradeable.

Reformers often proceed from the premise of equal suffrage in elections to the conclusion that equalization of speaking power in electoral campaigns is similarly justifiable in furtherance of democracy. The most radical of such proposals would bar expenditures of private campaign funds altogether, and limit candidates to spending public funds allocated to each voter equally in the form of vouchers that could be used solely for election-related speech.[32] The principle here would be one person, one vote, one dollar.[33]

More commonly, however, the analogy to voting is meant to be suggestive, not literal; few go so far as to say that campaign finance limits are constitutionally compelled, as equipopulous districts are. Nor do most advocates of campaign finance reform argue for literal equality in electoral expenditures; the asserted right to equal political influence on the outcome of electoral campaigns is usually depicted as aspirational. But reformers argue that the goal of equal citizen participation in elections at least helps to justify campaign finance limits as constitutionally permissible.[34] On this view, campaign finance amounts to a kind of shadow election, and unequal campaign outlays amount to a kind of metaphysical gerrymander by which some votes count more than others in that shadow election.

Such arguments from formal equality of the franchise to campaign finance restrictions, however, often fail to articulate a crucial intermediate step: that political finance sufficiently resembles voting as to be regulable by the equality norms that govern voting. There is an alternative possibility: that political finance more resembles political speech than voting. That is the analogy drawn by the *Buckley* Court, at least with respect to expenditures. The choice of analogy is crucial. In the formal realm of voting—like other formal governmental settings, such as legislative committee hearings and trials in court—speech may be constrained in the interest of the governmental function in question. For example, at a town meeting, Robert's Rules of Order govern to ensure that orderly discussion may take place; at a trial, witnesses testify not to all they know but to what they are asked about, subject to rules of evidence and the constraints of relevant rights of the parties. Likewise, one voter does not get ten votes merely because he feels passionately about a candidate or issue.

By contrast, in the informal realm of political speech—the kind that goes on continuously between elections as well as during them—conventional First Amendment principles generally preclude a norm of equality of influence. Political speakers generally have equal rights to be free of government censorship, but not to command the attention of other listeners. Under virtually any theory of the justification for free speech, legislative restrictions on political speech may not be predicated on the ground that the political speaker will have too great a communicative impact, or his competitor too little. Conventional First Amendment norms of individualism, relativism, and antipaternalism preclude any such affirmative equality of influence—not only as an end-state but even as an aspiration. Indeed, such equality of participation as speakers in political debate is foreign even under the more collectivist approach to political speech outlined by Alexander Meiklejohn, who famously noted that the First Amendment ''does not require that, on every occasion, every citizen shall take part in public debate. . . . What is essential is not that everyone shall speak, but that everything worth saying shall be said.'' [35]

A few perceptive reform advocates have noticed this problem and sought to fill in the missing step—the analogy between political finance and voting that would make equality norms relevant to both. For example, Ronald Dworkin, who largely accepts arguments for unfettered political speech in other contexts, rests his argument for campaign finance limits on the proposition that the right to equal participation as voters must be understood to entail a corollary right to equal participation as advocates in the electoral campaigns that precede and determine the vote:

''Citizens play two roles in a democracy. As voters they are, collectively, the final referees or judges of political contests. But they also participate, as individuals, in the contests they collectively judge: they are candidates, supporters, and political activists; they lobby and demonstrate for and against government measures, and they consult and argue about them with their fellow citizens. . . . [W]hen wealth is unfairly distributed and money dominates politics, . . . though individual citizens may be equal in their vote and their freedom to hear the candidates they wish to hear, they are not equal in their own ability to command the attention of others for their own candidates, interests, and convictions.[86]

In other words, formal equality of voting power implies a corollary right to equality in the opportunity to speak out in politics—at least in the particular subset of political speech that is made in connection with electoral campaigns.[87]

But what are the boundaries of an electoral campaign? Dworkin does not suggest that equalization of speaking power is a satisfactory justification for limitations of political speech in other contexts. Yet his own examples belie any easy distinction between

the formal realm of electoral discourse, which he would regulate, and the informal realm of ongoing political discourse, which he presumably would not. For example, he lists ''lobbying'' and ''demonstrations'' as examples of relevant forms of citizen participation. But lobbying and demonstrations could not, without great alteration in ordinary First Amendment understandings, be regulated on the ground that their leaders had amassed too many resources. Further, elections are seamlessly connected to the informal political debates that continue in the periods between them. The more electoral campaign speech is continuous with such ordinary informal political discourse, the less campaign finance resembles voting, and the more it partakes of a realm of inevitable inequality.[88]

The reformers might answer that the equality principle could be confined to speech made expressly by candidates or their committees during formal electoral campaigns, defined by reference to some particular period in relation to elections. But now practical difficulties arise even as analytical difficulties subside. Such an approach would leave unregulated advocacy that redounds to the benefit of candidates by persons, parties, and organizations independent of them. To the extent such independent speech operates as a substitute for express candidate speech—even if an imperfect one—the principle of equality of voter participation advanced by the limits on formal campaign expenditures will be undermined.

An alternate response by reformers might be to question conventional First Amendment principles generally, and to assert political equality as a justification for regulating a wide range of informal political discourse. Such an approach raises large questions that go beyond the topic here. The key point for now is simply that, short of major revision of general First Amendment understandings, campaign finance reform may not be predicated on equality of citizen participation in elections unless electoral speech can be conceptually severed from informal political discourse. But formal campaign speech has so many informal political substitutes that this proposition is difficult to sustain.

B. Distortion

A second argument against unregulated private campaign finance is related to the first, but focuses less on individual rights than on collective consequences. This argument says that the unequal deployment of resources in electoral campaigns causes the wrong people to get elected, distorting the true preferences of voters.[89] Good candidates who cannot surmount the high financial barriers to entry never get to run, and the choice among those who do is influenced by spending power that is not closely correlated to the popularity of the candidate's ideas. On this view, unequal funding leads both candidates and voters to misidentify the electorate's actual preferences and intensities of preference.

The Supreme Court has accepted such an argument as sufficient to justify some administrative burdens on the deployment of political money. In *Austin v. Michigan Chamber of Commerce,*[40] the Court upheld a state requirement that corporations (except nonprofit corporations organized solely for ideological purposes[41]) make political expenditures solely from separate segregated political funds, not from their general treasuries.[42] The Court reasoned that the government's interest in preventing the ''distortion'' of the apparent strength.[43] A corporation that spent, for political purposes, money raised for investment purposes, would make it appear that there was more enthusiasm for the ideas it backed than was warranted. Funds raised for expressly political purposes and segregated in a separate political fund or corporate PAC, by contrast, would represent a more accurate proxy for the popularity of the ideas they supported.

Campaign finance reformers would extend this antidistortion principle beyond the particular problems of the corporate form at issue in *Austin*. They suggest that the ability to amass political funds in general does not correlate closely with voter preferences. Rather, the unequal distribution of campaign resources leads to misrepresentation of constituents' actual preferences and intensities of preference. The wealthy (or those who are good at fund-raising) can spend more money on a candidate they care relatively little about than can the poor (or those who are inept at fundraising) on a candidate to whom they are passionately committed. To the extent such ''distorted'' campaign speech influences voting, candidates will be elected and platforms endorsed that differ from what voters would otherwise choose.

This argument has both practical and conceptual difficulties. First, a candidate's ability to attract funds is at least to some extent an indicator of popularity.[44] Money may flow directly in response to the candidate's ideas or indirectly in response to the candidate's popularity with others as reflected in poll numbers and the like.[45] To the extent that fundraising accurately reflects popularity, the reformers exaggerate the degree of distortion. Second, there are limits to how far private funding can permit a candidate to deviate from positions acceptable to the mass of noncontributing voters; the free press will to some extent correct information provided in the candidate's advertisements, and polls will discipline the candidate to respond to preferences other than those of his wealthiest backers.[46]

A third and deeper problem is that the concept of ''distortion'' assumes a baseline of ''undistorted'' voter views and preferences. But whether any such thing exists exogenously to political campaigns is unclear. Popular attitudes about public policy do not exist in nature, but are formed largely in response to cues from political candidates and party leaders. Moreover, the institutional press—itself owned by large corporations commanding disproportionate power and resources—plays a large role in shaping public opinion. Any attempt to equalize campaign spending would still leave untouched any ''distortion'' from the role of the press.[47]

C. Corruption, or political inequality in representation

A third argument for limiting political contributions and expenditures is often made under the heading of fighting political ''corruption.'' This is a misnomer. Properly understood, this argument is a variation on the political inequality argument.[48] But unlike the first argument above, it focuses not on the unequal influence of voters on elections, but on the elected legislators' unequal responsiveness to different citizens once in office. The charge against unregulated political money here is that it makes citizens unequal not in their ability to elect the candidates of their choice, but in their ability to affect legislative outcomes.[49]

The Court in *Buckley* held contribution limits permissible to prevent ''corruption'' or the appearance of corruption of legislators by contributors of significant sums. Popular rhetoric about political money often employs similar metaphors: polls show substantial majorities who say that Congress is ''owned'' by special interests or ''for sale'' to the highest bidder. It is important to note, however, that the ''corruption'' charged here is not of the Tammany Hall variety. There is no issue of personal inurement; the money is not going into candidates' pockets but into television advertisements, the earnings of paid political consultants, and various other campaign expenses that increase the chances of election or reelection. This is true a fortiori for expenditures made independent of the candidate's campaign.

The claimed harm here is not, as the term ''corruption'' misleadingly suggests, the improper treatment of public office as an object for market exchange, but a deviation from appropriate norms of democratic representation. Officeholders who are disproportionately beholden to a minority of powerful contributors, advocates of finance limits say, will shirk their responsibilities to their other constituents, altering decisions they otherwise would have made in order to repay past contributions and guarantee them in the future. Thus, properly understood, the ''corruption'' argument is really a variant on the problem of political equality; unequal outlays of political money create inequality in political representation.

Again, the difficulties with the argument are both practical and conceptual. First, political money is not necessarily very effective in securing political results. The behavior of contributors provides some anecdotal support: Many corporate PACs, to borrow Judge Posner's phrase, are ''political hermaphrodites'';[50] they give large sums to both major parties. This hedging strategy suggests a weak level of confidence in their ability to obtain results from any particular beneficiary of their contributions.

President Clinton captured the same point at a press conference where he said that he gives major donors an opportunity for a ''a respectful hearing'' but not a ''guaranteed result.''[51] While this comment might elicit skepticism, the proposition that campaign donations are a relatively unreliable investment has empirical support. Various studies of congressional behavior suggests that contributions do not strongly affect congressional voting patterns, which are for the most part dominated by considerations of party and ideology.[52] Of course, such evidence may be countered[53] by noting that contributors may be repaid in many ways besides formal floor votes—for example, by relatively invisible actions in agenda-setting and drafting in committees. Furthermore, the few votes that are dominated by contributions may occur when there is the greatest divergence between contributors' and other constituents' interests. Still, the case that contributions divert representative responsiveness is at best empirically uncertain, and not a confident basis for limiting political speech.

A second and deeper problem with the ''corruption'' argument, once it is properly recast as an argument about democratic representation, is conceptual. The argument supposes that official action should respond to the interests of all constituents, or to a notion of the public good apart from the aggregation of interests, but, in any event, not to the interests of a few by virtue of their campaign outlays. But legislators respond disproportionately to the interests of some constituents all the time, depending, for example, on the degree of their organization, the intensity of their interest in particular issues, and their capacity to mobilize votes to punish the legislator who does not act in their interests. On one view of democratic representation, therefore, there is nothing wrong with private interest groups seeking to advance their own ends through electoral mobilization and lobbying, and for representatives to respond to these targeted efforts to win election and reelection.[54] It is at least open to question why attempts to achieve the same ends through amassing campaign

money are more suspect, at least in the absence of personal inurement.[55]

But the question whether disproportionate responsiveness to contributors is ultimately consistent with democratic representation need not be answered to see the problem with the reformers' argument. That problem is that selecting one vision of good government is not generally an acceptable justification for limiting *speech*, as campaign finance limits do. Rather, what constitutes proper representation is itself the most essentially contested question protected by freedom of speech. The ban on seditious libel, the protection of subversion advocacy, and the general hostility to political viewpoint discrimination illustrate that free speech, under current conceptions, protects debates about what constitutes proper self-government from ultimate settlement by legislatures. To be sure, legislatures are often permitted or compelled to select among democratic theories, or to privilege one version of representation over its competitors in setting up the formal institutions of government. ''One person, one vote,'' for example, privileges egalitarian conceptions over various alternatives—such as the inegalitarian representation provided by the United States Senate. But the right to speak—and, it might be added, to petition—includes the right to challenge any provisional settlement a legislature might make of the question of what constitutes appropriate democratic representation.

In other words, the ''anticorruption'' argument for campaign finance reform claims the superiority of a particular conception of democracy as a ground for limited speech. As a result, it runs squarely up against the presumptive ban on political viewpoint discrimination.[56] Campaign finance reformers necessarily reject pluralist assumptions about the operation of democracy and would restrict speech, in the form of political money to foster either of two alternative political theories. First, they might be thought to favor a Burkean or civic republican view, in which responsiveness to raw constituent preferences of any kind undermines the representative's obligation to deliberate with some detachment about the public good. Alternatively, they might be thought to favor a populist view in which the representative ought be as close as possible to a transparent vehicle for plebiscitary democracy, for the transmission of polling data into policy. Either way, they conceive democracy as something other than the aggregation of self-regarding interests, each of which is free to seek as much representation as possible.[57] But surely the endorsement of civic republicanism or populism—or any other vision of democracy—may not normally serve as a valid justification for limiting speech. Legislators may enforce an official conception of proper self-government through a variety of means, but not by prohibiting nonconforming expression.

Campaign finance reformers might object that, after all, campaign finance limits in no way stop would-be pluralists from *advocating* pluralism, but only from practicing it. The utterances being silenced are performative, not argumentative. Such a response, however, is in considerable tension with a long tradition of First Amendment protection for symbolic and associative conduct.[58] A further objection might be that this argument extends only to legislative campaign finance reform, and not to a constitutional amendment such as Senator Bradley and others have proposed.[59] That is surely correct, as an amendment could obviously revise the existing First Amendment conceptions on which the argument rests. But, apart from general reasons to tread cautiously in amending the Constitution, it might well be thought especially risky to attempt by amendment to overrule a constitutional decision that is part of the general fabric of First Amendment law, as the anomaly created by the new amendment might well have unanticipated effects on other understandings of free speech.[60]

D. Carpetbagging

A fourth strand of the reform argument is a variant of the third, with special reference to geography. Except in presidential elections, we vote in state or local constituencies. The fundamental unit of representation is geographic. But money travels freely across district and state lines. Thus, political money facilitates metaphysical carpetbagging. Contributions from or expenditures by nonconstituent individuals and groups divert a legislator's representation away from the constituents in his district and toward nonconstituents, whether they are foreign corporations or national lobbies. Various reform proposals seek to limit carpetbagging by localizing funding: McCain-Feingold, for example, would require candidates not only to limit expenditures but also to raise a minimum percentage of contributions from residents of their home state in order to receive public benefits, such as broadcast and postage discounts.[61]

Again, this seeks to decide by legislation a question of what constitutes proper representation. To some, it might be legitimate for a legislator to consider the views of national lobbies. For example, those lobbies might share strong overlapping interests with her own constituents. Or the legislator might conceive her obligation as running to the nation as well as a particular district. For the reasons just given, a privileged theory of what constitutes proper political representation cannot serve as an adequate ground for limitation of speech, for free speech is itself the central vehicle for debating that very question.

E. Diversion of legislative and executive energies

A fifth critique of the current role of political money, made often by politicians themselves and sometimes elaborated as an argument for campaign reform, is that fundraising takes too much of politicians' time.[62] Many think that incumbents spend so much time fundraising that governance has become a part-time job.

This argument supposes a sharp divide between the public activity of governing and the private role of fundraising. But this distinction is hardly clear. The ''marketing'' involved in fundraising consists principally of conveying and testing response to information about past and future policy positions. How this differs from the standard material of all political campaigning is unclear, and it may well be continuous with governing. If the need for fundraising were eliminated, legislators would still have to nurture their constituencies in various ways between elections. Some might think that nurturing grass roots is a more wholesome activity than nurturing fat cast; but in that case, the diversion of energies problem simply collapses back into the problem of inequality in political representation discussed earlier.[63] To the extent the candidate makes secret promises to PACs or wealthy individuals that would be unpopular with the mass of the electorate, there are strong practical limits to such strategies, such as the danger of press exposure and constituent retaliation.

However serious the problem of incursion on the candidate's time might be, one thing is clear: the split regime of *Buckley* exacerbates it. Contribution limits mean that a candidate has to spend more time chasing a larger number of contributors than she would have to do if contributions could be unlimited in amount. Concern about time, therefore, may involve a tradeoff with concern about disproportionate influence.

F. Quality of debate

A sixth critique of the unregulated outlay of political money arises on the demand side rather than the supply side. The problem, in a word, is television. Where does all this political money go? The biggest expense is the cost of purchasing advertising time on television (though increasingly, political consultants take a hefty share). The critics regard repetitious, sloganeering spot advertisements as inconsistent with the enlightened rational deliberation appropriate to an advanced democracy. It is not clear what golden age of high-minded debate they hark back to; the antecedent of the spot ad is, after all, the bumper sticker. Nonetheless, these critics clearly aspire to something wiser and better. Ronald Dworkin's lament is representative: ''The national political 'debate' is now directed by advertising executives and political consultants and conducted mainly through thirty-second, 'sound bite' television and radio commercials that are negative, witless, and condescending.''[64] Political expenditure limits, some suggest, would cut off the supply of oxygen to this spectacle and force candidates into less costly but more informative venues such as written materials and town hall debates.

To the extent this rationale for campaign finance reform is made explicit, it would appear flatly precluded by conventional First Amendment antipaternalism principles. Permitting limitations on speech because it is too vulgar or lowbrow would wipe out a good many pages of *U.S. Reports.* Surely a judgment that speech is too crass or appeals to base instincts is a far cry from Robert's Rules of Order or other principles of ordered liberty consistent with government neutrality toward the content of speech.

In any event, the indirect means of limiting expenditures may not do much to solve this problem. Why not directly ban political advertising on television outright? Then everyone could campaign on smaller budgets. British politicians, for example, are barred from taking out paid spots on the airwaves. But Britain has strong parties and small districts; we have neither. Banning television advertising in our political culture would impair politicians', especially challengers', ability to reach large masses of the electorate. Banning television advertisements might make us more republican, but it is hardly clear that it would make us more democratic. Moreover, the special First Amendment dispensation the Court has shown for broadcast regulation is increasingly tenuous, and has not been extended to other, increasingly competitive media. To be fully effective, a ban on television advertising might have to extend to cable and the internet, where the constitutional plausibility of regulation is even more dubious.

G. Lack of competitiveness

Finally, a last argument would locate the key problem in current campaign finance practices in the advantage it confers on incumbents over challengers. Here the claim is that a healthy democracy depends on robust political competition and that campaign finance limits are needed to ''level the playing field.'' The reformers contend that unfettered political money confers an anticompetitive advantage upon incumbents. This advantage arises because incumbents participate in current policymaking that affects contributors' interests. Thus, they enjoy considerable fundraising leverage

while in office, and indeed, incumbents received on average four times as much in contributions than challengers in the 1996 congressional election.[65] This incumbent advantage, reformers argue, limits turnover and makes challengers less effective at monitoring and checking incumbents' responsiveness. It is no accident that, for such reasons, some prominent supporters of campaign finance reform, such as Republican Senator Fred Thompson of Tennessee, a cosponsor of the McCain-Feingold bill, are also prominent supporters of term limits.

But there is some practical reason to think this argument gets the competitiveness point backwards. Campaign finance limits themselves may help to entrench incumbents in office.[66] Incumbency confers enormous nonfinancial advantages: name recognition, opportunity to deliver benefits, publicity from the free press, and the franking privilege. To offset these advantages, challengers must amass substantial funds. Challengers' lack of prominence may make it more difficult for them to raise funds from large numbers of small donations. They may therefore depend more than incumbents on concentrated aid from parties, ideologically sympathetic PACs, or even wealthy individual private backers.[67] Of course, once again, contribution limits under the split regime of *Buckley* exacerbate the problem, as incumbents are more likely to be able to raise a large number of capped contributions than challengers can.

The effect of regulation or nonregulation on the competitiveness of elections is a difficult empirical question.[68] But any prediction that campaign regulation will increase electoral competitiveness and turnover is, by virtue of its very empirical uncertainty, at least a questionable ground for limiting political speech.

CONCLUSION

The discussion to this point has sought to disentangle the separate elements of the campaign finance reformers' arguments about the evils of unregulated political money and to suggest why the proposed cure for the seven deadly sins might be worse than the disease, even on the reformers' own assumptions.[69] I have sought also to show why limits on political money are in deeper tension with current First Amendment conceptions than is often supposed. *Buckley*'s declaration of the impermissibility of redistribution of speaking power has been widely criticized;[70] the effort here has been to show alternative reasons why the justifications for campaign finance reform might trigger First Amendment skepticism. These reasons include the inseverability of campaign speech from ordinary political discourse and the viewpoint basis inherent in campaign finance reform's selection of one conception of democratic representation over its competitors as a basis for curtailing speech.

If these alternative reasons have any force, then it is easier to see why campaign finance reform is especially prone to following the law of unintended consequences: for example, limits on individual contributions helped to increase the number of PACs; limits on hard money contributions stimulated the proliferation of soft money contributions; and limits on contributions generally spurred the growth of independent expenditures.[71] The reason is not just that the demand for political money is peculiarly inelastic and thus, like the demand for other addictive substances, likely to create black markets in the shadow of regulation. The reason is that grim efforts to close down every ''loophole'' in campaign finance laws will inevitably trench unacceptably far upon current conceptions of freedom of political speech. Even if formal campaign expenditures and contributions are limited, the reformers' justifications attenuate as the law reaches the informal political speech that serves as a partial substitute for formal campaign speech. Without altering conventional free speech norms about informal political discourse, there are outer limits on the ability of any reform to limit these substitution effects.

What scenario are we left with if both political expenditure and contribution limits are deemed unconstitutional? Will political money proliferate indefinitely, along with its accompanying harms? Not necessarily, provided that the identity of contributors is required to be vigorously and frequently disclosed. Arguments against compelled disclosure of identity, strong in contexts where disclosure risks retaliation,[72] are weaker in the context of attempts to influence candidate elections, as the *Buckley* decision itself recognized in upholding the disclosure requirements of the 1974 FECA amendments.[73] Weekly disclosure in the newspapers, or better, daily reporting on the internet, would be a far cry from earlier failed sunshine laws. If the lists of names and figures seemed too boring to capture general attention, enterprising journalists could ''follow the money'' and report on any suspect connections between contributions and policymaking.

Under this regime—in which contributions and expenditures were unlimited, but the identities of contributors were made meaningfully public—there would be at least three reasons for modest optimism that the harms the reformers fear from unlimited political money would in fact be limited.

A. Increased supply

If contributions, like expenditures, could not be limited in amount, the total level of contributions might be expected to increase as there might be a net shift from expenditures to contributions. The supply of political money to candidates would be increased. This might be expected to lower the ''price'' to the candidate of a political contribution. With more quids on offer, a politician has less reason to commit to any particular quo. In this politicians' buyers' market, concerns about unequal political influence that arise under the misleading ''corruption'' heading would arguably attenuate, and contributors might curtail their outlays in response to their declining marginal returns.

B. Decreased symbolic costs from subterfuge

If contributions could be made in unlimited amounts, would-be contributors would not have to resort to the devices of independent advertisements or party contributions as substitutes. Public perception of a campaign finance system gone out of control rests at least in part on the view that politicians, parties, and donors skirt existing laws by exploiting evasive ''loopholes.'' To the extent that all functional contributions are made as explicit contributions, the symbolic costs of the current split regime of *Buckley* would decrease.

C. Voter retaliation

With contributions fully disclosed and their effects on political outcomes subject to monitoring by the free press, voters would be empowered to penalize candidates whose responsiveness to large contributors they deemed excessive. Voters could do retail what campaign finance reform seeks to do wholesale: encourage diversification in the sources of campaign funding. Political challengers could capitalize on connections between political money and incumbents' official actions. A striking demonstration of this point arose in the 1996 presidential election, when the Dole campaign's attack on alleged Democratic fund-raising scandals drove President Clinton's poll numbers into a temporary freefall.[74] Political money would itself be an election issue; a candidate would have to decide which was worth more to her—the money, or the bragging rights to say that she did not take it.

Of course, the harms of political money cannot be expected to be entirely self-limiting. The deregulation outlined here is only partial; compelled disclosure avoids a regime of absolute laissez-faire. Even this partial deregulation might have unintended consequences. Some of the reformers' goals are widely shared and might require market intervention. For example, achieving adequate competitiveness in elections might require some public subsidies for challengers who can demonstrate certain threshold levels of support—floors but not ceilings for political expenditures.[75] But the possibilities outlined here at least suggest some hesitation before deciding which way the split regime of *Buckley* ought to be resolved.

FOOTNOTES

[1] *See generally* David E. Rosenbaum, *In Political Money Game, the Year of Big Loopholes,* N.Y. Times, Dec. 26, 1996, at A1 (discussing amounts of money on political campaigns).

[2] *See* Bipartisan Campaign Reform Act of 1997, S. 25, 105th Cong. (reintroducing proposed measures to reform campaign financing); Senate Campaign Finance Reform Act of 1996, S. 1219, 104th Cong. (proposing measures for campaign finance reform).

[3] *See Excerpts From the First News Conference of Clinton's Second Term,* N.Y. Times, Jan. 29, 1997, at B6 [hereinafter *Press Conference Excerpts*].

[4] 424 U.S. 1 (1976).

[5] *See id.* at 143; Bill Bradley, *Congress Won't Act, Will You?,* N.Y. Times, Nov. 11, 1996, at A15 [hereinafter Bradley, *Congress Won't Act*]; Bill Bradley, *Perspectives on Campaign Finance; Money in Politics, Ants in the Kitchen,* L.A. Times, Jan. 31, 1997, at B9.

[6] *See* Leslie Wayne, *After the Election: Campaign Finance; Scholars Ask Court to Backtrack, Shutting Floodgates on Political Spending,* N.Y. Times, Nov. 10, 1996, at §1, 30 (describing scholars' letter advocating demise of *Buckey v. Valso*).

[7] *See* David Stout, *State Attorneys General Urge Limits on Campaign Spending,* N.Y. Times, Jan. 28, 1997, at A14 (stating that campaign spending threatens integrity of elections).

[8] California's 1996 ballot measure is under court challenge. *See* California Political Reform Act of 1996, Proposition 208, Cal. Gov't Code §85600 (West Supp. 1997). Many provisions of Oregon's 1995 ballot measure, Measure 9, including contributions limits, were invalidated under the free expression provision on the Oregon Constitution in *Vannatta v. Keisling,* No. SC 542506, 1997 Ore. LEXIS 5, at *42*53 (Or. Feb. 6, 1997).

[9] Some states have also experimented with public funding of state elections. *See generally* Kenneth R. Mayer & John M. Wood, *The Impact of Public Financing on Electoral Competitiveness: Evidence from Wisconsin, 1964–1990,* 20 Legis. Stud. Q 69 (1995) (finding that Wisconsin's public subsidies did not increase electoral competitiveness).

[10] *See Buckley,* 424 U.S. at 145–11 (sustaining individual contribution limits but invalidating limits on campaign expenditures).

[11] *See* FEC v. National Conservative Political Action Comm., 470 U.S. 480, 501 (1985) (invalidating limits on independent expenditures by PACs); Colorado Republican Fed. Campaign Comm. v. FEC, 116 S. Ct. 2309, 2310–20 (1996) (invalidating limits on independent expenditures by political parties).

[12] *See* Federal Election Campaign Act of 1971, 2 U.S.C. §§431–455 (1994) (defining campaign contribution limits).

[13] For explication of campaign expenditure limitations on political parties, see *Colorado Republican,* 116 S. Ct. at 2313–14.

[14] *See Buckley,* 424 U.S. at 26 (discussing potential corruption that large contributions may bring).

[15] *See id.* at 46–48 (stating that independent expenditures are not as likely to lead to abuse as large contributions).

[16] *See id.* at 49.

[17] *Colorado Republican,* 116 S. Ct. at 2327.

[18] *See* Daniel D. Polsby, Buckley v. Valeo; *The Special Nature of Political Speech,* 1976 Sur. Ct. Rev. 1, 26–31 (arguing that ''the Court made a mistake in allowing expenditure ceilings to ride in on the coattails of public financing'').

[19] *See, e.g.,* Mark Tushnet, *Corporations and Free Speech,* in The Politics of Law 253, 256–57 (David

Kairys ed., 1982) (discussing free-speech rights available to powerful and, most specifically, corporations).

[20] *See* Bipartisan Campaign Reform Act of 1997, S. 25, 105th Cong. §231 (providing for treatment of bundled contributions).

[21] For a critique of bundling, see Fred Wertheimer & Susan Weiss Manes, *Campaign Finance Reform: A Key to Restoring the Health of Our Democracy,* 94 Colum. L. Rev. 1126, 1140–42, 1155–56 (1994). Note that the ultimate antibundling measure would be a ban on PAC contributions to political campaigns. However, even ardent reformers regard such a measure as a probable infringement of the right of association. *See id.* at 1155.

[22] *See* Rosenbaum, *supra* note 1, at Al (reporting statistics on campaign expenditures).

[23] *See* S. 25, §§211–213 (limiting soft money contributions).

[24] See James Bennet, *Clinton Announces New Limits on Fund-Raising by Democrats,* N.Y. Times, Jan. 22, 1997, at AI.

[25] *See* Colorado Republican Campaign Comm. v. FEC, 116 S. Ct. 2309, 2317 (1996) (invalidating limits on independent expenditures by political parties).

[26] *See* California Med. Ass'n v. FEC. 453 U.S. 182, 197–98 (1981) (upholding $5000 limit on contributions to multi-candidate committees because without such limits, contribution limits upheld in *Buckley* ''could be easily evaded'').

[27] *See, e.g.,* NAACP v. Alabama *ex rel.* Patterson, 457 U.S. 449, 460–61 (1958) (holding that freedom of association is indispensable aspect of liberty protected by Fourteenth Amendment), *rev'd,* 360 U.S. 240 (1959).

[28] *See* S. 25, §§101–104 (setting forth benefits for political candidates who limit their campaign expenditures).

[29] *See* CAI. Gov't Code 85600 (West Supp. 1997). Section 85600 was enacted by the California Political Reform Act of 1996, Proposition 208.

[30] Compelled carriage of unwanted speech normally triggers strict First Amendment scrutiny. *See* Pacific Gas & Elec. Co. v. Public Utils. Comm'n, 475 U.S. 1 20–21 (1986) (invalidating forced inclusion of environmentalist statements in public utility's billing envelope). The Court does not apply strict scrutiny where the government's reason for the compulsion bears no relation to the content of the compelled speech. *See* Turner Broadcasting Sys., Inc. v. FCC, 512 U.S. 622, 641–42 (1994) (reviewing content-neutral law requiring cable operators to carry unwanted broadcast stations under intermediate scrutiny). Broadcasters, however, have been held subject to compelled carriage requirements that would be unconstitutional if applied to non-broadcast speakers. *Compare* Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 400–01 (1969) (upholding mandatory reply obligations applicable to broadcasters), *with* Miami Herald Pub. Co. v. Tornillo, 418 U.S. 241, 256 (1974) (invalidating mandatory reply obligations applicable to newspapers). With the obsolescence of the spectrum scarcity argument on which *Red Lion* was premised, it is unclear whether broadcasters would have a compelled-speech objection to the extraction of free or discounted air time for candidates as a condition of their receipt of public licenses.

[31] *See* Reynolds v. Sims, 377 U.S. 533, 561–68 (1964) (holding that state's legislative apportionment scheme violates Equal Protection Clause); Baker v. Carr, 369 U.S. 186, 208–37 (1962) (concluding that such claims of equal protection violations are jusiticiable).

[32] *See* Bruce Ackerman, *Crediting the Voters: A New Beginning for Campaign Finance,* Am. Prospect, Spring 1993, at 71, 72 (stating that voucher is an alternative to campaign finance reform).

[33] *See* generally Edward B. Foley, *Equal-Dollar-Per-Voter: A Constitutional Principle of Campaign Finance,* 94 Colum. L. Rev. 1204 (1994) (arguing that each voter should be constitutionally guaranteed equal financial resources for expenditures on electoral speech).

[34] *See, e.g.,* David A. Strauss, *Corrpution, Equality, and Campaign Finance Reform,* 94 Colum, L. Rev. 1369, 1383 (1994) (suggesting that ''one person, one vote' is indeed the decisive counterexample to the suggestion that the aspiration [of equalizing political speech] is foreign to the First Amendment''); Cass R. Sunstein, *Political Equality and Unintended Consequences,* 94 Colum. L. Rev. 1390, 1392 (1994) (stating that ''the 'one person-one-vote' rule exemplifies the commitment to political equality'' and that ''[l]imits on campaign expenditures are continuous with that rule'').

[35] Alexander Meiklejohn, Free Speech and Its Relation to Self-Government 25 (1948).

[36] Ronald Dworkin, *The Curse of American Politics,* N.Y. Rev. Books, Oct. 17, 1996, at 19, 23.

[37] For a similar argument by an advocate of the overrule of *Buckley* and campaign finance reform, *see* C. Edwin Baker, *Limits on Campaign 'Speech' Are Just an Extension of Existing Rules,* Philadelphia Inquirer, Jan. 28, 1997, at A11. Baker distinguishes between the aspects of politics, such as voting, that are ''legally created and structured'' and ''specially designed to fairly achieve certain results,'' in which speech may be limited, and the realm of informal political debate and dialogue that ''occurs as much between elections as during them,'' in which speech ought to be ''unbounded.'' *See id.* Like Dworkin, Baker allocates political finance to the formal rather than the informal realm, and hence regulable by norms of equality. *See id.* But like Dworkin, Baker does not explain how campaign speech may be severed for informal political speech.

[38] *See, e.g.,* Sanford Levinson, *Regulating Campaign Activity: The New Road to Contradiction?,* Mich L. Rev. 939, 945–48 (1985) (book review) (noting financial inequalities in political influence, including disproportionate political influence of media conglomerates); *id,* at 948–49 (noting nonfinancial inequalities in campaign resources, including leisure time and celebrity status); *see also* Lillian R. BeVier, *Campaign Finance Reform: Specious Argument, Intractable Dilemmas,* 94 Colum. L. Rev. 1258, 1267 (1994) (catalouging nonfinancial inequalities in campaigning).

[39] *See generally* Daniel Hays Lowenstein, *On Campaign Finance Reform: The Root of All Evil is Deeply Rooted,* 18 Hofstra L. Rev. 301 (1989) (proposing reform package for legislative general elections).

[40] 494 U.S. 652 (1990).

[41] *See* FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 256–65 (1986) (invalidating funding segregation requirement for ideological corporations formed for political purposes).

[42] Similar federal requirements govern corporations and labor unions. Since 1907, corporations have been barred from spending corporate treasury funds in federal election campaigns, and, since 1947, so have labor unions. *See* 2 U.S.C. §441b (1994) (prohibiting use of general funds). Thus, separate political funds are their only vehicle for contribution. *See id.* (allowing use of segregated funds). Since enactment of the 1974 FECA amendments, even government contractors have been permitted to form segregated political funds. *See id.* §441c(b) (permitting government contractors to establish and use separate funds).

[43] *See Austin,* 494 U.S. at 657–60 (examining reasons behind state regulation of corporate expenditures).

[44] *See, e.g.,* Janet M. Grenzke, *PACs and the Congressional Supermarket: The Currency Is Complex,* 33 Am. J. Pol. Sci. 1, 19–20 (1989) (concluding that in most cases, PACs do not substantially affect candidates' actions in office, absent popular approval); *see also* Bruce E. Cain, *Moralism and Realism in Campaign Finance Reform,* 1995 U. Chi. Legal F. 111, 127 (noting that money signals intensity of support in ways voting cannot).

[45] *See* Bradley A. Smith, *Faulty Assumptions and Undemocratic Consequences of Campaign Finance Reform,* 105 Yale L.J. 1049 1065 (1996) (stating that ''[t]he ability to raise money is evidence of political prowess and popularity that would normally translate into votes, regardless of spending'').

[46] *See* Grenzke, *supra* note 44, at 20 (stating that PACs do not ''distort'' politics because politicians primarily act based on popularity of legislation).

[47] See Sanford Levinson, Frameworks of Analysis and Proposals for Reform: A Symposium on Campaign Finance: Electoral Regulation: Some Comments, 18 Hofstra, L. Rev. 411, 412–13 (1989) (criticizing campaign finance reformers' lack of attention to role of press).

[48] See David A. Strauss, What Is the Goal of Campaign Finance Reform?, 1995 U. Chi. Legal F. 141, 144 (noting that ''once inequality is removed,'' corruption argument has little independent merit).

[49] Cf. Pamela S. Karlan, The Rights To Vote: Some Pessimism About Formalism, 71 Tex. L. Rev. 1705, 1712–18 (1993) (distinguishing voting as aggregation of preferences for candidates in an election from voting as means of controlling ongoing governance).

[50] LaFalce v. Houston, 712 F.2d 292, 294 (7th Cir. 1983), cert. denied, 454 U.S. 1044 (1984).

[51] See Press Conference Excerpts, supra note 3, at B6.

[52] See, e.g., Grenzke, supra note 44, at 19–20 (observing that while money gives PACs access to legislators, it is insufficient to garner support for legislation absent popular approval); John R. Wright, Contributions, Lobbying and Committee Voting in the U.S. House of Representatives, 84 Am. Pol. Sci. Rev. 417, 433–35 (1990) (finding that lobbying, not money, affects committee behavior).

[53] For a review and critique of this evidence, see Lowenstein, supra note 39, at 306–35.

See generally Frank J. Sorauf, Inside Campaign Finance: Myths and Realities (1992) (discussing history of campaign finance reform); Frank J. Sorauf, Money in American Elections (1988) (exploring methods of election campaign financing).

[54] See Cain, supra note 44, at 115–16 (conducting that so-called ''inappropriate motives,'' such as desire to be reelected, are both permissible and necessary in modern elections).

[55] See Strauss, supra note 34, at 1371–75 (discussing relationship between campaign finance and other techniques of legislative influence).

[56] Indeed, the mere fact that campaign contributions may be consistent with some notions of democratic theory clearly demonstrates the content basis of campaign finance laws. *See* Cain, *supra* note 44, at 120–40 (examining private contributions under procedural view of democracy).

[57] On the distinctions between these pluralist, populist, and Burkean (or civic republican or trustee) models of political influence in the campaign finance context, see BeVier, *supra* note 38, at 1269–76 (1994); Cain, *supra* note 44, at 112–22; Stephen E. Gottlieb, *The Dilemma of Election Campaign Finance Reform,* 18 Hofstra L. Rev. 215, 232–37 (1989); Daniel Hays Lowenstein, *Political Bribery and the Intermediate Theory of Politics,* 32 UCLA L. Rev. 784, 805–42, (1985).

[58] *See generally* United States v. O'Brien, 391 U.S. 367 (1968) (addressing draft-card burning); NAACP v. Button, 371 U.S. 415 (1963) (addressing constitutionality of Virginia statute limiting litigation rights).

[59] See Bradley, *Congress Won't Act, supra* note 5, at A15 (noting that reform will depend on concerned citizens).

[60] *See generally* Kathleen M. Sullivan, *Constitutional Constancy: Why Congress Should Cure Itself of Amendment Fever,* 17 Cardozo L. Rev. 691, 691–704 (1996) (discussing reasons why Congress should hesitate before proposing constitutional amendments).

[61] *See* Bipartisan Campaign Reform Act of 1997, S. 25, 105th Cong. §101 (1997).

[62] *See* Vincent Blasi, *Free Speech and the Widening Gye of Fund-Raising: Why Campaign Spending Limits May Not Violate the First Amendment After All, 94 Colum.* L. Rev. 1281, 1281 (1994) (stating that candidates spend too much time fund-raising).

[63] See Strauss, supra note 48, at 156–57 (concluding that time-diversion argument has little force independent of inequality argument).

[64] Dworkin, *supra* note 36, at 19.

[65] *See* Rosenbaum, *supra* note 1, at Al (comparing historical campaign fund amounts with those of 1996).

[66] *See* Lillian R. BeVire, *Money and Politics: A Perspective on the First Amendment and Campaign Finance Reform.* 73 Cal. L. Rev. 1045, 1069–78 (1985) (arguing that, given legislators' inherent interest in maintaining incumbency advantages, courts should be suspicious of campaign finance reform adopted purportedly to equalize speech opportunities).

[67] *See generally* Gottlieb, *supra* note 57, at 232–37 (discussing inequality in election campaigns between incumbents and challengers).

[68] *See* Grenzke, *supra* note 44, at 19–20 (concluding that contributions generally reflect preexisting support for candidates): Gary C. Jacobson, *Campaign Finance and Democratic Control: Comments on Gottlieb and Lowenstein's Papers,* 18 Hofstra L. Rev. 369, 371–74 (1989) (discussing arguments that campaign finance regulation hurts competitiveness): Gary C. Jacobson, *The Effects of Campaign Spending in House Elections: New Evidence of Old Arguments,* 34 Am. J. Pol. Sci. 334, 356–58 (1990) [hereinafter Jacobson, *House Elections]* (concluding that, in determining electoral outcomes, amounts raised by challengers are far more important than amounts raised by incumbents); Mayer & Wood, *supra* note 9, at 70 (concluding that public financing had ''no effect at all'' on competitiveness of elections in Wisconsin).

[69] For further argument that campaign finance reform may be ineffective in promoting its own asserted goals, see Smith, *supra* note 45, at 1071–86.

[70] *See, e.g.,* Sunstein, *supra* note 34, at 1397–99 (arguing that *Buckley* may be modern analogue of discredited case of *Lochner v. New York,* 198 U.S. 45 (1905)).

[71] *See id.,* at 1400–11 (cataloguing such efforts).

[72] *See* NAACP v. Alabama *ex rel.* Patterson, 357 U.S. 449, 462–54 (1958) (shielding NAACP membership lists from compelled disclosure to prevent economic and physical retaliation against its members), *rev'd,* 360 U.S. 240 (1959); McIntyre v. Ohio Elections Comm'n, 514 U.S. 334, 342–43 (1995) (invalidating Ohio's ban on anonymous campaign literature).

[73] *See* Buckley v. Valeo, 424 U.S. 1, 60–84 (1976) (discussing reporting and disclosure requirements).

[74] *See Dole Cuts Clinton Lead in One Poll,* Orange County Reg., Nov. 2, 1996, at A27 (stating Clinton dropped in polls because of Dole's attacks on his campaign financing methods).

[75] *See* Jacobson, *House Elections, supra* note 68, at 356–58 (concluding that, because amounts raised by challengers are more important than those raised by incumbents, once threshold requirement of popularity has been met, floors without ceilings might increase competitiveness).

Mr. MCCONNELL. Mr. President, no discussion of the issue advocacy provisions in the McCain-Feingold bill can be complete without the input of James E. Bopp, Jr., who is perhaps the most experienced lawyer in America in this area of the law and the bane of the FEC's irresponsible battalion of lawyers who have made it their mission in life to harass citizen groups. For that worthy accomplishment, Mr. Bopp deserves special commendation.

I ask unanimous consent to have printed in the RECORD Jim Bopp's recent law review article entitled, ''The First Amendment Is Not the Loophole,'' which he coauthored with Richard E. Coleson.

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

[Reprinted from University of West Los Angeles Law Review, Volume 28, 1997]

THE FIRST AMENDMENT IS NOT A LOOPHOLE: PROTECTING FREE EXPRESSION IN THE ELECTION CAMPAIGN CONTEXT

(By James Bopp, Jr.* and Richard E. Coleson**)

''Congress shall makes no law. . . abridging the Freedom of Speech. . . .''[1]

INTRODUCTION

The First Amendment plainly states that Congress is to ''make no law'' which would ''abridg[e] the freedom of speech,''[2] yet Congress enacted the Federal Election Campaign Act of 1971 (FECA), as amended in 1974,[3] precisely to abridge certain forms of speech in election campaigns. In the landmark case of *Buckley v. Caleo*,[4] the United States Supreme Court struck down many FECA provisions on free expression grounds.

For the two decades since *Buckley*, the Federal Election Commission (FEC) has fought to close the perceived loopholes created by *Buckley* in the federal election laws, so that the agency could regulate all speech relating in any way to federal elections. Throughout this period, the Supreme Court has repeatedly proclaimed that the First Amendment is not a loophole—free expression must be protected amidst the rush to impose campaign finance restrictions.

Undeterred, the FEC has created new theories in an attempt to bypass Supreme Court holdings and pursued regulation of constitutionally-protected expression. On June 26, 1996, the United States Supreme Court decided the case of *Colorado Republican Federal Campaign Committee v. FEC (Colorado Republican)*,[5] again rejecting the FEC's creative efforts to regulate political speech protected by the First Amendment. This article discusses the *Colorado Republican* case in its historical context of conflict between federal court protection of free expression and attempts, by the FEC and various states, to regulate protected expression in the name of campaign finance reform.

The article is written from a practical perspective, i.e., what the courts have held, not what certain theoreticians would like the courts to hold.[6] In Part I, ''A Primer on Protected Political Expression,'' the authors will summarize briefly some of the key theoretical debates, but will primarily focus on the principles undergirding free political expression, discuss some terms of art, and explain the sorts of activity over which litigation usually arises. The robust First Amendment protection of issue advocacy will be the topic of Part II, ''Supreme Court Defense of Issue Advocacy Through *Buckley*,'' and Part III, ''FEC Efforts to Stifle Issue Advocacy.'' Part IV will focus on ''Other Protection for Free Political Expression,'' discussing (1) MCFL-type organizations, (2) members, (3) anonymous literature, (4) caps on contributions and expenditures, (5) political committees, (6) burden of proof, and (7) prior restraint of speech. In Part V, ''A Proposal for Speech-Enhancing Campaign Reform,'' the article will conclude with a proposal for constitutionally-permissible campaign finance reforms which would enhance, rather than suppress, the free flow of speech about candidates and issues of public concern which is essential to our democratic Republic.

I. A PRIMER ON PROTECTED POLITICAL EXPRESSION

Our political system is based on the model of an open and free marketplace of ideas. The Framers of our Constitution believed that good ideas will triumph over bad ideas if the People are free to debate and to champion the ideas they find convincing. Free speech is not only valuable intrinsically as a personal liberty, but it is a necessary prerequisite for limited representative government, particularly in free elections.[7] This has been well stated by the District of Columbia Circuit: ''If popular elections form the essence of republican government, free discourse and political activity formed the prerequisite for popular elections. As Madison wrote, a government which is 'elective, limited and responsible' to the people requires 'a greater freedom of animadversion' than one not so structured.''

In our day, the Supreme Court has recognized that ''debate on the qualifications of candidates [is] integral to the operation of the system of government established by our Constitution.'' Because the electoral process plays so central a role in our conception of a free government, ''it can hardly be doubted that the constitutional guarantee [of the First Amendment] has its fullest and most urgent application precisely to the conduct of campaigns for political office.''[8]

* * * * *

This effort goes by the innocuous name of campaign finance reform. While ''reform'' is generally considered a salutary goal, ''reform'' is not good when it is a euphemism for silencing the voice of the People at election time.

The Supreme Court and lower courts have repeatedly had to protect the First Amendment rights of the People against misguided ''reform'' efforts which impinge on essential liberties.[24] Truly beneficial ''reform'' would enhance the power of the People to communicate and promote their ideas, not repress it. Proper reform would return power to the People, not enhance the power of media elite, wealthy candidates, and Washington insiders to influence elections—which is the ultimate outcome if the People's voice through their political parties and political committees is muffled or silenced.[25]

Bopp writes that this fight against unconstitutional political speech restrictions advanced under the guise of ''reform'' is bipartisan. That may be the case in the outside world but, regrettably, that is not the situation in the Senate where it appears Democrats are going to join hands in delivering a crushing blow to First Amendment freedom that Americans have savored for two hundred years.

The battle to preserve free speech rights in the election context is bi-partisan and non-ideological, as evidenced by the existence of the Free Speech Coalition. This Coalition is co-chaired by Ellie Smeal of the Fund for the Feminist Majority and David Keene of the American Conservative Union and is made up of approximately 50 public interest advocacy groups ranging ideologically from the left to the right, from environmental activist groups to pro-business organizations, and from gun control enthusiasts to the National Rifle Association. The broad-based agreement on protecting free expression rights in the election context was symbolized recently when James Bopp, Jr., General Counsel for the National Right to Life Committee (*NRLC*) and co-author of the present article, presented testimony on behalf of the Free Speech Coalition before the U.S. Senate Committee on Rules and Administration considering campaign finance reform.[26] These public policy groups agree on little else, but they agree that the First Amendment protects their right to advocate on issues on public concern. This is the marketplace of ideas at work, with opposing groups vying for the blessing of public opinion on their issue. It is America working at its best.[27]

This battle for First Amendment liberty is being fought over several types of activities. It will be helpful to consider some of them briefly and note some terms of art.

A ''political action committee'' (PAC) (also sometimes known as a ''political committee'' in statutes) is nothing more than individuals uniting to promote issues and candidates more effectively than they could do on their own.[28] A PAC may lawfully engage in ''express advocacy,'' i.e., expressly advocate the election or defeat of a clearly identified candidate,[29] and make contributions to candidates. First Amendment rights do not diminish in any way because persons associate to advocate for their cause more effectively; in fact, the right of citizens to band together in PACs is specifically protected by the First Amendment's freedom of association protections.[30] Thus, pejorative references to PACs as ''special interests'' which need to be stifled are actually misguided attacks on the core First Amendment rights of free political expression and association. The marketplace-of-ideas response to a PAC message one opposes is not to silence PACs but to form one's own association of persons to advocate an opposing message in the marketplace.[31] The cacophony of competing communications may sometimes be deafening and disquieting, but that is the way of liberty. The road to serfdom is the quiet and quiescent road. Recognizing free speech as an inherent good and the necessity of free political debate and association in a democratic republic, the Supreme Court has permitted only limited regulation of PACs.[32]

Litigation often arises over the scope of a state's definition of a political committee or PAC. Often states try to channel all individuals and groups, who advocate on issues in a manner which would in any way ''influence'' an election, into the political committee category so that they will have to register and report as if they were a political committee.[33] However, an organization cannot constitutionally be required to register and report as a political committee unless it ''major purpose'' is the nomination or election of candidates. Imposing the relatively burdensome reporting requirements which may be imposed on PACs on issue-advocacy groups is simply too heavy a burden on free expression to be permitted.[34] There is no compelling governmental interest to justify such a burden on First Amendment rights.

An ''independent expenditure'' is an expenditure made for a communication which contains ''express advocacy'' and is made without any prior consultation or coordination with a candidate. An entity which makes an independent expenditure may be required to report that expenditure, even if it is not required to register and report as a political committee.[35]

See footnotes at end of article.

''Issue advocacy'' is advocacy of issues without engaging in express advocacy.[36] For example, if a pro-life group publishes a newletter on the eve of an election describing Candidate D as pro-life and Candidate C as pro-abortion rights in an article about the two candidates, that is issue advocacy, not express advocacy, because there have been no explicit words expressly advocating the election or defeat of a clearly identified candidate for public office.[37] The candidates have been clearly identified, they are running for public office, but saying that Candidate D is pro-life is not express advocacy, it is issue advocacy. This is so even though the statement is made in a pro-life newsletter, in a discussion of candidates, on the eve of an election.[38]

A ''voter guide'' is a table showing the positions of candidates on various issues. If it does not expressly advocate the election or defeat of any of the identified candidates, the voter guide is pure issue advocacy and may not be regulated by the FEC or any state. The voter guide may even indicate what is the response preferred by the organization publishing the guide, e.g. by indicating a favorable answer (from the perspective of the publisher) with a (+) and an unfavorable response with a minus (−). Or the voter guide can word the questions in such a way that a candidate giving favored responses will have a ''yes'' answer for every question, while a candidate giving disfavored responses will have all ''no'' answers.[39] These voter guides may be paid for and distributed by any individual or organization.[40]

Because they discuss candidates, are distributed at election time, and may actually influence elections, voter guides have been the target of intense efforts by the FEC,[41] state legislatures,[42] and the Democrat Party[43] in an effort to force voter guide activity into the definition of express advocacy and, thereby, prohibiting citizens groups which publish them from doing so unless they register and report as political committees. Such efforts have been repeatedly rejected as courts have followed the bright-line express advocacy test set out by the United States Supreme Court to protect issue advocacy.

Advocates of McCain-Feingold cling to a groundless belief that the Supreme Court is going to do a 180 and suddenly retreat on decades of jurisprudence blasting such gross government intrusion into First Amendment speech. A notion Bopp dispels.

II. SUPREME COURT DEFENSE OF ISSUE ADVOCACY THROUGH BUCKLEY

The United States Supreme Court has long and carefully watched over efforts to regulate political speech in order to ensure that the guarantees of the First Amendment[44] are not denied. This is because such restrictions ''limit political expression 'at the core of our electoral process and of First Amendment freedoms.' ''[45] All political speech, including communications which expressly advocate election or defeat of Supreme Court has declared: ''[T]he First Amendment right to 'speak one's mind . . . on all public institutions' includes the right to engage in ''vigorous advocacy' no less than 'abstract discussion.' '' Advocacy of the election or defeat of candidates for federal office is no less entitled to protection under the First Amendment than the discussion of political policy generally or advocacy of the passage or defeat of legislation.''[46]

Not only has the Court afforded strong constitutional protection for political speech in general, but it has afforded exceptionally strong constitutional protection for issue-oriented speech. As a result, the Court has repeatedly given a narrowing construction to statutes regulating political speech, so as to permit regulation of only express advocacy, in order to shield the statutes from constitutional attack. Moreover, the Supreme Court has established two bright-line tests to protect the advocacy of issues in the election context: (1) the ''express advocacy test'' and (2) the ''major purpose test.''[47] These will be discussed in turn.

A. THE BRIGHT-LINE EXPRESS ADVOCACY TEST

In a series of cases, the United States Supreme Court has drawn a distinction between express advocacy, which may be regulated, and issued advocacy, which may not be regulated. As shall be seen, both enjoy full First Amendment protection, but the compelling interest in preventing corruption (or its appearance) in the election process is only sufficiently compelling to warrant some regulation of express advocacy.[48] No governmental interest is sufficiently compelling to regulate issue advocacy.

In 1948, the Supreme Court considered the case of *United States v. Congress of Industrial Organizations (C.I.O).*[49] *C.I.O.* concerned a federal statute prohibiting a corporation or labor organization from making ''any expenditure in connection with a federal election.''[50] Under this provision, an indictment was returned against the C.I.O. and its president for publishing, in The CIO News, a statement urging all members of the C.I.O. to vote for a particular candidate for Congress in an upcoming election.[51] In affirming a dismissal of the indictment, the Court observed: ''If §313 were construed to prohibit the publication, by corporations and unions in the regular course of conducting their affairs, of periodicals advising their members, stockholders or customers of danger or advantage to their interests from the adoption of measures, or the election to office of men espousing such measures, the gravest doubt would arise in our minds as to its constitutionality.''[52]

A lengthy footnote appended to this statement set forth several passages from case law wherein the Court had declared the specially protected nature of free speech concerning public policy and political matters:

''Free discussion of the problems of society is a cardinal principle of Americanism—a principle which all are zealous to preserve. *Penekamp v. Florida*, 328 U.S. 331, 345 [(1946)].

''The case confronts us again with the duty our system places on this Court to say where the individual's freedom ends and the State's power begins. Choice on that border, now as always delicate, is perhaps more so where the usual presumption supporting legislation is balanced by the preferred place given in our scheme to the great, the indispensable democratic freedoms secured by the First Amendment. *Thomas v. Collins*, 323 U.S. 516, 529–30 [(1945)].

''For the First Amendment does not speak equivocally. It prohibits any law 'abridging the freedom of speech, or of the press.' It must be taken as a command of the broadest scope that explicit language, read in the context of a liberty-loving society, will allow, *Bridges v. California*, 314 U.S. 252, 263 [(1941)].''[53]

In 1976, the Supreme Court considered a successor statute to the one discussed in *C.I.O.*, the Federal Election Campaign Act of 1971, as amended in 1974.[54] This new statute was reviewed in *Buckley* v. *Valeo*.[55]

Buckley dealt, inter alia, with a provision which limited ''any expenditure . . . relative to a clearly identified candidate.''[55] The provision placed a limit on the amount of an independent expenditure on behalf of a candidate. However, this provision was considered to be unconstitutionally vague.[57] Therefore, the Court construed it with another provision of the same statute to require '''relative to' a candidate to be read to mean 'advocating the election or defeat of' a candidate.''[58]

However, as the *Buckley* Court noted, this construction merely refocused the vagueness problem. The real problem, the Court noted, as that: ''the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are often intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest.[59]

Because of the problem described, the Supreme Court settled on the express advocacy test as marking the line of demarcation between the permitted and the forbidden. This test is constitutionally mandated because only a statute regulating the express advocacy of a clearly identified federal candidate has a sufficiently bright line of distinction to make it constitutionally defensible. The Supreme Court, in *Buckley*, explained the problem with a quotation from *Thomas* v. *Collins:* ''[W]hether words intended and designed to fall short of invitation would miss the mark is a question both of intent and of effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning. Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim.[60]''

Thus, the Supreme Court, in *Buckley*, said that ''[t]he constitutional deficiencies described in *Thomas* v. *Collins* can be avoided only by reading §608(e)(1) [placing a ceiling on independent expenditures] as limited to communications that include explicit words of advocacy of election or defeat of a candidate.''[61]

Without such a clear line of demarcation, then, a speaker is forced to ''hedge and trim'' comments made on issues of public importance for fear he will be charged with forbidden electioneering. This is too heavy a burden on First Amendment Rights to be constitutionally permitted.[62]

The *Buckley* Court concluded that ''[t]he constitutional deficiencies'' of such unclear statutory language could only be cured by reading the statute ''to apply to expenditures for communications that in express terms advocate the election of a clearly identified candidate for a public office.''[63] The Court added that ''[t]his construction would restrict the application of §608(e)(1) to communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.' ''[64]

The *Buckley* Court then proceeded to determine whether the statute, ''even as thus narrowly and explicitly construed, impermissibly burdens the constitutional right of free expression.''[65] The Court determined that the government could not advance an interest in support of the statute sufficient to ''satisfy the exacting scrutiny applicable to limitations on core First Amendment rights of political expression.''[66]

In sum, the Court established the express advocacy test as a bright-line rule to distinguish political advocacy, which could be regulated, from issue advocacy, which may not.

B. THE BRIGHT-LINE MAJOR PURPOSE TEST

In *Buckley*, the Supreme Court also established the bright-line ''major purpose'' test. In practical application, this test means that government may not require an organization which makes contributions and independent expenditures to register and report as a political committee unless the ''major purpose'' of the organization is the election or nomination of candidates for political office.[67] Government may, however, require that the independent expenditures be reported by the organizations making them and that contributions be reported by the candidate receiving them. However, there is no sufficiently compelling interest to justify imposing the onerous burdens imposed on a political committee on an issue advocacy group.[68]

This test was set forth in the *Buckley* Court's discussion of 2 U.S.C. §434(e), which required ''[e]very person (other than a political committee or candidate) who makes contributions or expenditures'' aggregating over $100 in a calendar year ''other than by contribution to a political committee or candidate'' to file a statement with the Commission. Unlike the other disclosure provisions, this section does not seek the contribution list of any association. Instead, it requires direct disclosure of what an individual or group contributes or spends.''[69]

''In considering this provision,'' the Court wrote, ''we must apply the same strict standard of scrutiny, for the right of associational privacy developed in *NAACP v. Alabama* derives from the rights of the organization's members to advocate their personal points of view in the most effective way.''[70]

The Court continued:

''When we attempt to define 'expenditure' . . . . [a]lthough the phrase, 'for the purpose of . . . influencing' an election or nomination, differs from the language used in §608(e)(1), it shares the same potential for encompassing both issue discussion and advocacy of a political result. The general requirement that 'political committees' and candidates disclose their expenditures could raise similar vagueness problems, for 'political committee' is defined only in terms of amount of annual 'contributions' and 'expenditures,' and could be interpreted to reach groups engaged in purely issue discussion. . . . To fulfill the purposes of the Act they need only encompass organizations that are under the control of a candidate or the *major purpose of which is the nomination or election of a candidate.* Expenditures of candidates and 'political committees' so construed can be assumed to fall within the core area sought to be addressed by Congress. They are, by definition, campaign related.

''But when the maker of the expenditure is not within these categories—when it is an individual other than a candidate or a group other than a 'political committee'—the relation of the information sought to the purposes of the Act may be too remote. To insure that the reach of §434(e) is not impermissibly broad, we construe 'expenditure' for purposes of that section in the same way we construed the terms of §608(e)—to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate.''[71]

So construed, the reporting of independent expenditures is justified by the substantial governmental interest in ''sched[ding] the light of publicity on spending that is unambiguously campaign related,''[72] i.e., an interest in preventing corruption in the political process.

After the Supreme Court's 1976 *Buckley* decision, the express advocacy test and the major purpose test were clearly deployed as twin defenses against governmental encroachment on issue advocacy. However, as shown in the next section, the FEC and some state legislatures have spent the next two decades trying to evade the Court's pronouncements.

Before proceeding, however, comment needs to be made on the recent case of *Akins v. FEC*.[73] That case held that the major purpose test applied when an organization engaged in independent expenditures, but not when it made contributions. The decision, however, was wrongly decided because the court did not engage in the most basic First Amendment analysis, which would have led to a different result.

The case involved a complaint to the FEC that the American Israel Public Affairs Committee (*AIPAC*) was a ''political committee'' subject to the broad disclosure requirements and limits imposed on political committees. The FEC dismissed the complaint because the Committee did not met its definition for a political committee. The definition required that a committee (1) meet the $1,000 expenditure threshold and (2) have as its major purpose the nomination or election of candidates. The FEC ''determined that AIPAC likely had made campaign contributions exceeding the $1,000 threshold, but concluded that there was not probable cause to believe AIPAC was a political committee because its campaign-related activities were only a small portion of its overall activities and not its major purpose.''[74] The FEC argued that *Buckley* required it to include a major purpose exception for such contributions in its rules implementing 2 U.S.C. §431(4)(A) (the definition of ''political committee'').[75] Ironically, as the FEC properly followed and defended the *Buckely* major purpose test in this instance, it was overruled.

The D.C. Circuit's analysis reviewed the language of *Buckley* and decided that the major purpose test was only established by the Court in the context of expenditures.[76] The *Akins* court similarly dismissed the language about the major purpose test in *MCFL*[77] as only applying in the context of independent expenditures, so that ''the Court's rationale in *MCFL* and *Buckely* is simply inapplicable to the present case.''[78] The *Akins* court proceeded with some policy arguments about how the FEC's interpretation ''would . . . allow a large organization to contribute substantial sums to campaign activity, as long as the contributions are a small portion of the organization's overall budget, without being subject to the limitations and requirements imposed on political committees.''[79] Of course, that is so and is as it should be. The very idea of the major purpose test is that the heavy limits and disclosure requirements imposed on political committees are too great a burden on the First Amendment rights of organizations whose major purpose is not campaign advocacy. It is sufficient that the details of each independent expenditure or contribution to a candidate be disclosed to the FEC as matters of public record.

What was glaringly absent from the *Akins* opinion was a constitutional analysis.[80] A proper constitutional analysis would have begun with the strong First Amendment protection for all forms of political expression, including contributions. Next, the analysis would have asked whether there was any compelling governmental interest sufficient to override the First Amendment's protection. A proper analysis would have noted that the only interests found sufficiently compelling by the Court are the interests in preventing corruption and its appearance in the political process. The analysis would have then asked whether contributions to candidates from an organization whose major purpose is education and lobbying posed such a threat of corruption to the political system that is could only be cured by imposing on the organization the heavy burdens imposed on PACs. The answer, of course, would be that fully disclosed contributions, which are a small fraction of an organization's activities, pose not credible threat of corruption or the appearance thereof. Therefore, imposing the limitations and broad disclosure requirements, which are placed on political committees, on an organization whose major purpose is not the nomination or election of candidates would violate the First Amendment in the same way that the Constitution is violated in the context of such organizations making independent expenditures.

It may safely be assumed that, at such a time as the United States Supreme Court has the opportunity to review the issue raised in *Akins*, the major purpose test will be reasserted in the context of contributions, as well as independent expenditures. Meanwhile, it is clearly in force with respect to independent expenditures and with respect to contributions in all but the D.C. Circuit. The FEC filed a petition for a writ of certiorari on April 7, 1997.[81]

III. FAILED FEC EFFORTS TO STIFLE ISSUE ADVOCACY

The FEC apparently did not like the answers the Supreme Court gave in *Buckley*[82] because it soon began challenging the decision with enforcement actions and rulemaking that did not follow the express advocacy and major purpose tests. This resulted in a long string of litigation, traced below, highlighted by judicial rebuffs and rebukes.

In this twenty-year effort to suppress political speech by circumventing *Buckley*, the FEC has treated the First Amendment as a loophole in the Federal Election Campaign Act which it is the FEC's duty to close, and the FEC has treated United States Supreme Court decisions against it as inconveniences to be overcome. As a result, the FEC has engaged in a sustained and unprecedented assault on the First Amendment, consuming enormous FEC resources. Rather than enforce the many uncontroversial and clearly constitutional provisions of the FECA, the FEC has used its limited resources to launch a series of regulatory changes and enforcement actions with the intent of expanding its powers to regulate free speech. This effort has resulted in a series of court cases striking down these regulations[83] and defeating the FEC's enforcement actions.[84]

The courts have, therefore, frustrated the unlawful efforts of the FEC to impinge on free speech, but at an enormous cost in taxpayer funds and in attorney fees for successful victims of the FEC's enforcement actions. The cost to the free speech of those intimidated by the heavy hand of the FEC, however, cannot be calculated. Instead of enforcing the important and uncontroversial provisions of the Act, the FEC has focused its attention on ''grassroots groups and citizens who want to take part in the political debate, too—groups far less well-funded and less capable of extricating themselves from the tangle of FEC regulations.'' Thus, the FEC has functioned ''more and more as a censor of political expression, especially by issue-oriented, grassroots activists.''[85] Some of the most significant cases are reviewed below.

A. FEC V. AFSCME (1979)

In *FEC v. American Federation of State, County and Municipal Employees (AFSCME)*,[86] the District of Columbia district court rejected the FEC's contention that a poster qualified as express advocacy because it contained a clearly identified candidate, ''may have tended to influence voting,'' and ''contain[ed] communication on a public issue widely debated during the campaign.''[87] The AFSCME union had printed a

poster with a caricature of President Ford wearing a button reading ''Pardon Me'' and embracing President Nixon, but it did not report the expenditure as express advocacy. The district court held that this was issue advocacy, not express advocacy, because it contained no express words urging the election or defeat of a clearly identified candidate.[88] The *AFSCME* court noted that ''[t]he *Buckley* analysis of the limits of political activity is based on long recognized principles: (1) political expression, including discussion of candidates, is afforded the broadest protection under the first amendment; and (2) discussion of public issues which are also campaign issues unavoidably draws in candidates and tends to inexorably exert influence in voting at elections.''[89]

B. FEC V. CLITRIM (1980)

Undeterred, the FEC brought suit against the Central Long Island Tax Reform Immediately Committee for the Organization's failure to report funds expended to publish and distribute a leaflet advocating lower taxes and smaller government. The Second Circuit, in *FEC v. Central Long Island Tax Reform Immediately Committee (CLITRIM)*,[90] adhered to the express advoacy test set forth in *Buckley* and, therefore, ruled against the FEC.

The first provision at issue required ''any 'person . . . who makes contributions or independent expenditures *expressly advocating* the election or defeat of a clearly identified candidate''' in excess of one hundred dollars to file a report with the FEC.[91] The second provision required ''any person who 'makes an expenditure for the purpose of financing communications *expressly advocating* the election or defeat of a clearly identified candidate' . . . through media, advertising or mailing to state whether the communication is authorized by a candidate. . . .''[92]

The *CLITRIM* court noted ''the broad protection to be given political expression,''[93] as indicated by the Supreme Court in *Buckley*, and observed that: ''[t]he language quoted from the statutes was incorporated by Congress in the 1976 FECA amendments to conform the statute to the Supreme Court's holding in *Buckley v. Valeo* that speech not by a candidate or political committee could be regulated only to the extent that the communications ''expressly advocate the election or defeat of a clearly identified candidate.''[94]

The court further observed that limiting the statutes to reach only express advocacy ''is consistent with the firmly established principle that the right to speak out at election time is one of the most zealously protected under the Constitution.''[95]

The *CLITRIM* court held that: ''[t]he history of §§434(c) and 441d thus clearly establish that, contrary to the position of the FEC, the words ''expressly advocating'' mean[ ] exactly what they say. The FEC, to support its position, argues that '[t]he TRIM bulletins at issue here were not disseminated for such a limited *purpose*' as merely informing the public about the voting record of a government official. Rather the purpose was to unseat 'big spenders.' Thus, the FEC would apparently have us read 'expressly advocating the election or defeat' to mean for the purpose, express or *implied*, of encouraging election or defeat. This would, by statutory interpretation, nullify the change in the statute ordered in *Buckley v. Valeo* and adopted by Congress in the 1976 amendments. The position is totally merit-less.''[96]

From the *CLITRIM* decision, it seemed clear that the express advocacy test was firmly ensconced as black-letter constitutional law. Nevertheless, the FEC continued its campaign to eliminate freedom of speech on issues at election time.

C. FEC. V. NCPAC (1985)

In 1985, the Supreme Court considered *FEC v. National Conservative Political Action Committee (NCPAC)*.[97] This case involved a declaratory judgment action seeking to have a provision of the Presidential Election Campaign Fund Act[98] declared constitutional. It was originally initiated by the Democrat National Committee in hopes that it could prevent *NCPAC* and another conservative PAC (Fund For A Conservative Majority) from implementing their expressed intent to spend large sums of money to aid the 1984 reelection of President Ronald Reagan.[99]

The disputed provision made it a criminal offense for an independent political committee ''to expend more than $1,000 to further [a] . . . candidate's election,'' if the ''Presidential candidate elects public financing.''[100] The Supreme Court declared the $1,000 cap on independent expenditures unconstitutional because such independent expenditures enjoyed full First Amendment protection and there was no compelling state interest to override this right of free expression.[101]

In *NCPAC*, the Supreme Court stated the only interest sufficiently compelling to justify regulation of political speech in the form of contributions and expenditures:

''We held in *Buckley* and reaffirmed in *Citizens Against Rent Control* that preventing corruption or the appearance of corruption are the only legitimate and compelling government interests thus far identified for restricting campaign finances. . . .

''Corruption is a subversion of the political process. Elected officials are influenced to act contrary to their obligations of office by the prospect of financial gain to themselves or infusions of money into their campaigns. The hallmark of corruption is the financial *quid pro quo*: dollars for political favor.''[102]

The Court went on to state that: ''The fact that candidates and elected officials may alter or reaffirm their own positions on issues in response to political message paid for by PACs can hardly be called corruption, for one of the essential features of democracy is the presentation to the electorate of varying points of view.''[103]

The implication of these statements should have been clear, even to the FEC. For years the FEC has maintained the position that it ought to be able to regulate issue advocacy in the form of voter guides which tell where candidates stand on issues, on the theory that issue-advocacy groups were actually engaging in express advocacy or making a contribution to the candidates who favored their issues.[104] Voter guides might have the effect, the argument would go, or persuading candidates to support the organization's views on an issue.

However, if the only compelling interest for restricting speech at election time is corruption (or its appearance), and if persuading politicians to a different viewpoint of advocacy of issues is not corruption, then there can be no compelling governmental interest which would permit restriction of issue advocacy. If this is true of PACs, then a fortiori there can be no corruption or appearance of corruption resulting from issue advocacy by any issue advocacy groups. Undeterred, the FEC rejected the clear teaching of the Supreme Court in *Buckley*, *CLITRIM*, and *NCPAC* and continued its efforts to attempt to regulate issue advocacy.

D. FEC V. MCFL (1986)

In 1986, the Supreme Court again considered the constitutional protection afforded issue advocacy in the case of *FEC v. Massachusetts Citizens for Life (MCFL)*,[105] The FEC had brought an enforcement action against MCFL, alleging that the organization had violated 2 U.S.C. §441b, a ban on corporate expenditures ''in connection with any election,'' by publishing a voter guide.

The voter guide, published by MCFL, was contained in a ''Special Edition' newsletter which encouraged readers to ''Vote Pro-Life'' and identified the pro-life candidates.[106] A complaint was filed with the FEC alleging that MCFL had violated the ban on corporate expenditures found at 2 U.S.C. §441b.[107] The Supreme Court decided that this ''Special Edition'' did not qualify for the newspaper exemption found in the FECA,[108] and that MCFL had engaged in express advocacy, but that the First Amendment required a special exemption from §441b's prohibitions for MCFL-type corporations.[109]

Under the FECA, ''expenditure'' means to provide anything of value ''for the purpose of influencing any election for Federal office.''[110] This ''influencing'' language was the same terminology construed by the Supreme Court in *Buckley* to mean only express advocacy, in order to save a different provision of the FECA from unconstitutionality for sweeping issue advocacy within its ambit.

In *MCFL*, the Supreme Court considered the contention of MCFL ''that the definition of an expenditure under §441b necessarily incorporates the requirement that a communication 'expressly advocate' the election of candidates,'' relying on *Buckley*.[111] The FEC argued that the express advocacy test should not be extended to this provision barring corporate expenditures.

The *MCFL* Court held, however, that the express advocacy rationale must be extended to restrictions on expenditures by corporations.[112] The Court said that, if a ceiling on independent expenditures, at issue in *Buckley*, had to be construed to apply only to express advocacy of the election or defeat of a clearly identified candidate (in order to eliminate the constitutional deficiencies described in *Buckley*), ''this rationale requires a similar construction of the more intrusive provision [at issue in *MCFL*] that directly regulates independent spending.''[113]

The Supreme Court rejected the FEC's argument that extending the express advocacy protection to corporations and labor unions ''would open the door to massive undisclosed political spending.''[114] Nevertheless, the FEC continued to treat constitutionally-protected issue advocacy as a loophole which ought to be closed because it limited the FEC's ability to regulate anything that might possibly influence an election.[115]

E. FEC V. FURGATCH (1987)

In 1987, the United States Court of Appeals for the Ninth Circuit decided the case of *FEC v. Furgatch*.[116] This case contained obiter dicta suggesting that the court was applying a broadened express advocacy test to the FECA's requirement that independent expenditures by an individual over $250 must be reported to the FEC[117] and must contain a disclaimer.[118]

Buckley held that only ''explicit words'' ''expressly advocating the election or defeat of a clearly identified candidate,'' constitute express advocacy.[119] However, the Ninth Circuit wrote that a court could look beyond the explicit words of the communication to consider the context in which the words were communicated.[120] *Furgatch* considered newspaper advertisements which made a number of allegations about President Jimmy Carter followed by the phrases, ''And we let him,'' ''And we let him do it again,'' ''We are letting him do it,'' and following paragraphs:

''He continues to cultivate the fears, not the hopes, of the voting public by suggesting the choice is between 'peace and war,' 'black or white,' 'north or south,' and 'Jew vs. Christian.' His meanness of spirit is divisive and reckless McCarthyism at its worst. And from a man who once asked, 'Why Not the Best?'

''It is an attempt to hide his own record, or lack of it. If he succeeds the country will be burdened with four more years of incoherences, ineptness and illusion, as he leaves a legacy of low-level campaigning.

''DON'T LET HIM DO IT.''[121]

Noticeably absent from this communication are any words of express advocacy. Nowhere does the communication contain explicit words such as ''vote for'' or ''defeat.'' The Ninth Circuit, however, decided that the context should be consulted: ''We conclude that speech need not include any of the words listed in *Buckley* to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidates.''[122]

Applying its contextual standard, the Ninth Circuit determined that Mr. Furgatch had engaged in express advocacy.

Four key facts should be noted about *Furgatch*. First, although the *MCFL* decision was issued on December 15, 1986, and the *Furgatch* decision was issued just days later on January 9, 1987, *Furgatch* made no mention of the newly announced *MCFL* decision, which clearly reaffirmed the bright-line *Buckley* approach. Second, as discussed below, the *Furgatch* contextual approach has not been followed by other courts and has, in fact, been expressly repudiated by some.[123]

Third, the broader test was employed in a case which involved only a failure to report an expenditure to the FEC.[124] Fourth, the Fourth Circuit has recently demonstrated in a careful exegesis of *Furgatch* that the Ninth Circuit did not go to the extreme to which the FEC has tried to stretch it and that the actual holding of *Furgatch* conforms quite closely to *Buckley* and *MCFL*.[125]

Thus, the *Furgatch* test was decided in, and only logically applies to, the very narrow context of disclosure provisions. The *Furgatch* court noted the Supreme ''Court's directive that, where First Amendment concerns are present, we must construe the words of the regulatory statute precisely and narrowly, only as far as is necessary to further the purposes of the Act.''[126] The court then devoted a full page to discussing the importance of disclosure, the purposes served thereby, and the minimal burden imposed by disclosure.[127] Because it concluded that disclosure ''serves an important Congressional policy and a very strong First Amendment interest,'' and, because the burden imposed would be ''minimally restrictive,'' the Ninth Circuit adopted a totality of the circumstances test.[128] Therefore, if *Furgatch* is good law, it should be limited to its context.

Moreover, as mentioned, the Fourth Circuit's careful analysis has demonstrated that the core *Furgatch* holding closely conforms to the *Buckley* and *MCFL* express advocacy test and that any more broadly worded language was both dicta and contrary to Supreme Court precedent,[129] a fact the FEC clearly understood at the time.[130] In fact, the Fourth Circuit has recently excoriated the FEC, and awarded attorneys' fees against it, for bad faith prosecution in duplicitous reliance on a broad interpretation of *Furgatch* when the FEC had demonstrated its clear understanding of the true narrowness of the *Furgatch* holding in its *Brief for Respondent in Opposition* to Mr. Furgatch's petition for a writ of certiorari to the U.S. Supreme Court.[131] The Fourth Circuit's censure of the FEC for its duplicity and dissembling with regard to *Furgatch* is discussed at greater length below.

Nevertheless, energized by its success in opposing Supreme Court review of *Furgatch* and preserving the broadly-worded *Furgatch* dicta, which was useful for expanding FEC power, the FEC launched a campaign to apply its totality-of-the-circumstances ''express advocacy'' test in a wide range of contexts.

F. FEC V. NOW (1989)

In the case of *FEC v. National Organization for Women (NOW)*,[132] the FEC again brought an enforcement action employing its broadly defined express advocacy test. The FEC charged that membership solicitation letters discussing issues to pay inequality, abortion, and the Equal Rights Amendment (ERA) constituted express advocacy. The letters at issue expressly criticized the Reagan Administration and the Republican Party, including the following phrase which the FEC found damming: ''Politicians listen when they think an organized group of citizens can help elect or defeat them.'' Another letter criticized by name Senators Helms, Hatch, and Thurmond and spoke of ''a renewed effort now being launched by New Right reactionary groups in preparation for the 1984 elections,'' which phrase the FEC condemned as electioneering. A third letter made the case for the ERA and condemned President Reagan and named several senators ''up for reelection in 1984,'' who ''must be made to understand that failure to pass the ERA will result in powerful campaigns to defeat them''[133] As a result of these statements, the FEC claimed that NOW has violated the corporate prohibition on candidate-related speech.

The *NOW* court referred to both the *Buckley* test[134] and the *Furgatch* ''broad test.''[135] However, the *NOW* court held that there simply was no express advocacy under any test,[136] tying its holding explicitly to the *Buckley* principles: ''At issues in this case is political speech, which lies at the core of the First Amendment. Discussion of public issues and the qualifications of candidates for public office is integral to a system of government in which the people elect their leaders. In order to make informed choices about its leaders, the citizenry needs to hear the free exchange of ideas. The First Amendment affords the broadcast protection to such political expression.''[137]

G. FAUCHER V. FEC (1991)

It should have been clear to the FEC that the Supreme Court meant what it said in *Buckley* about issue advocacy being sacrosanct when the Court reaffirmed the test in a new context in MCFL. However, the FEC continued to press ahead with its efforts to regulate issue advocacy. Included in its effort was the promulgation of new rules regulating voter guides.

In *Faucher v. FEC*,[138] the First Circuit struck down the Federal Election Commission's regulations of voter guides as being beyond the authority of the FEC under 2 U.S.C. §441b as interpreted by the Supreme Court in *MCFL*. The regulation at issue, 11 C.F.R. §114.4(b)(5), required that a voter guide by ''nonpartisan,'' which the FEC defined by reference to six factors. These factors included whether ''the wording of their questions presented . . . suggest or favor any position on the issues covered'' and whether ''the voter guide expressed (any) editorial opinion concerning the issues presented.''[139]

The United States District Court for the District of Maine struck the regulations down for trespassing upon constitutionally protected issue advocacy and for reaching beyond the authority of the Federal Election Commission under §441b, which bars corporate political speech.[140] The First Circuit affirmed the decision of the District Court,[141] declaring that ''[t]he first amendment lies at the heart of our most cherished and protected freedoms. Among those freedoms is the right to engage in issue-oriented political speech.''[142]

The First Circuit expressly applied the ''bright-line'' test of *Buckley* in accordance with the speech-protective rationale of that case: ''In our view, trying to discern when issue advocacy in a voter guide crosses the threshold and becomes express advocacy invites just the sort of constitutional questions the Court sought to avoid by adopting the bright-line express advocacy test in *Buckley*.''[143]

H. FEC V. SURVIVAL EDUCATION FUND (1994)

In *FEC v. Survival Education Fund*,[144] the U.S. District Court for the Southern District of New York rejected an FEC attempt to broaden the express advocacy test of *Buckley* and *MCFL*. The case involved letters sent four months before an election by Dr. Benjamin Spock that were hostile to President Reagan and condemned his policies. The FEC argued that the letters constituted express advocacy and, therefore, were prohibited political communications by a corporation. The court, however, pointed to the ''express words'' formula in *Buckley* and held that: ''It is clear from the cases that expressions of hostility to the positions of an official, implying that that official should not be re-elected—even when the implication is quite clear—do not constitute the express advocacy which runs afoul of the statute. Obviously, the courts are not giving a broad reading to this statute.''[145]

I. FEC V. CHRISTIAN ACTION NETWORK (1995)

In *FEC v. Christian Action Network*,[146] a Virginia district court considered advertisements, run during the 1992 election campaign, which the FEC considered to be express advocacy of the defeat of presidential candidate Clinton. Because the ads did not contain ''explicit words or imagery advocating electoral action,'' the court held that they constituted protected issue advocacy and not electioneering.[147] The Court followed the ''strict interpretation'' of the express advocacy test: ''In the nineteen years since the Supreme Court's ruling in *Buckley v. Valeo*, the parameters of the 'express advocacy' standard have been addressed by several federal courts in a variety of circumstances. * * * Acknowledging that political expression, including the discussion of public issues and debate on the qualifications of candidates enjoys extensive First Amendment protection, the vast majority of these courts have adopted a strict interpretation of the 'express advocacy' standard.''[148]

On August 2, 1996, the United States Court of Appeals for the Fourth Circuit issued a brief per curiam opinion affirming the district court.[149]

J. FEC V. GOPAC (1996)

FEC v. GOPAC,[150] the FEC's much ballyhooed enforcement action against GOPAC (which Newt Gingrich served as chairman), amply demonstrates the FEC's refusal to recognize the constitutional protection afforded issue advocacy by the bright-line express advocacy test and the major purpose test. Despite the fact that GOPAC did not have as its major purpose the election or nomination of candidates for federal office, the FEC pushed for a test that would make an organization a political committee if it ''engage[s] in 'partisan politics' or 'electoral activity.' ''[151] The court rejected this approach and granted GOPAC summary judgment because the test proposed was not that of the Supreme Court in *Buckley*.[152]

K. NEW FEC REGULATIONS (OCTOBER 5, 1995)

After the *Faucher* decision in 1991, which struck down FEC regulations prohibiting voter guides from expressing a position on an issue,[153] the FEC needed to revise or delete its regulation dealing with voter guides. All that was needed to bring the regulation into compliance with the First Amendment was a

small excision in the definition of ''nonpartisan,'' so that the factors for what constituted ''nonpartisan'' would not include whether a question is worded in a way that supports the position of a candidate on the issue covered.[154]

The FEC took from 1991 to late 1995 to promulgate its new rules.[155] When the new rules were published, there was no mere excision or minimal editing to fix the First Amendment problem with issue advocacy. Rather, the new FEC regulations were an expansive effort to bypass the First Amendment jurisprudence of the federal courts. The rules were a transparent attempt to incorporate the FEC's interpretation of the *Furgatch* totality of the circumstances test into the FEC rules in the hope that the FEC could sell the federal courts on the notion that deference should be granted to the agencies interpretation in federal law in this area.[156]

If such deference were forthcoming, the FEC would have accomplished by rulemaking what it had failed in years of litigating enforcement actions to achieve, i.e., imposing its broad interpretations of the *Furgatch* test in place of the Supreme Court's bright-line express advocacy test. As shall be seen, the deference was not forthcoming.

The FEC issued its copious new post-*Faucher* rules in two sets in late 1995. The first set was to take effect on October 5, 1995. The revision of the FEC voter guide regulations necessitated by *Faucher* four years before occurred in a later set of rules to take effect March 13, 1996.

The October 5 set of rules contained a new definition of express advocacy, tracking the FEC's broad interpretation of *Furgatch*:

''Expressly advocating means any communication that—

''(a) uses phrases such as 'vote for the President,' 're-elect your Congressman,' 'support the Democratic nominee,' 'cast your ballot for the Republican challenger for U.S. Senate in Georgia,' 'Smith for Congress,' 'Bill McKay in 94,' 'vote Pro-Life' or 'vote Pro-Choice' accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, 'vote against Old Hickory,' 'defeat' accompanied by a picture of one or more candidate(s), or communications of campaign slogan(s) which in context can have no other reasonable meaning than to encourage the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say 'Nixon's the One,' 'Carter 76,' 'Reagan/Bush' or 'Mondale!'; or

''(b) when taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—

''(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

''(2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.[157]''

While the first part of subsection (a) generally followed *Buckley*, specifying explicit and express words of advocacy in the communication itself, the second part of subsection (a) added a contextual factor, relying on *Furgatch*. Subsection (b) was wholly patterned after the FEC's broad interpretation of *Furgatch*. Of course, such a definition of express advocacy would leave the speaker uncertain whether the FEC would find a communication to constitute express advocacy, consequently chilling protected speech. Such a definition would abandon the bright-line test *Buckley* said was essential to safeguard protected issue advocacy in this arena, and it would afford the FEC great latitude in its enforcement.[158]

L. MAINE RIGHT TO LIFE COMMITTEE V. FEC (1966)

The FEC's new express advocacy definition took effect on October 5, 1995. On November 22, 1995, Maine Right to Life (also a plaintiff in the *Faucher* case) filed a complaint and motions seeking declaratory and injunctive relief.[159] On February 13, 1996, the United States District Court for the District of Maine declared the latest regulations of the FEC seeking to define express advocacy[160] to be ''invalid as not authorized by the Federal Election Campaigns Act of 1971, as interpreted by the United States Supreme Court in *Massachsuetts Citizens for Life*, and by the United States Court of Appeals for the First Circuit in *Faucher*, because it extends beyond issue advocacy.''[161] The district court struck down a definition of ''[e]xpressly advocating,''[162] which ''comes directly from'' *Furgatch*.[163] The district court relied on the fact that, contrary to the Ninth Circuit's decision in *Furgatch*, the Supreme Court in *Buckley* and *MCFL* created a bright-line protection of issue advocacy, ''even at the risk that it is used to elect or defeat a candidate.''[164]

On October 18, 1996, the First Circuit issued a brief per curiam opinion affirming ''for substantially the reasons set forth in the district court opinion.''[165]

The FEC, however, has obstinately taken the position that these regulations are still in effect in all other jurisdictions than the First Circuit, even though the action was brought under the Administrative Procedure Act and the First Circuit held that the FEC was without authority to promulgate these regulations and, thus, they are void.[166]

M. NEW FEC REGULATIONS (MARCH 13, 1996)

After releasing the regulations which were struck down in *Maine Right to Life Committee*, the FEC next released revised rules setting forth the FEC's requirements for ''voter guides'' and ''voting records.''[167] They became effective on March 13, 1996.[168] Under the new voter guide regulation,[169] the amount of contact that a corporation had with a candidate regarding the voter guide severely affected the content of the voter guide.

First, if the corporation had any oral communications with a candidate regarding the voter guide, the publication of the voter guide was absolutely prohibited. A prohibited oral communication would even include contacting the candidate to clarify a candidate's position on an issue.[170] As a result of the oral communication, the publication of the voter guide was considered by the FEC to be an in-kind contribution to the candidate and, thus, a prohibited corporate contribution under §441b.

However, if the corporation had no oral or written contact with the candidate,[171] the corporation retained its right to state a position on the issues of the voter guide (a First Amendment right recognized in the *Faucher* case). Of course, it is very difficult to prepare a voter guide without sending a written questionnaire to the candidates asking them to state their positions on the issues, so written questionnaires are the common practice.[172] Because the use of a questionnaire is so important to an effective voter guide, most organizations would feel compelled to at least contact the candidate in writing, resulting in severely limiting their issue advocacy.

If an organization had written contact with the candidate,[173] the content of the voter guide was severely restricted.[174] First, ''all of the candidates for a particular seat or office shall be provided an equal opportunity to respond . . . .''[175] Second, ''no candidate may receive greater prominence in the voter guide, than other participating candidates, or substantially more space for responses.''[176] Voter guides shall not contain an ''electioneering message.''[177] Finally, the regulation mandates that a ''voter guide and its accompanying materials shall not score or rate the candidates' responses in such a way as to convey an electioneering message.''[178] Thus, to do a voter guide after written contact with a candidate, the corporation had to surrender its constitutionally-protected right to engage in issue advocacy in voter guides.

Having been repeatedly frustrated by the courts in its attempt to regulate voter guides as expenditures because of the express advocacy test, the FEC based its new voter guide regulations on a new ''contribution'' theory. This theory attempted to avoid the express advocacy test by labeling[179] expenditures for a voter guide as ''in-kind contributions'' to the candidate, which are also prohibited by corporations under §44lb. The FEC's hope was that, if an expenditure for a communication was labeled as an ''in-kind contribution,'' then the courts would not require that the communication contain express advocacy but merely influence an election. Furthermore, this theory took a very expansive view of when an expenditure was requested by or coordinated with a candidate, which is an essential element to make an expenditure into an ''in-kind contribution.'' In both respects, however, the FEC violated existing court precedents.

The FECA made it unlawful for any corporation or union ''to make a contribution or expenditure in connection with any election''[180] The FECA defines ''contribution or expenditure'' to include ''any direct or indirect payment, . . . or gift of money, or services, or anything of value . . . to any candidate . . . in connection with any election.''[181] Of course, it was this language that the Court in *MCFL* held must contain ''express advocacy,'' if an expenditure were to be considered an independent expenditure. However, the FEC is shifting from the word ''expenditure'' to the word ''contribution,'' which encompasses both direct and indirect contributions. A direct contribution is made by actually giving money to the candidate. An in-kind contribution occurs when something of value (like a mailing list) is given to the candidate or when a person pays, at the request of the candidate or an agent of his campaign, for an expense that the campaign itself would otherwise pay (like a billboard) in lieu of a direct contribution to the candidate. However, Congress did not intend for ''in-kind contributions'' to be a broad category. In adopting the concept of an ''in-kind contribution,'' the Senate Report described an ''in-kind contribution'' as ''the use of an individual's resources to aid a candidate in a manner indistinguishable in substance from the direct payment of cash to a candidate.''[182]

Thus, an ''in-kind contribution'' has two elements. The first element is the nature of the expenditure. According to the courts, an expenditure for a communication must contain ''express advocacy'' to be an independent expenditure. The logic of the courts' analysis suggests that this extends to in-kind contributions. According to the FEC, however, an in-kind contribution may exist where there is only issue advocacy. The second element is whether it is made with the consent or in coordination with the candidate. Here, the FEC also has a very expansive view of coordination.

Ironically, the FEC had previously adopted the correct position that express advocacy is necessary in order to transform a protected expenditure into a prohibited contribution. In *Orloski v. Federal Election Commission*,[183] a political opponent of an incumbent Congressman challenged the FEC's failure to

find ''reason to believe'' that the Act had been violated. The case concerned a senior citizens' picnic at which the Congressman spoke and to which several corporations had provided food and services such as transportation.

At issue was the FEC's interpretation of what constituted a corporate contribution under §441b(a). The FEC had previously ''interpreted the Act to mean the corporate funding of events sponsored by congressmen who are candidates for reelection is not prohibited by §441(b)(a) if those events are non-political.''[184] In order to determine whether an event is non-political, the FEC adopted the following test: ''An event is non-political if (1) there is an absence of any communication expressly advocating the nomination or election of the congressman appearing or the defeat of any other candidate, and (2) there is no solicition, making, or acceptance of a campaign contribution for the congressman in connection with the event.'' [185]

Because the FEC found that there was no express advocacy at the picnic in question, it found that the event was ''non-political'' and, thus, that it did not entail a violation of the corporate contribution prohibition of §441b. As the *Orloski* court explained: ''the mere fact that corporate donations were made with the consent of the candidate does not mean that a 'contribution' within the meaning of the Act has been made. Under the Act this type of 'donation' is only a contribution if it first qualifies as an 'expenditure' and, under the FEC's interpretation, *such a donation is not an expenditure unless someone at the funded event expressly advocates the reelection of the incumbent or the defeat of an opponent . . .*''[186]

In its new regulations, however, the FEC now sought to repudiate its former, reasonable position that corporate expenditures are not political contributions which can be prohibited under §441(b) unless they involve express advocacy. The new regulations governed the ''electioneering message'' of voter guides on the porported authority derived from converting expenditures for voter guides into contributions.

The new regulations also adopted an expansive view of what constitutes ''coordination.'' The FEC apparently has two theories: (1) the contact coordination theory, and (2) the presumed coordination theory.[187] The contact coordination theory was employed in the new voter guide regulations. As the structure of the voter guide regulation made clear, the FEC viewed any contact between the corporation publishing the voter guide and a candidate to constitute coordination of the voter guide and the greater the contact the greater the taint. Thus, oral communications resulted in an absolute prohibition on publishing a voter guide; written communication forfeited the corporation's right to engage in issue advocacy in their voter guide.

N. CLIFTON V. FEC (1996)

In response to these newly-issued FEC regulations restricting voter guides, Maine Right to Life Committee[188] again filed suit under the Administrative Procedure Act to have the regulations declared beyond the authority of the FEC under 2 U.S.C. §441(b), as construed by the Supreme Court in *MCFL*.[189] The case, *Clifton v. FEC*,[190] challenged the regulations,[191] which ''restrict(ed) contact or coordination between a corporation and a candidate when the corporation publishes candidate voting records or voter guides.'' [192]

On May 20, 1996, the district court granted Plaintiffs' request for a declaration that the regulations were void as beyond the statutory authority of the FEC. The district court found that the voter guide regulation restricted not only ''express advocacy'' but also ''issue advocacy.'' As the Court stated, ''[t]he new regulations go far beyond the language of section 441(b) as interpreted by *MCFL*. Under the provisions for voter guides, the FEC test is not whether a corporation is engaging in issue advocacy 'on behalf of a candidate' (a test which *MCFL* would support), but whether it has had any 'contact' with the candidate. The regulations permit unrestricted issue advocacy only if there is *no* contact, oral or written in connection with a voter guide. Any oral contact concerning the content of a voter guide—questions to clarify a candidate's position for example—results in outright prohibition of corporate issue advocacy through use of the guide. Even written contact with candidates results in severe constraints on issue advocacy otherwise entitled to broad First Amendment protection under the teachings of *Buckley* and *MCFL*.'' [193]

Also under the ostensible statutory authority of 2 U.S.C. §441(b), the FEC promulgated 11 C.F.R. §114.4(c)(4) which purported to govern corporate preparation and distribution of the ''voting records'' of Members of Congress to the general public. That regulation provided that ''the decision on content and the distribution of voting records shall not be coordinated with any candidate, group of candidates or political party.''

The district court agreed with Plaintiffs' contention that the ''voting record'' regulation also impermissibly restricted issue advocacy. Noting that the regulation provided that the decision on ''content'' could not be ''coordinated'' with a candidate, the Court asked: ''Does that prohibit discussion with the candidate of what a particular vote meant and a summary of the outcome in the published voting record? If there are three apparently inconsistent votes and the MRLC asks the candidate for a explanation in the publication, is that prohibited coordination of a decision on content? These are exactly the types of issue advocacy undertaken by the MRLC and, as I understand the FEC's counsel at oral argument, such activities are indeed prohibited by the new regulations.'' [194]

Because the district court found that both regulations restricted issue advocacy, not just express advocacy, it held that they were invalid under *Faucher, MCFL* and *Buckley:* ''It is equally clear after *Buckley* and *MCFL* that corporate expenditures in connection with a federal election or primary *cannot* constitutionally be limited except when they are devoted to express advocacy of the election or defeat of a particular candidate or candidates.'' [195]

The FEC has appealed the decision to the First Circuit.[196]

O. COLORADO REPUBLICAN FEDERAL CAMPAIGN COMMITTEE V. FEC

While there has been a great deal of ongoing litigation in state and federal courts over election laws, the 1996 case of *Colorado Republican Federal Campaign Committee v. FEC*[197] is significant as the most recent word from the Supreme Court on election law issues. The case revealed steadfast support on the Court for protecting First Amendment rights in the election law context.

Significantly, the case completely undercut the FEC's presumed coordination theory. *Colorado Republican* did not involve §441(b) (barring corporate campaign expenditures and contributions), but its rejection of the presumed coordination theory is a clearly transferable concept relevant to the FEC's efforts to regulate corporate political speech under §441(b).[198] Moreover, the opinions in the case revealed strong support for the express advocacy test in this context as well.

The case involved FEC allegations that the Colorado Republican Party had exceeded FECA limits on what a party could spend to promote a candidate in a U.S. senatorial race.[199] The case arose as a result of advertisements purchased in April 1986 by the Federal Campaign Committee of the Colorado Republican Party. The radio advertisements attacked Democrat Timothy Wirth, who was then a U.S. Congressman and the most likely Democrat candidate for the open Senate seat.[200] He had announced in January 1986 that he would run for the Senate.[201] At the time of the advertisements, the Republican Party had not chosen its nominee from among the three persons competing for the nomination.[202]

The record revealed how the expenditure for the advertisements was made. The GOP state chairman arranged for the script on his own initiative.[203] He approved it without input from others.[204] In sum, he did not actually coordinate the expenditure with any candidate. It was what normally would be considered an independent expenditure.

However, the FEC argued that, because of the relationship between a party and its candidates, ''coordination with candidates is presumed,'' [205] even though there was factually none in this case.[206] The lead opinion of Justice Breyer, joined by Justices O'Connor and Souter, rejected this presumed coordination approach, declaring that, because ''the record shows no actual coordination as a matter of fact,'' [207] ''we therefore treat the expenditure, for constitutional purposes, as an 'independent' expenditure, not an indirect campaign contribution.'' [208] This rejection of presumed coordination in the context of expenditures by a political party to attack an opposing candidate for office makes it highly unlikely that a presumption of coordination will be permitted in situations where there is less basis for a presumption. Coordination will have to be actual before an expenditure will be considered a contribution.[209]

Because Justices Breyer, O'Connor, and Souter rejected the notion of presumed coordination, they also rejected the notion that the expenditures at issue were actually contributions. Therefore, they decided it would be prudential not to reach the issue of whether a cap on coordinated expenditures by a political party is constitutional, as urged by the Colorado Republican Party. However, an opinion by Justice Kennedy, joined by Chief Justice Rehnquist and Justice Scalia, opined that the party contribution limit to candidates was unconstitutional on its face, but concurred in a judgment vacating the court of appeals decision and remanding the case,[210] as did Justice Thomas.[211]

From the *Colorado Republican* case, it seems clear that any theory that presumed coordination can convert independent expenditures into contributions must fail. Only actual coordination will achieve such a result. Of course, this is also true where a voter guide merely contains issue advocacy.

FEC v. Christian Action Network

After the Fourth Circuit affirmed the district court's dismissal of FEC charges in *FEC v. Christian Action Network*,[212] the Christian Action Network filed a petition for attorneys' fees and costs under the Equal Access to Justice Act, which permits fee awards for enforcement actions that are not ''substantially justified.'' [213] The Fourth Circuit determined that the FEC's enforcement in reliance on its broad interpretation of *Furgatch* was not ''substantially justified,'' but was in ''bad faith.'' [214]

The Fourth Circuit cataloged the reasons why the express advocacy test, as set forth in *Buckley* and *MCFL*, was so clear that failure to follow it constituted bad faith.[215] The court focused especially on the *Furgatch* decision, on which the FEC had based its authority to prosecute the Christian Action

Network.[216] After carefully analyzing *Furgatch*, the Fourth Circuit summarized the holding of that case: ''Indeed, the simple holding of Furgatch was that, in those instances where political communications do include an explicit directive to voters to take some course of action, but that course of action is unclear, 'context'—including the timing of the communication in relation to the events of the day—may be considered in determining whether the action urged is the election or defeat of a particular candidate for public office.''[217]

The fourth Circuit then pointed out that the FEC had fully understood that explicit words expressly advocating the election or defeat of a clearly identified candidate were essential to ''express advocacy'' when it opposed Supreme Court review of the *Furgatch* case:

''That the commission knows well the Court's holdings in *Buckley* and *MCFL* is further confirmed by the agency's subsequent action in *Furgatch*. . . . Because *Furgatch*, despite its narrow holding, does include broad dicta which can be read (or misread) to support the FEC's expansive view of its authority, the agency vigorously opposed certiorari in the case.

''Wishing to have the opinion preserved intact, the Commission in its submissions there, in contrast to its submissions before this court, quoted *Buckley* as 'requir[ing] ''explicit words of advocacy of election or defeat of a candidate.''' The Commission even took the position that *Furgatch* did . . . interpret the Federal election Campaign Act's corporate disclosure statutes as 'narrowly limited to communications containing language ''susceptible to no other reasonable interpretation but as an exhortation to vote'' ' . . . .

''Moreover, the FEC argued to the Supreme Court that *Furgatch* was fully consistent with *Buckley* and *MCFL* precisely because the opinion focused on the specific language of Furgatch's advertisement and concluded that express advocacy existed only because the advertisement 'explicitly exhorted' voters to defeat then-President Carter. Thus, there is no doubt the Commission understands that its position that no words of advocacy are required in order to support its jurisdiction runs directly counter to Supreme Court precedent.''[218]

The fourth Circuit took the FEC to task for ''dissembling before th[e] court'' for ''quot[ing] the very sentence from page 80 of *Buckley* in which the Court uses the phrase 'express advocacy,''' but leaving out ''the sentence's footnote 108'' (which defined express advocacy ''to mean 'express words of advocacy,'') without ''any reference, by parenthetical or otherwise to the fact that footnote 108 appears in that sentence.[219]

The Fourth Circuit concluded that the FEC had acted in bad faith by bringing an enforcement action against the Christian Action network in the face of absolutely clear precedent on the express advocacy test: ''In the face of the unequivocal Supreme Court and other authority discussed, an argument such as that made by the FEC in this case, that 'no words of advocacy are necessary to expressly advocate the election of a candidate,' simply cannot be advanced in good faith (as the disingenuousness in the FEC's submissions attests), much less with 'substantial justification.'''[220]

The Fourth Circuit further concluded that, even if the precedent were not unequivocally clear, the court ''would bridle at the power over political speech that would reside in the FEC under'' the FEC's interpretation of the express advocacy test.[221] The FEC's interpretation, said the court boils down to ''an argument that the FEC will know 'express advocacy' when it sees it.''[222] The court summarized the clarity of the precedent and the danger of FEC's overreaching as follows: ''[T]he Supreme Court has unambiguously held that the First Amendment forbids the regulation of our political speech under such indeterminate standards. 'Explicit words of advocacy of election or defeat of a candidate,' 'express words of advocacy,' the Court has held, are the constitutional minima. To allow the government's power to be brought to bear on less, would effectively be to dispossess corporate citizens of their fundamental right to engage in the very kind of political issue advocacy the First Amendment was intended to protect—as this case well confirms.''[223]

In summary, as this section has shown, there has been a long and relentless effort by the FEC to close what it has perceived to be a loophole with respect to issue advocacy—the First Amendment. The Supreme Court's express advocacy test and major purpose test remain as the twin bulwarks against this encroachment of liberty.

IV. OTHER PROTECTION FOR FREE POLITICAL EXPRESSION

In addition to its zealous safeguarding of issue advocacy in the election context, the United States Supreme Court has provided safeguards for other forms of speech related to political matters. The seven key protections have to do with (1) *MCFL*-type organizations, (2) members, (3) anonymous literature, (4) caps on contributions and expenditures, (5) political committees, (6) the burden of proof, and (7) prior restraint of speech. These topics will be dealt with in turn.

A. MCFL-TYPE ORGANIZATIONS

In *FEC* v. *Masschusetts Citizens for Life*,[224] the Supreme Court did two important things: (1) it reasserted the bright-line express advocacy test for protecting issue advocacy, and (2) it also created an exemption to the ban on corporate express advocacy found in 2 U.S.C. §441b for nonprofit, nonstock, ideological corporations. Other cases have refined this test for *MCFL*-type organizations. As would be expected, the FEC has attempted to overrule the case law with new regulations, which have promptly been declared unconstitutional. These developments will be considered in turn.

Section 441b of the Federal Election Campaign Act of 1971 prohibits corporations from making ''expenditures'' in connection with a federal election.[225] The United States Supreme Court, however, has limited the scope of §441b's corporate expenditure prohibition. In *MCFL*, the Supreme Court held that the prohibition on corporate expenditures could not constitutionally be applied to certain nonprofit ideological membership corporations because they did not pose a threat of corruption to the political system.[226]

Specifically, the ''*MCFL* exemption'' from the prohibition on corporate political speech applies to those nonprofit corporations which were established to promote political ideas, have no shareholders or members with economic disincentives to disassociate with the corporation if they disagree with its position on an issue, were not established by a business corporation or labor union, and do not act as ''conduits'' for funneling money from such organizations into the political marketplace.[227]

In *Day* v. *Holahan*,[228] the Eighth Circuit held that the *MCFL* exemption applied to Minnesota Citizens Concerned for Life (MCCL), despite the face that the organization received some corporate contributions. The court held that MCCL was the type of corporation which did not pose a threat of corruption to the political marketplace and, therefore, under the Constitution, was entitled to the *MCFL* exemption. As a result, the Eighth Circuit held that a Minnesota state statute that narrowed the *MCFL* exemption to such an extent that it did not apply to MCCL was unconstitutional. This case, therefore, established a de minimis test with respect to *MCFL*-type organizations which receive some minimal corporate contributions.

Subsequent to *Day*, the FEC promulgated regulations at 11 C.F.R. §114.10, purporting to define the circumstances under which the *MCFL* exemption is available to nonprofit ideological corporations under the FECA. In it's ''Explanation and Justification'' for the regulation, the FEC explicitly admitted that its regulation was in direct conflict with *Day v. Holahan*: ''In that case, the Eighth Circuit decided that a Minnesota statute that closely tracked the Supreme Court's three essential features was unconstitutional as applied to a Minnesota nonprofit corporation. The Commission believes the Eighth Circuit's decision, which is controlling law in only one circuit, is *contrary to the plain language used by the Supreme Court in MCFL, and therefore is of limited authority*.''[229]

Thus, the FEC promulgated 11 C.F.R. §114.10 despite its recognition that the regulations would directly violate the Eighth Circuit's holding in *Day*.

The FEC's regulations disallowed an exemption unless, inter alia, each of the following criteria were met: (1) the corporation's ''only express purpose is the promotion of political ideas,''[230] (2) the corporation ''cannot engage in business activities,''[231] (3) the corporation has ''[n]o persons who are offered or who receive any benefit that is a disincentive for them to disassociate themselves with the corporation on the basis of a political issue.''[232] and (4) the corporation can ''demonstrate through accounting records'' that it ''does not . . . accept donations or anything of value from business corporations'' or that it ''has a written policy against accepting donations from business corporations. . . .''[233]

The FEC regulations further required[234] that a corporation which is not a political committee file a certification that it complied with the provisions of the regulations[235] and, therefore, was eligible for an exemption from the prohibition on corporate expenditures. The regulations also required that ''[w]henever a qualified nonprofit corporation solicits donations, the solicitation shall inform potential donors that their donations may be used for political purposes, such as supporting or opposing candidates.''[236]

The FEC's new regulations were clearly unconstitutional. They constituted another transparent effort by the FEC to expand its power and to limit political speech, as set out below.

1. MCFL's Test for an Exemption from §441b Must Be Read in the Context of That Case's Protection of Free Speech

The Supreme Court's decision in *MCFL* is essentially a speech-protective holding. The Court's fashioning of the ''*MCFL* exemption'' was rooted in the very principles of public policy and governance which animate the First Amendment, and which bear brief reiteration. The Court stated that ''[f]reedom of speech plays a fundamental role in a democracy. . . .''[237] As the Court had previously stated in *Buckley*: ''Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people.''[238]

Freedom of speech, particularly *political* speech, is thus necessary to the functioning of a representative democracy. As such, it is also ''the matrix, the *indispensable condition* of every other form of freedom.''[239] That is, because freedom of speech protects our very form of government, it necessarily plays a pivotal and essential role in protecting the other freedoms which are safeguarded by the Constitution. Finally, as the *MCFL* Court pointed out, ''First Amendment speech is not necessarily limited to such an instrumental role.''[240] In other words, the First Amendment protects speech not only because it fosters free government, but because it fosters the development of the individual by protecting freedom of thought and conscience. Quoting Justice Brandeis, the Court stated: ''Those who won our independence believed that the final end of the State was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary. *They valued liberty both as an end and as a means.*''[241]

Thus, free speech plays a vital role in protecting democracy itself, thereby making possible the other freedoms we enjoy and allowing people to develop their faculties to the fullest extent possible.

Given the centrality of free speech, it is not surprising that the Supreme Court has been extremely solicitous to protect it. The *MCFL* Court explained that, because free speech is fundamental, ''we must be as vigilant against the modest diminution of speech as we are against the mode3st diminution of speech as we are against its sweeping restriction.''[242] The Court's solicitude for free speech, in turn, caused it to fashion the fundamental principle which both mandates and explains the Court's holding in *MCFL:* ''Where at all possible, government must curtail speech *only to the degree necessary* to meet the particular problem at hand, and *must avoid infringing on speech that does not pose the danger that has prompted regulation.*''[243]

The quoted statement is, in reality, a reformulation of the ''strict scrutiny'' test (i.e., speech regulation must be narrowly tailored to serve a compelling state interest) which the Supreme Court applies in all cases where a regulation is challenged as a content-based restriction on speech.[244] In essence, the Court was saying that, because as a Nation we value free speech so highly, our government is permitted to regulate it *only* where the government's interest is *compelling* and *only* to the extent *absolutely necessary* to achieve that interest.

The burden of demonstrating the existence of such an interest is squarely on the government. As the Supreme Court explained in *First National Bank v. Bellotti,* ''where, as here, as a prohibition is directed at speech itself, and the speech is intimately related to the process of governing, the State may prevail only upon showing a subordinating interest which is compelling and the burden is on the Government to show the existence of such an interest. Even then, the State must employ means closely drawn to avoid unnecessary abridgement. . . .''[245]

The *MCFL* Court pointed out the danger which looms whenever speech is sought to be regulated, i.e., the incremental loss of freedom which may begin when we first allow speech to be restricted in pursuit of other governmental goals. ''Our pursuit of other governmental ends, however, may tempt us to accept in small increments a loss that would be unthinkable if inflicted all at once.'' Thus, courts should, wherever possible, avoid the slippery slope of speech regulation altogether—for although a particular restriction on speech may appear to be ''modest,'' no restriction of speech is ever ''minor.''

The import of the above discussion is that the specific legal rules which the Supreme Court has developed (such as the *MCFL* exemption) have not been fashioned in a vacuum. Rather, they have a discernible origin in the public policies which inform the First Amendment. Those policies, in turn, are determinative of the rationales upon which the specific holdings are based.

However, in fashioning its ''*MCFL* exemption'' regulations, the FEC read *MCFL* as if those policies and rationales did not give meaning to its holdings. The FEC, therefore, justified its regulation almost completely by reference to the eight sentences toward the end of the *MCFL* opinion which contain a summary of the Court's specific holding,[247] while largely ignoring the lengthy discussion of the rationale for the holding which comprises the previous eight pages. However, it is rudimentary that ''black letter law'' cannot be understood without reference to the judicial reasoning which undergirds it.

In sum, the FEC sought a ''modest diminution'' in speech based on ''government ends'' other than the protection of free speech. However, the FEC has been unable to meet its heavy burden of demonstrating that its asserted interests are compelling and that its speech restriction is narrowly tailored.

2. The Scope of Each of the MCFL *Features Was Determined by the Rationales Which Underlaid It*

The Court in *MCFL* identified ''three features essential'' to its holding that MCFL could not be prohibited from independent political spending: ''*First,* it was formed for the express purpose of promoting political ideas, and cannot engage in business activities. *Second,* it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. *Third,* MCFL was not established by a business corporation or labor union, and it is its policy not to accept contributions from such entities.''[248]

As will be seen, the FEC took these ''essential features'' literally and provided in its regulations that, if a corporation did not have these identical features, it was denied the ''*MCFL* exemption.'' As will be demonstrated, however, each of these features was explicitly tied to a rationale which both explained the feature and defined its scope.

a. The first MCFL *feature assured that political resources reflected political support*

The first feature which mandated an exemption from §441(b) was that the corporation in question was ''formed for the express purpose of promoting political ideas, and cannot engage in business activities.''[249] As the Supreme Court stated, this feature ''ensures that political resources reflect political support.''[250] The underlying reason for this concern was ''to protect the integrity of the marketplace of political ideas'' from ''the corrosive influence of concentrated corporate wealth.''[251]

In fashioning this feature, the Court was concerned that ''[d]irect corporate spending on political activity raises the prospect that resources amassed in the economic marketplace may be used to provide an unfair advantage in the *political* marketplace.''[252] As the Court later clarified in *Austin* v. *Michigan Chamber of Commerce,* the danger was not simply the infusion of money into the political marketplace, but infusion of funds amassed in the economic marketplace which were unrelated to support for the corporation's political ideas.[253]

However, as the FEC's broad prohibition of ''business activities''[254] demonstrated, the FEC misconstrued this rationale as prohibiting any business income by the corporation. The FEC regulation reached ''any provision of goods or services which results in income to the corporation'' and which is not ''expressly described'' as donations for political purposes, as well as any ''advertising or promotional activity which results in income to the corporation.''[255] The Supreme Court, however, was concerned solely with the impact on the political marketplace caused by the use of funds which are *unrelated* to the corporation's political ideas.[256]

The *MCFL* Court recognized that §441b took account of this distinction by allowing corporations to make political expenditures through a separate segregated fund or PAC. Expenditures by a PAC are permitted precisely because they come from voluntary contributions and, therefore, *reflect political support:* ''the money collected is that intended by those who contribute to be used for political purposes and not money diverted from another source.''[257] The FEC failed to recognize that, just as PACs do not pose the problem sought to be addressed by §441b, i.e., ''that substantial general purpose treasuries should not be diverted to political purposes,''[258] neither do ideological corporations such as MCFL.

As the *MCFL* Court explained, ''the power of a corporation may be no reflection of the power of its ideas.''[259] Unlike business corporations, however, the resources of which ''are not an indication of popular support,'' the resources available to corporations such as MCFL exist precisely because of their political support, i.e., the fact that the ideas that they propound are considered to be important to those who, for example, patronize its bake sales.

The Supreme Court could not have been clearer about its rationale in this regard: ''[r]egulation of corporate political activity thus has reflected concern *not about the use of the corporate form per se, but about the unfair deployment of wealth for political purposes.* Groups such as MCFL do not pose that danger of corruption.''[260]

In its ''Explanation and Justification'' for the challenged regulation, the FEC demonstrated its complete misunderstanding of the above-quoted language: ''[i]n order to pose no such threat, a corporation must be free from resources obtained in the economic marketplace. Only those corporations that cannot engage in business activities are free from these kinds of resources.''[261] However, as demonstrated, the Court's rationale in this regard did not constitute a condemnation of the political use of ''resources obtained in the economic marketplace''; rather, it was only concerned with the diversion of funds acquired in the economic marketplace to the political marketplace *where those funds were acquired in a manner which was unrelated to the political purposes of the corporation.*

Groups such as MCFL, however, do not pose a threat of the danger that funds *unrelated* to the corporation's political goals will be funneled into the political marketplace of ideas. This is so because ''[t]he resources it has available are not a function of its success in the economic marketplace, but its popularity in the political marketplace.''[262] Contributors give money to such groups precisely because they wish to further the groups' political goals, i.e., ''because they regard such a contribution as a more effective means of advocacy than spending the money under their own personal direction.''[263] Likewise, a person who engages in ''business activities'' with such an organization does so with the same underlying motivation. He does not spend money at a bake sale or a flower sale primarily to get cookies or carnations. Rather, he does so to benefit the organization and to further its political goals, which he realizes are better served by concerted action than by his individual efforts. Thus, the money which changes hands is *directly related* to the political purposes of the

organization and does not come within the permissible rationale for restricting all corporate expenditures.

The FEC, however, ignored the distinction between business activities which are unrelated to political ideas and those which are related to political ideas in their regulations. Through its denial of the exemption to any corporation which engages in any ''business activities'' (so broadly defined as to include such insensibly politically-motivated transactions as purchases made at bake sales and sales of an ad in a newsletter), the FEC had extended its regulation to ''speech that does not pose the danger that has prompted regulation.''[264]

b. The Second MCFL Feature Assured That Members Would Not Have a Disincentive to Disassociate With a Corporation With Which They Disagree

The second *MCFL* feature was that a corporation ''has no shareholders or others associated so as to have a claim on its assets or earnings.''[265] Like the other *MCFL* features, this one cannot be understood apart from the rationale for its formulation. The Supreme Court explained that the absence of such persons ''ensures that persons connected with the organization will have no disincentive for disassociating with it if they disagree with its political activity.''[266] In developing this feature, the Supreme Court was concerned with situations which may arise with respect to the ordinary business corporation or labor union. It is conceivable that people who are associated with such entities would not want their dues or investment funds used for political purposes. As the Court explained: ''such persons . . . contribute investment funds or union dues for economic gain, and do not necessarily authorize the use of their money for political ends. Furthermore, because such individuals depend on the organization for income or for a job it is not enough to tell them that any unhappiness with the use of their money can be redressed simply by leaving the corporation or the union.''[267]

Based on this reasoning, the *MCFL* Court concluded that, although it was reasonable for Congress to require the establishment of separate segregated funds to which such persons could make voluntary contributions, ''[t]his rationale for regulations is not compelling with respect to independent expenditures by [MCFL].''[268] This is because, as explained above, MCFL had no stockholders or members who could share in the corporation's assets or earnings.

In fashioning its new regulation, however, the FEC again failed to take account of the underlying rationale and how it affects the scope of the feature. In denying the exemption to corporations who offer any benefit, no matter how de minimis to its members,[269] the FEC failed to recognize that the primary purpose of the feature was to protect those who ''depend on the organization for income or for a job,'' that is, those who may have a ''claim on its assets or earnings.''[270] Thus, as with the first *MCFL* feature, the scope of this feature can only be understood by reference to the rationale for its creation.

c. The Third MCFL *Feature Assured That Exempt Corporations Did Not Act as Conduits for the Type of Spending That Created a Threat to the Political Marketplace*

The third *MCFL* feature concerned the fact that ''NCFL was not established by a business corporation or labor union, and it was its policy not to accept contributions from such entities.''[271] In *Austin,* the Court described this feature as ensuring ''the organization's *independence* from the influence of business corporations.''[272] The rationale for this feature is that such independence ''prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.''[273]

In its regulation, however, the FEC not only required that corporations be in fact independent of the influence of business corporations, but also that they either have a policy against accepting any donations from business corporations or do not accept, either directly or indirectly, donations from business corporation. As the Second Circuit recognized in *FEC v. Survival Education Fund (SEC),*[274] however, the rationale of this feature does not depend on whether a corporation has a policy against accepting corporate donations, but upon whether it is, in fact, independent of the influence of corporate donations. That Court explained:

''To be sure, an express policy against accepting corporate or union contributions is clear proof that no such danger exists, as the Court in *MCFL* duly found. But a nonprofit political advocacy corporation, which in fact receives no significant funding from unions or business corporations, does not surrender its First Amendment freedoms for want of such a policy.

''Under *MCFL,* a nonprofit political advocacy corporation having no shareholders or members with financial disincentives to disassociate from the corporation if they disagree with its views is exempt from §441b as long as it is independent in fact from significant business or labor influence. The existence of a policy against accepting contributions from business corporations or unions is relevant to, but not dispositive of, the issue of independence.''[275]

In addition, it is not necessary that the corporation receives no business contributions. As the court in *Day v. Holahan* found, ''the key issue here is the *amount* of for-profit corporate funding a nonprofit receives, rather than the establishment of a policy not to accept significant amounts.''[276]

Thus, the Eight Circuit in *Day* recognized, like the Second Circuit in *SEF,* that ''the factual findings of *MCFL* [did not] translate into absolutes in legal application.''[277] The scope of each of these features can be understood only by understanding the particular evil that the Supreme Court in *MCFL* sought to avoid. For that reason, governmental regulation is permissible only to the extent ''necessary to meet the particular problem at hand,''[278] However, the FEC overstepped the zone of permissible regulation and has sought to regulate speech which is protected by a proper understanding of the purposes and rationales which account for the *MCFL* exemption.

3. Minnesota Citizens Concerned for Life v. FEC Held the FEC's New MCFL Regulations Unlawful

A challenge, under the Administrative Procedures Act, to the new FEC regulations of *MCFL*-type organizations was brought in the Eighth Circuit case of *Minnesota Citizens Concerned for Life v. FEC.*[279] The district court declared the new regulations void as beyond the statutory authority of the FEC as construed by the federal courts.

The court based its rejection of the regulations on the ''functional interpretation'' of *Day* rather than the ''formal interpretation'' of the FEC.[280] In examining the regulations, the District Court specifically found that the ''prohibition against any 'business activities'' and the ''prohibition against the receipt of corporate donations [are], unquestionably, too restrictive.''[281]

In addition, the district court also implied that the third and fourth provisions were of questionable validity under the approach taken by the Eight Circuit in *Day.* As the district court states, ''*Day* rejected a 'bright-line' approach to implementing the *MCFL* exemption, and instead looked to the particular characteristics of the nonprofit as they relate to the purpose of §441(b) and the members' First Amendment rights. Thus, *Day* casts serious doubt on §114.10(c)(1)'s requirement that a qualified nonprofit's 'only' express purpose be the expression of political ideas and §114.10(c)(3)(ii)['s] requirement that a qualified nonprofit not have members which receive 'any' benefit which is disincentive to associate themselves from the corporation.''[282]

The FEC appealed the decision to the Eighth Circuit, which decided *Day,* apparently on the hope that the circuit would change its mind about its understanding of the *MCFL* exemption.[283] On May 7, 1977, the Eighth Circuit affirmed the decision of the district court.[284]

B. MEMBERS

Another protection for speech about political matters by organizations is the First Amendment guarantee that organizations may communicate with their members unencumbered by governmental regulation. This protection was recognized in 1948 by the Supreme Court in *United States v. Congress of Industrial Organizations (CIO).*[285] As noted earlier in this article, this case involved a prohibition on ''any expenditure in connection with a federal election'' by a corporation or labor organization.[286] Charges were brought against the *CIO* for publishing in its membership newsletter a statement urging members to vote for a particular federal candidate.[287] The Court cited several authorities about the sacrosanct nature of free expression and dismissed the indictment, stating that: ''If §313 were construed to prohibit the publication, by corporations and unions in the regular course of conducting their affairs, of periodicals advising their members, stockholders or customers of danger or advantage to their interests from the adoption of measures, or the election to office of men espousing such measures, the gravest doubt would arise in our minds as to its constitutionality.''[288]

In 1982, the Supreme Court revisited the subject in *FEC v. National Right to Work Committee (NRWC).*[289] This case involved solicitation by NRWC to ''some 267,000 persons for contributions to a separate segregated fund [a PAC] that it sponsored.''[290] NRWC was a nonstock corporation.[291] The issue was whether NRWC had limited its solicitations to ''members'' within the meaning of 2 U.S.C. §§441b(b)(4)(A) and (C), which provide that a nonstock corporation may solicit contributions to its PAC only from ''members'' of the corporation.[292] The organic documents of NRWC stated that it would have no members.[293] Although NRWC had mailed millions of letters promoting its opposition to compulsory unionism and soliciting donations, none mentioned membership.[294] When NRWC created its PAC (because corporations could not contribute to candidates under 2 U.S.C. §441(b)), it solicited persons who had made donations to NRWC. Upon examining the brief legislative history of §441(b), the Supreme Court decided that the congressional intent was ''that some relatively enduring and independently significant financial or organizational attachment is required to be a 'member' under §441b(b)(4)(C).''[295] As a consequence, the Court held that NRWC did not have members ''under any reasonable interpretation of the statute.''[296] The Court reiterated the high constitutional protection accorded associational rights,[297] holding that, in this case, ''the associational rights asserted by respondents may be and are overborne by the interests Congress has sought to protect in enacting §441(b).''[298]

Not content with the statutory definition of ''member,'' with the new gloss of *NRWC,*

the FEC set about to define ''member'' in new regulations. As usual, the FEC pursued a speech and association suppressing approach, attempting to define ''member'' as narrowly as possible in order to limit as much as possible the class of persons to whom the corporation may communicate its political messages and from whom it may solicit PAC funds.

An older definition of ''member'' had been promulgated by the FEC in 1976. The regulation defined the term as: ''all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock. . . . A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.'' [299]

The new definition of ''member,'' promulgated in 1993, defined the term much more restrictively:

''*Members* means all persons who are currently satisfying the requirements for membership in a membership association, affirmatively accept the membership association's invitation to become a member, and either:

''(i) Have some significant financial attachment to the membership association, such as a significant investment or ownership stake (but *not* merely the payment of dues);

''(ii) Are required to pay on a regular basis a specific amount of dues . . . and are entitled to vote directly either for at least one member who has fully participatory and voting rights on the highest governing body of the membership association, or for those who select at least one member . . .; or

''(iii) Are entitled to vote directly for all those on the highest governing body of the membership association.'' [300]

The U.S. Chamber of Commerce and the American Medical Association were both affected by the new regulation and ''ceased making their traditional political solicitations'' to persons they had considered their members.[301] They filed suit seeking a declaration that the FEC had violated their First Amendment rights by ignoring the disjunctive ''or'' in the Supreme Court's statement quoted above,[302] treating it rather as a conjunctive ''and.'' [303]

The United States Court of Appeals for the District of Columbia Circuit found fatal flaws in the new FEC regulations. The court faulted the notion that dues to a nonstock corporation were less of a financial attachment to the organization than was ownership of a single share of stock in a public corporation.[304] The court also faulted the requirement that a ''member'' who paid dues must vote directly for a member of the highest governing body, noting that this excluded without justification many hierarchical organizations.[305] As a result, the court declared the regulations void under the Administrative Procedures Act.

Based on the case law, therefore, to be a ''member'' of a nonstock organization to receive a corporation's or labor union's political communications and to be solicited for PAC purposes, one must have some financial connection with the organization (usually done with dues payments) and have a right to vote at least at a local level for persons who will chose the voting representative of a local organization to the larger governing body of the organization (typically done by allowing local members to vote for the local delegate to the state-wide governing body of the organization.[306]

C. ANONYMOUS LITERATURE

In *McIntyre v. Ohio Election Commission*,[307] the United States Supreme Court declared that a broadly worded requirement that there be a mandated disclaimer identifying the author or any writing intended to ''influence'' an election is unconstitutional. Indeed, the Supreme Court upheld the right of an individual or organization to publish anonymously concerning the advocacy of political causes.

In *McIntyre*, the Court considered an Ohio election practices statute in the context of an enforcement action against a woman, Margaret McIntyre, who distributed flyers generated on a home computer and printed at her own expense relating to a referendum on a proposed school tax levy.[308] Some of her handbills identified her as the author, while others contained the identifier ''CONCERNED PARENTS AND TAX PAYERS.'' [309] Margaret was fined $100 by the Ohio Election Commission for failure to use the required disclaimer.[310] On appeal of the case, the U.S. Supreme Court struck down the Ohio statute imposing a state-mandated disclaimer on literature intended to ''influence the voters in any election.'' [311]

Noting that the statute was a content-based ''limitation on political expression'' at ''the core of the protection afforded by the First Amendment,'' the Court applied ''exacting scrutiny.'' [312] The Court noted that in addition to ''exacting scrutiny'' such a restriction on ''core political speech'' must be ''narrowly tailored to serve an overriding state interest.'' [313]

Ohio asserted two interests to justify its disclaimer: (1) an ''interest in preventing fraudulent and libelous statements'' and (2) an ''interest in providing the electorate with relevant information.'' [314] The High Court noted that free expression includes the right to release what information one desires and that the name of a private citizen would be meaningless to most readers anyway with regard to the reader's ability to evaluate the message.[315] The Court dismissed the interest in informing the public as ''plainly insufficient to support the constitutionality of its disclosure requirements.'' [316]

The Court gave more weight to Ohio's interest in preventing fraud and libel, noting that this interest ''carries special weight during election campaigns when false statements, if credited, may have serious adverse consequences for the public at large.'' [317] The Court, noted, however, that Ohio had a statute setting forth penalties for false statements during political campaigns, so that the disclaimer provision was ''not its principal weapon against fraud.'' [318] The Court noted that the disclaimer provision served as an ''aid to enforcement'' and a ''deterrent to the making of false statements by unscrupulous prevaricators,'' but these ''legitimate'' benefits did not justify the ''extremely broad'' disclaimer mandate.[319]

This is so the Court said, inter alia, because the broad prohibition ''encompasses documents that are not even arguably false or misleading. It applies not only to the activities of candidates and their organized supporters, but also to individuals acting independently and using only their own modest resources. . . .'' [320]

The Court distinguished its upholding in *Buckley* of a requirement that expenditures in excess of a certain amount be *reported* to the FEC, declaring that the Ohio disclaimer requirements is ''more intrusive than the *Buckley* disclosure requirement'' and ''rests on different and less powerful state interests.'' The Court noted that the FECA ''regulates only candidate elections, not referenda or other issue-based ballot measures; and we construed 'independent expenditures' to mean only those expenditures that 'expressly advocate the election or defeat of a clearly identified candidate.' '' [321]

Reporting requirements, like disclaimers, are a *type* of disclosure mechanism.[322] *Buckley* approved reporting requirements for express advocacy; it did not approve disclaimers on this type of speech. Indeed, *McIntyre* recognized that *Buckley* did not even address the issues of disclaimers or anonymous speech: ''Ohio vigorously argues that our opinions in *First National Bank of Boston v. Bellotti*, . . . and *Buckley v. Valeo*, . . . amply support the constitutionality of its disclosure requirements [i.e., disclaimer]. Neither case is controlling: . . . [*Buckley*] concerned mandatory disclosure of campaign-related expenditures [i.e., reporting requirements]. Neither case involved a prohibition of anonymous campaign literature.'' [323]

McIntyre went on to recognize that *Buckley* upheld reporting requirements for express advocacy, and unlike disclaimers, such requirements advance the interest in obtaining information without unduly impinging upon protected speech: ''True, in another portion of [*Buckley*] we [approved] a requirement that even independent expenditures in excess of a certain threshold level be reported. * * * But that requirement entailed nothing more than an identification * * * of the amount and use of money expended in support of a candidate [through a report]. Though such mandatory reporting undeniably impedes protected First Amendment activity, the intrusion is a far cry from compelled self-identification [i.e., disclaimers] on all election-related writings.'' [324]

The Court concluded that ''the Ohio statute's infringement on speech [disclaimers,] [is] more intrusive than the *Buckley* disclosure requirement [reporting].'' [325] Both means provide the State with information; however, reporting requirements are more narrowly tailored to do so.[326]

D. CONTRIBUTION & EXPENDITURE CAPS

Another protection afforded political speech by the First Amendment and recognized by the United States Supreme Court is the limitation on the extent to which government may place caps on contributions and expenditures. While the Court permits some caps on contributions, there are limits as to how low the caps may go. No caps are permitted on independent expenditures.

Buckley's point of departure is the principle that any restriction of the amount of money that can be spent in campaigns is suspect. The Supreme Court stated that [a] restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached.[327]

Thus, a regulation which seeks to regulate political spending is subject to a presumption of invalidity. In *Buckley*, the Supreme Court did, however, enunciate a constitutional distinction between ''expenditures'' and ''contributions.'' The Court stated that: ''although the Act's contribution and expenditure limitations both implicate fundamental First Amendment interests, its expenditures ceilings impose significantly more severe restrictions on protected freedoms of political expression than do its limitations on financial contributions.'' [328]

Expenditures could not be regulated unless they constituted ''express advocacy'' of the election or defeat of a clearly identified candidate (and if they were ''independent expenditures'' they could not be limited even if they did constitute express advocacy).[329] On the other hand, contributions were, under the reasoning of *Buckley*, more susceptible of regulation.

The Court's reasons for making a distinction of constitutional dimension in this regard were essentially twofold. First, the Court found that contribution limitations

did not place significant burdens on protected speech and associational freedoms. Second, the Court found that contributions could be limited because, unlike expenditures, they posed the danger of quid pro quo corruption (and the appearance thereof) to the political system. Unless both of these rationales are satisfied, contributions cannot be limited.

I. Contributions Can Only be Limited Because They Threaten Corruption to the Political System

As noted above, the *Buckley* Court began its analysis with the proposition that limits on spending in connection with campaigns are presumptively invalid. It did, however, permit the government to limit contributions to candidates or campaigns. One of the two fundamental rationales for allowing such restrictions was that, unlike expenditures, contributions pose a threat of corruption to the political system. The Court stated that ''[t]o the extent that large contributions are given to secure a political *quid pro quo* from current and potential office holders, the integrity of our system of representative democracy is undermined.'' [330]

In addition, the Court was concerned with ''appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions.'' [331] Therefore, the Court permitted governmental limitations on contributions [332] because of the governmental interest ''in the prevention of corruption and the appearance of corruption spawned by the real or imagined influence of large financial contributions on candidates' positions and on their actions if elected to office.'' [333]

The Supreme Court in *Buckley* then proceeded to approve an aggregate contribution cap of $1,000 for each election by any person to any candidate for federal office.[334] The Court found that the interest in limiting ''the actuality and appearance of corruption resulting from *large* individual financial contributions'' justified ''the limited effect upon First Amendment freedoms caused by the $1000 contribution ceiling.'' [335] More precisely, the Court found that in 1976 a $1,000 limit on contributions was sufficiently high to be narrowly tailored to limit corruption, while allowing individuals and organizations to assist to a ''substantial extent in supporting candidates and committees with financial resources.'' [336]

However, contribution caps are not one of those things where, if a little is good, more is better. Efforts to set lower limits have been routinely struck down. In several post-*Buckley* decisions, courts have upheld contribution limits above $1,000,[337] but have struck down those below it. In *Carver v. Nixon*,[338] the Eighth Circuit struck down a $300 limit on direct contributions in state elections on the ground that it was not narrowly tailored to advance the state's interest in combating corruption.[339] It noted that *Buckley* upheld a $1,000 limit twenty years ago because such a limitation focused precisely on the problem with *large* campaign contributions without unduly impinging on protected speech, i.e., it was narrowly tailored to achieve its goal.[340] Similarly, in *Day v. Holahan*,[341] the Eighth Circuit struck down a $100 limit on contributions to and from political committees.[342]

2. Expenditures, However, Cannot be Limited Because Doing So Imposes Restrictions on the Freedoms of Speech and Association That are Not Justified by a Compelling Interest

As the *Buckley* Court explained, independent expenditures are entitled to full constitutional protection: ''Advocacy of the election or defeat of candidates for federal office is no less entitled to protection under the First Amendment than discussion of political policy generally or advocacy of the passage or defeat of legislation.'' [343]

In contrast to contributions, however, ''expenditures'' which are not coordinated with a candidate or campaign do not pose a danger of corruption or its appearance. Thus, there is no compelling interest in their limitation. This is so because a candidate does not necessarily benefit from (and may well even be harmed by) an expenditure which is made independently of his campaign. As the Supreme Court recognized, ''[u]nlike contributions, such independent expenditures may well provide little assistance to the candidate's campaign and indeed may prove counterproductive. The absence of prearrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a *quid pro quo* for improper commitments from the candidate.'' [344]

Thus, because as a practical matter the candidate may well not benefit from an expenditure made without coordination, the danger of quid pro quos is obviated. This results not only in alleviating the danger of corruption, but the appearance of corruption as well.

In addition, in contrast to limits on contributions that ''entail[s] only a marginal restriction on the contributor's ability to engage in free communication,'' [345] the Court reasoned that, ''because virtually every means of communicating ideas in today's mass society requires the expenditure of money,'' the ''expenditure limitations contained in the Act represent substantial rather than merely theoretical restraints on the quantity and diversity of political speech.'' [346] Whereas a contribution to a candidate merely ''serves as a general expression of support for the candidate and his views, but does not communicate the underlying basis for the support,'' [347] ''a restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quality of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached.'' [348]

As a result, the Court has struck down limits on independent expenditures by individuals [349] and political committees.[350]

E. POLITICAL COMMITTEES

As noted by the Court in *Buckley*,[351] ''the First Amendment protects political association as well as political expression.'' As a result, citizens have the ''freedom to associate with others for the common advancement of political beliefs and ideas.'' [352] ''Governmental action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.'' [353]

Political action committees (PACs) are associations organized to enhance the political expression of citizens by joining individual contributions with those of others so that they may more effectively participate in political speech.[354] As a result, the Supreme Court has ''reject(ed) the notion that the PACs form of organization or method of solicitation diminishes their entitlement to First Amendment protection,'' [355] and expressly held that they are protected by the First Amendment freedom of association.[356] Furthermore, any disparate treatment of a political committee, such as lower contribution limits for PACs as opposed to individuals, would violate the PACs freedom of association.[357]

F. BURDEN OF PROOF

A final protection for free political speech and association is the burden of proof placed on legislatures which enact a ''law . . . abridging the freedom of speech.'' [358] Because free expression and association are such cherished American rights, they are protected as fundamental rights against infringement. To be valid, a law burdening or chilling these rights must serve a compelling interest and be narrowly tailored to effect only that interest.[359]

Once a plaintiff has demonstrated that a statute infringes the exercise of his or her First Amendment rights, the burden is on the state to justify this infringement. As the United States Supreme Court declared in 1978: ''The constitutionality of §8's prohibition of the 'exposition of ideas' [a ban on corporate contributions or expenditures to influence the outcome of a referendum] by corporations turns on whether it can survive the exacting scrutiny necessitated by a state-imposed restriction of freedom of speech. Especially where, as here, a prohibition is directed at speech itself, and the speech is intimately related to the process of governing, 'the State may prevail only upon showing a subordinating interest which is compelling' *'and the burden is on the Government to show the existence of such an interest.'* Even then, the State must employ means 'closely drawn to avoid unnecessary abridgment. . . .''' [360]

The state's effort to carry its burden must be done under ''the closest scrutiny.'' [361] As the U.S. Supreme Court has stated: ''When the government defends a regulation on speech . . . it must do more than simply ''posit the existence of the disease sought to be cured.'' . . . It must demonstrate that the recited harms are real, . . . and that the regulation will in fact alleviate these harms in a direct and material way.'' [362]

In *Carver v. Nixon*,[363] a case involving campaign contribution caps, the Eighth Circuit declared that the government must produce ''evidence to demonstrate that the limits were narrowly tailored to combat corruption or the appearance of corruption. . . .'' [364] ''The record is barren of any evidence of a harm or disease that needed to be addressed,'' the court proclaimed.[365]

In *Shrink Missouri Government PAC v. Maupin*,[366] the U.S. District Court for the Eastern District of Missouri observed that ''[d]efendants wholly failed to adduce any evidence of actual corruption taking place. . . . The harm that the defendants seek to eradicate must exist and its cure must specifically be directed toward the elimination of that harm. . . . . The defendants fail to point to one incident wherein a[n] . . . official . . . has cast a vote or agreed to influence a vote, during the general assembly's regular session, in exchange for a contribution. As for the appearance of corruption, the defendants' two witnesses testified in general terms of their belief that the public perceives the acceptance of contributions during the legislative session as ''inappropriate''. No factual basis was given for these witnesses' perception that the electorate believes that contributions accepted during the general assembly's regular session reflect corruptive deal-making.'' [367]

In sum, when the government makes a law abridging free speech, it has an extremely heavy burden of proof that there is a compelling interest, and this burden must be met with the clearest of facts carefully established, not with mere speculation about possible corruption. There are two obvious reasons for this.

First is the premier protection given to free speech and free association rights in our constitutional system. Because of the supreme importance of free political speech and association to the very democratic foundations of our Republic, government should

make no law abridging these expressly protected activities on the basis of unproven speculation about corruption.

Second is the fact that the legislation abridging political speech is being enacted by incumbent politicians. Justice Thomas in his concurrence in *Colorado Republican* put the matter well when he referred to the notion of according special deference to congressional judgments about campaign finance as ''letting the fox stand watch over the henhouse.'' [368] He added, ''What the argument for deference fails to acknowledge is the potential for legislators to set the rules of the electoral game so as to keep themselves in power and to keep potential challengers out of it.'' [369]

This warning has been echoed by various commentators. For example, Lillian BeVier points out the importance of three scope-of-review issues in protecting constitutional rights in the political speech area: (a) courts must ''insist on a rigorous definition of 'corruption' as well as an intelligible description of both empirical counterparts of this corruption and the purified political order it hopes to attain'' [370]; (b) courts ''should adopt a 'premise of distrust' with respect to legislative means'' [371]; and (c) courts should take note of the realities of campaign finance reform—such as ''unintended consequences'' and ''at least temporary reallocations of political advantage'' and sanction ''only reforms that are practically guaranteed to achieve a clearly specified and unquestionably legitimate corruption-prevention goal.'' [372] Similar warnings have come from John Hart Ely [373] and Ralph Winter, [374] among others.

Thus, the burden is on the government to establish by clear evidence the compelling interest in corruption or its appearance which it proposes as supporting its decision to make a law abridging free expression in the vital realm of political speech.

G. PRIOR RESTRAINT OF SPEECH

The United States Supreme Court has long held that ''the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.'' [375] This is particularly true with political speech since ''timing is of the essence . . . when an event occurs, it is often necessary to have one's voice heard promptly, if it is to be considered at all.'' [376] Therefore, a prior restraint, even for ''a day or two'' may be intolerable when applied ''to political speech in which the element of timeliness may be important.'' [377]

As set forth above, the First Amendment protects, as political speech, both political contributions and political expenditures, including both issue advocacy and independent expenditures. Unfortunately, injunctions have been sought and, on occasion, issued by lower state courts for alleged ''violations'' of state election law. [378] These injunctions were sought to restrain the distribution of voter guides and were overturned on appeal, [379] but the damage to First Amendment rights still occurred.

V. A PROPOSAL FOR SPEECH-ENHANCING CAMPAIGN REFORM

While most efforts at campaign finance reform have been misguided and based on flawed assumptions, there is room for speech-enhancing reform. Key to any reform to be attempted is the need to protect and enhance constitutionally guaranteed free expression. The case law is clear that such speech is constitutionally protected, and, as set forth above, the United States Supreme Court has shown no sign whatsoever that it is prepared to back away from ensuring full First Amendment protection to the political speech involved in campaigns.

This section will summarize the flawed premises on which most efforts at campaign finance reform are based, and set out some proposals for speech-enhancing reform.

A. FAULTY PREMISES TO BE AVOIDED

Recent campaign finance proposals [380] in the U.S. Congress have been based on certain premises that have been thoroughly rejected by the United States Supreme Court in the seminal election law case of *Buckley*, [381] and its progeny. As a result of these faulty premises, the proposals themselves are fundamentally flawed and have diverted attention from reform measures that would survive constitutional scrutiny and that would correct current perceived problems in the political system. These faulty premises are as follows.

1. (Faulty Premise #1) The First Amendment Is a Loophole in the Federal Election Campaign Act (FECA) Which Should Be Narrowed or Closed

As set forth in detail above, the First Amendment protects political freedoms that are vital to our representative democracy. To limit these freedoms is to fundamentally undermine the ability of our citizens to freely select their representatives and to hold them accountable for their governance. As has been shown, there is no indication whatsoever that the courts are prepared to cooperate in any endeavor to limit First Amendment freedoms in this area. [382]

2. (Faulty Premise #2) The Political System Is Only about Elections, Not about Political Ideas and the Accountability of Elected Officials to the Public for Their Positions on Issues

The debate about campaign finance reform seems to focus only on elections on the assumption that the political process is only about elections. However, elections are only a part of the political process. More importantly, elections are simply a part of our system of democratic representative government which fundamentally depends on ''the free discussion of governmental affairs.'' [383] Thus, issue advocacy during an election, even though it may influence the election, is also about the discussion of issues of public concern and about holding public officials accountable for their positions on these issues. Representative government cannot survive without this ''free discussion of governmental affairs.''

3. (Faulty Premise #3) The Rising Cost of Political Campaigns Justifies Severe Government Restrictions on Campaigns

Some promoters of campaign finance reform assert that the rising cost of elections and the growing size of special interest donations has corrupted the democratic process. On that basis, they believe that severe limitations on campaigns imposed by government are justified.

However, the United States Supreme Court has made it clear that it is up to the people, not the government, to determine what is spent on political campaigns. As the Court stated in *Buckley:* ''In any event, the mere growth in the cost of federal election campaigns in and of itself provides no basis for government restrictions on the quantity of campaign spending and the resulting limitation on the scope of federal campaigns. The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees who must retain control over the quantity and range of debate on public issues in a political campaign.'' [184]

4. (Faculty Premise #4) The Only Way to Redress the Balance Is to Stifle the Speech of Some Rather than to Enhance it for All

Some promoters of campaign finance reform believe that the system needs to change because it has eroded the power of individual voices and amplified the voices of special interests. In pursuit of equalizing speech, they take the approach of limiting, penalizing, and prohibiting speech of some in order to enhance it for others.

However, the United States Supreme Court has expressly rejected this proposition in *Buckley:* ''the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment.'' [385] Thus, this approach is fundamentally flawed.

But even more tragically, the ''solution'' of stifling speech diverts attention away from positive, constitutional measures which would redress the imbalance in the current system by enhancing the speech of citizens and issue advocacy groups. These speech enhancing measures would restore a proper balance between the voices of ''special interests'' and the voices of individual citizens.

Some campaign finance reform advocates believe that the only way that meaningful reform will be enacted is for members to put aside partisan differences and work together to make it happen. While this may be one necessary precondition to reform, it is not the fundamental one. For meaningful reform to occur, Congress must abandon the notion that it is empowered to limit free speech in order to redress any imbalance in speech and instead find ways to level the playing field by enhancing the speech of citizens and issue advocacy groups.

B. POSITIVE PROPOSALS FOR REFORM BY ENHANCING SPEECH

In contrast to the serious constitutional obstacles to efforts to curtail speech, Congress is free to adopt measures that will enhance and encourage speech. As the *Buckley* Court explained, in upholding the provision of the FECA providing public funds for elections: ''Although 'Congress shall make no law . . . abridging the freedom of speech, or of the press.' [public funding of elections] is a congressional effort, not to abridge, restrict, or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people. Thus, [the provision] furthers, not abridges, pertinent First Amendment values.'' [386]

But public funding of campaigns is only one way for Congress to ''facilitate and enlarge public discussion and participation in the electoral process.'' The best antidote to the ''undue influence of special interests'' is to encourage citizens to take a more active part, as individuals and in association with others, in the political process.

In addition, Congress should act to reign in the FEC's effort to expand its power and regulate issue advocacy. The incorporation of the Court's speech protective holdings in appropriate provisions of the FECA and the adoption of certain administrative reforms of the FEC itself are necessary to accomplish this task. The following measures are designed to do just that. [387]

1. Section 441b of the FECA Should Be Amended to Reflect the Protections of Issue Advocacy and of the Political Speech of Not-for-Profit Corporations

Section 441(b) of the FECA makes it unlawful for any corporation ''to make a contribution or expenditure in connection with any [federal] election.'' However, as set forth

above, the United States Supreme Court in *MCFL*,[388] imposed two significant limitations on this prohibition.

First, the Court interpreted §441b to be limited to expenditures for ''express advocacy.'' Second, the Court held that the prohibition on corporate expenditures was not applicable to certain not-for-profit corporations. These limitations should be incorporated by Congress in §441(b) by amending it.

After *Buckley*, Congress amended the FECA to incorporate changes in the statute required by the Court. For instance, Congress amended §434(c) to reflect that disclosure of expenditures by organizations that were not political committees were limited to ''independent expenditures'' and adopted a definition of ''independent expenditure'' in §431(17).

Similarly Congress should amend §441(b) to incorporate the holdings of *MCFL* by providing that it is unlawful for any corporation ''to make a contribution or to make an expenditure which expressly advocates the election or defeat of a clearly identified candidate.''

In addition, §441(b) should be amended to add a new subsection which provides that the prohibition on a corporation making an expenditure which expressly advocates the election or defeat of a clearly identified candidate does not apply to a not-for-profit membership corporation which (1) does not engage in substantial business activities, other than traditional fundraising activities of not-for-profit organizations, that are unrelated to the charitable, educational or political activities of the organization, (2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings, and (3) was not established by a business corporation or a labor union and does not receive a substantial portion of its contributions from such entities.

These changes would conform with the Court's decision in *MCFL*, and would signal the willingness of Congress to abide by this important issue advocacy protecting decision. Furthermore, incorporating these changes in the statute will make it readily apparent to all that this provision is narrow on its face; where now one has to read the United States Reports to know about this significant limitation.

2. The Definition of Contribution Should Be Amended to Clarify that It Does Not Apply to Issue Advocacy

The Federal Election Commission's effort to regulate and restrict issue advocacy by claiming that it is a contribution to a candidate and subject to the contribution limits if the expenditure for the issue advocacy was coordinated with a candidate should also be addressed. There is no justification for issue advocacy losing its protected status just because it has been communicated to a candidate.

This misguided attempt to circumvent the protection of issue advocacy in *Buckley* can be prevented by adding to those items listed in §431(8)(B) as not being included in the definition of ''contribution'' ''any expenditure for a communication which does not expressly advocate the election or defeat of a clearly identified candidate.''

3. The Definition of Political Committee Should Be Amended to Reflect the Court's Major Purpose Test

The Court in *Buckley* held that an organization cannot be considered a ''political committee'' unless the organization is ''under the control of a candidate or the major purpose of the organization is the nomination or election of a candidate.''[389] Unfortunately, when Congress amended the FECA after *Buckley*, this limitation was not included.

The effect of Congress's failure to modify the definition of ''political committee''[390] to meet *Buckley*'s requirements has been to encourage the FEC to run amuck trying to impose on issue advocacy groups the requirements for PACs in the FECA.[391] This has had the effect of chilling the legitimate issue-oriented activities of such groups and has imposed substantial costs on them in their efforts to resist such unconstitutional impositions. Congress should make this change now by amending §431(4)(a) by adding at the end ''and which is under the control of a candidate or the major purpose of which is the nomination or election of a candidate.''

4. Congress Should Allow Certain Not-for-Profit Corporations to Make Contributions to Federal Candidates

Since the Supreme Court held in *MCFL* that certain not-for-profit corporations do not pose any threat to corrupt the electoral process, because contributions to them are generated by their advocacy of political ideas, and they are thus free to make independent expenditures, there is no justification to prohibiting them from also making contributions to federal candidates.[392]

This change would expand the pool of possible contributors to candidates and, since these nonprofit organizations often promote important political ideas, rather than narrow economic interests, their addition to the pool of possible contributors would help offset these ''special interests.''

This change could be made by modifying the new subsection proposed for §441(b) in Section 1, supra, by providing that the prohibition on a corporation making a contribution or an expenditure which expressly advocates the election or defeat of a clearly identified candidate does not apply to the not-for-profit membership corporations described therein.

5. Certain Not-for-Profit Corporations Should Be Allowed to ''Bundle'' Individual Contributions to Candidates

Bundling of individual contributions to candidates is currently limited to PACs. Even if certain not-for-profit corporations are not allowed to contribute to candidates, Congress should allow them to solicit from their members individual contributions to candidates that are then ''bundled'' and given to the candidate. This could be accomplished by specifically allowing this activity in the amendment to §441(b) proposed above.

Providing this new method of encouraging individual contributions will enhance political giving by individual citizens, diminishing the relative influence of PACs and ''special interests.'' This ''bundling'' activity should be reported by amending §434(c) to so provide.

6. The Individual Contribution Limit Should be Increased to $2,500 and the Aggregate Limit to $100,000

The individual contribution limit of $1,000, found in §441(a)(a)(1) (A), and the aggregate contribution limit of $25,000, found in §441(a)(a)(3), has been in effect since 1974. While a $1,000 contribution represented a large contribution in 1974, it does not today.[393] Furthermore, allowing individuals to make larger contributions will enhance the ability of individual citizens to influence the political process while helping to offset the influence of ''special interests'' and PACs. The individual contribution limit should be raised to $2,500 and be indexed for inflation.

Furthermore, to accommodate the increase in individual contributions to candidates and to political parties, suggested below, the aggregate individual contribution limit, found in §441(a)(a)(3), should be increased to $100,000.

7. The Individual Contribution Limit to Political Parties Should Also Be Raised

Individual contributions to any national political party are limited to $15,000 per year by §441(a)(a)(2)(B). This limitation has diminished the relative influence of political parties and encouraged them to seek soft money. Increasing the individual contribution limit to $50,000 would help strengthen parties that can provide an effective counterweight to ''special interests.''[394] Furthermore, most agree that political parties serve a beneficial mediating role in the political process that should be enhanced. Both of these benefits would be derived by increasing the contribution limit to political parties.[395]

8. The Amount Political Parties Can Spend in Coordinated Expenditures with Federal Candidates Should Also Be Increased

With the increase in the individual contribution limit to political parties, Congress should increase the coordinated expenditure limits provided in §441(a)(d). These limits have also been in existence since 1974 and were not indexed for increases in the consumer price index as were the expenditure limits on presidential campaigns.[396] Because of the increase in the cost of federal campaigns, the influence of political parties has diminished. Congress should restore this balance and also index the new limits to inflation.[397]

9. The FEC Should be Mandated, in its Regulatory Activities, to Observe the Limits Imposed by the First Amendment

Since the admonitions of the courts have left the FEC unchastened in its regulatory efforts to contain issue advocacy, Congress should mandate that, in its regulatory activities, the FEC should act in a manner that will have the least restrictive effect on the rights of free speech and association protected by the First Amendment. To give this provision some teeth, a reviewing court should be authorized to hold unlawful and set aside any action of the Commission that did not use the least restrictive means available.

10. Reasonable Attorneys Fees Should Be Authorized by Congress if any Provision of the FECA of Action of the FEC Violates Constitutionally Protected Rights

The provisions of 42 U.S.C. §1988, authorizing an award of attorney fees to prevailing party who vindicates constitutional rights as against a state, are a substantial deterrent to states violating the guarantees of federal law. While federal law currently allows for an award of attorney fees against federal agencies in limited circumstances,[398] the broader guarantees provided in §1988 are justified in this case for two reasons.

First, the FECA uniquely involves the attempt by government to regulate vital First Amendment rights that are ''indispensable democratic freedoms.'' Particularly in light of the efforts by some to pass provisions know to be unconstitutional, a provision that allows an award of attorney fees for a successful effort to strike down a portion of the FECA is warranted.[399]

Second, the FEC has a sorry history of repeated attempts to unconstitutionally expand its powers to regulate issue advocacy. A significant deterrent to such intransigence, and a justified effort to compensate the victims of it, would be to award attorney fees to those private parties that prevail in FEC enforcement actions or against new FEC regulations.

11. The Act Should Establish Term Limits for FEC Commissioners, Staff Director, and General Counsel

The six commissioners of the FEC are currently appointed for six year terms and are

eligible for reappointment.[400] The FEC is administered by a staff director and general counsel appointed by the Commission.[401] Because of the strong institutional bias toward regulating free speech in the FEC, fresh blood is needed at the higher echelons of the Commission. This could be established by providing term limits for the Commissioners, staff director, and the general counsel.

12. The Tax Credit for Small Political Contributions Should Be Restored

The 1974 amendments to the FECA contained a 50% individual tax credit for political contributions up to $100. This tax credit provided a substantial incentive for small political contributions. This incentive should be restored to encourage small contributions from a greater number of citizens.

13. Limits on Issue Advocacy for Tax Exempt Groups in the Internal Revenue Code Should Be Eliminated

The Internal Revenue Code imposes limits on issue advocacy for tax exempt organizations. Specifically, the Internal Revenue Code prohibits groups exempt under §501(c)(3) from ''participat[ing] in, or interven[ing] in [including the publishing or distributing of statements], any political campaign on behalf of any candidate for public office.'' Organizations that are exempt under §501(c)(4) may engage in political activity but such activity must be ''insubstantial'' and is subject to a tax under §527.

Unfortunately, the Internal Revenue Service has given this provision a very expansive interpretation which clearly encompasses issue advocacy. For instance, in Revenue Ruling 78–248, the IRS interpreted this provision to include voter guides, even though they only contained issue advocacy and did not contain any ''express advocacy.'' As a result, not-for-profit groups have been chilled in the exercise of their constitutional right to issue advocacy.

Congress should correct this clear violation of First Amendment speech by bringing this provision into compliance with *Buckley*. This provision should be amended to read that this exemption is available to §501(c)(3) organizations that ''do not contribute to any political candidate, political committee, or political party and do not make any expenditures expressly advocating the election or defeat of a clearly identified candidate for political office.'' Furthermore, Congress should make it clear in the statute that §501(c)(4) organizations are not subject to a tax except on any contribution to a political candidate, committee, or party and on any independent expenditure expressly advocating the election or defeat of a clearly identified federal candidate.

CONCLUSION

As the U.S. Congress considers campaign finance reform, it has a unique opportunity to make significant changes that will improve our electoral process. There are two paths that beckon. One to limit, stifle, punish and penalize speech is doomed to failure at the doorstep of the United States Supreme Court. The other to encourage, promote and enhance speech will not only pass constitutional muster but will restore the balance that many believe is critically needed.

Moreover, the FEC must be reigned in to protect the constitutional rights of the people. The FEC is an agency out of control. Instead of carrying out its legitimate administrative role, it has expended considerable resources seeking to restrict, stifle and punish constitutionally protected free speech. Congress has an urgent duty to reorder the priorities of the FEC in order to protect citizens and grassroots organizations from the heavy hand of the censors at the FEC. Until the FEC has demonstrated a proper sensitivity for First Amendment rights, it should not be entrusted with further authority to intrude into the vital workings of our representative democracy.

FOOTNOTES

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1. U.S. CONST. amend. 1.

2. *Id.*

3. Federal Election Campaign Act of 1971, 2 U.S.C. §431 *et seq.* (amended 1974).

4. Buckley v. Valeo, 424 U.S. 1 (1976).

5. Colorado Republican Federal Campaign Comm. v. FEC, 116 S. Ct. 2309 (1996).

6. The authors are practicing attorneys who have been heavily engaged in litigation against misguided campaign reform efforts (on constitutional and Administrative Procedure Act grounds) since their seminal victory against the FEC in Faucher v. FEC, 928 F.2d 468 (1st Cir. 1991), *cert. denied sub nom.* FEC v. Keefer, 112 S. Ct. 79 (1991). Throughout the article, note will be taken of cases in which the authors and other members of the law firm of Bopp, Coleson & Bostrom are or have been engaged.

7. Free speech is both an end and a means, as stated by the United States Supreme Court in FEC v. Massachusetts Citizens for Life (*MCFL*):

''[w]hile this market metaphor has guided congressional regulation in the area of campaign activity, First Amendment speech is not necessarily limited to such an instrumental role. As Justice Brandeis stated in his discussion of political speech in his concurrence in Whitney v. California, 274 U.S. 357, 375 . . . (1927):

''Those who won our independence believed that the final end of the State was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means.'' *MCFL*, 479 U.S. 238, 257 n. 10 (1986) (emphasis added) (internal citation omitted). ''It is the fact of participation in the political process that the First Amendment protects, not [merely] its qualities of sanity and objectivity.'' West Virginians for Life v. Smith, 919 F. Supp. 954, 958 (S.D.W. Va. 1996) (quoting Lillian R. BeVier, *The First Amendment and Political Speech: An Inquiry Into the Substance and Limits of Principle*, 30 STAN. L. REV. 299, 317 (1978)).

8. FEC v. Machinists Non-Partisan Political League, 655 F.2d 380, 389 n. 17 (D.C. Cir. 1981) (quoting *Buckley*, 424 U.S. at 14-15 and Monitor Patriot Co. v. Roy, 401 U.S. 265 (1971)).

9. The Federalist No. 10 (James Madison) (setting forth the principle that in our federal system the ambition of one group was to be checked and balanced by other groups, as all argued for public support of their positions). The Supreme Court has always held that certain categories of speech did not have First Amendment protection, *e.g.*, slander, libel, fraud, fighting words, obscenity, criminal conspiracy or incitement, treason, and communicating national security secrets. *See e.g.*, John E. Nowak, Ronald D. Rotunda & J. Nelson Young, Constitutional Law 827 (3d ed. 1986) (Chapter 16, Freedom of Speech).

* * * * *

24. Most notable among these has been *Buckley* itself, which struck down several provisions of the Federal Election Campaign Act Amendments of 1974, Pub. L. No. 93–443, 88 Stat. 1263.

25. Bradley Smith makes a convincing case that campaign finance reform as it has been practiced has led to undemocratic consequences by entrenching the status quo, promoting influence peddling, reducing accountability, and empowering social elites (such as news reporters and wealthy candidates) at the expense of grass-roots, populist efforts. Bradley A. Smith, 105 YALE L.J. at 1071–84. In *Day v. Holahan*, the United States Court of Appeal for the Eighth Circuit noted one example of incumbent self-protection: ''It appears that the legislators who enacted the $100 limit on contributions to political committees and funds, and the governor who signed the limit into law, approved limits on election-year contributions to themselves that were many times higher than the $100 limit on contributions to committees and funds.'' Day v. Holahan, 34 F.3d 1356, 1365 N.8 (8th Cir. 1994).

26. Campaign Finance Reform: Hearings before the United States Senate Committee on Rules and Administration (Mar. 13, 1996). The proposals in Section V of this article are largely based on the recommendations made in this testimony.

27. Similarly, in the November 1996 election, national labor unions spent $35 million dollars (by their own account) in the weeks before the November 1996 election for advertisements attacking targeted U.S. congressional candidates on various issues. Apart from questions raised about the accuracy of some of the advertisements (some have been refused by broadcasters on accuracy grounds) and the voluntariness of the use of union member's dues for pro-Democrat attack ads, such issue advocacy is an appropriate part of the American political system. The present authors and the First Amendment strongly support the right of the labor unions to engage in robust issue advocacy, even at election time. The solution for those opposed to such issue advocacy is not to silence the labor unions but to mount an effective counter-attack. However, concomitant efforts by the FEC to intimidate the Christian Coalition (and thereby similar groups) from advocating essentially opposing issues through voter guides, is abhorrent to First Amendment principles.

28. ''Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association.'' *MCFL*, 479 U.S. at 264 (quoting NAACP v. Alabama, 357 U.S. 449, 460 (1958)).

29. Express advocacy consists of explicit words of advocacy, such as ''vote for Candidate X'' or ''defeat Candidate Y.'' *Buckley*, 424 U.S. at 44.

30. Federal Election Commission v. National Conservative Political Action Committee, 470 U.S. 480 (1985).

31. The public policy struggle over abortion rights is a good example of the checks and balances in the free marketplace of ideas. Abortion-rights advocates promote their favored candidates by making donations through PACs such as Emily's List, while pro-life advocates contribute to PACs such as the National Right to Life Political Action Committee.

32. The Court, for instance, has approved statutory requirements that PACs register and report their financial activities. *Buckley*, 424 U.S. at 60–68.

33. *See e.g.*, West Virginians for Life v. Smith, 919 F. Supp. 954 (S.D.W.V. 1996). Co-author James Bopp, Jr. was lead counsel representing the Plaintiffs in this case.

34. The heavy burden imposed on PACs was well-described with respect to federal PACs in FEC v. Machinists Non-Partisan Political League, 655 F.2d 380, 392 (D.D.C. 1981), *cert. denied*, 454 U.S. 897 (1981), which noted that, once an organization is labelled a ''political committee,'' it must ''then submit to an elaborate panoply of FEC regulations requiring the filing of dozens of forms, the disclosing of various activities, and the limiting of the group's freedom of political action to make expenditures or contributions.''

35. *Buckley*, 424 U.S. at 74–82.

36. *Id.*

37. Of course, if the pro-life newsletter were to combine in its election issue the words ''vote pro-life'' and the words ''Candidate D is pro-life,'' the communication contains express advocacy. *MCFL*, 479 U.S. at 249–50. This is based on the unremarkable algebraic formula that, if a=b and b=c, then a=c.

38. This is so because the Supreme Court has insisted that the bright-line express advocacy test must govern any effort to bar or restrict communications about candidates, parties, and ideas in the election context. The Court has done so because America believes in free expression on issues of the day, even at election time, or, more correctly, especially at election time. What good would a First Amendment be if it did not protect communicators at precisely the time when free speech would be most effective and is most important? The fact that issue advocacy might affect an election is constitutionally inconsequential because the First Amendment right of issue advocacy must be preserved. In fact, to the Framers of the Constitution and the First Amendment, the constitutional protection of free expression was precisely to protect the advocacy of issues and ideas in the political context. ''Freedom of speech plays a fundamental role in a democracy . . . [I]t 'is the matrix, the indispensable condition of nearly every other freedom.'' *MCFL*, 479 U.S. at 264 (quoting Palko v. Connecticut, 302 U.S. 319 (1937)). ''[T]he right of free public discussion

. . . [is] a fundamental principle of the American form of government.'' New York Times v. Sullivan, 376 U.S. 254, 274 (1964) (paraphrasing James Madison, 6 Writings of James Madison 341 (G. Hunt ed. 1908)).

39. *Faucher,* 928 F.2d 468.

40. A voter guide may be distributed by any individual or organization, including churches and nonprofit entities organized under 501(c)(3) and 501(c)(4) of the Internal Revenue Code.

41. *See infra* Section III.

42. *See e.g., West Virginians for Life,* 919 F. Supp. 954 (permanently enjoining a state statute which defined the distribution of a voter guide within 60 days of an election to constitute express advocacy of the election of a candidate).

43. Virginia Society for Human Life v. Caldwell, 906 F. Supp. 1421, 1073–74 (W.D. Va. 1995) (recounting cases brought by the Virginia Democrat Party to enjoin the distribution of voter guides by Concerned Women for America and The Family Foundation). Co-author James Bopp, Jr. is lead counsel representing Plaintiffs in this case.

44. ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or of the right of the people to peaceably assemble, and to petition the Government for a redress of grievances.'' U.S. Const. amend. I.

45. *Buckley,* 424 U.S. at 39 (quoting Williams v. Rhodes, 393 U.S. 23, 32 (1968)).

46. *Id.* at 48 (citations omitted) (ellipsis in original).

47. *Buckley,* 424 U.S. at 44, 79.

48. *Id.* At 45.

49. United States v. Congress of Industrial Organizations (C.I.O.). 335 U.S. 106 (1948).

50. *Id.* at 106–107 n.1.

51. *Id. at 108.*

52. *Id. at 121.*

53.* * *

54. 2 U.S.C. 431 *et seq.*

55. *Buckley,* 424 U.S. 1.

56. *Buckley,* 424 U.S. at 41 (quoting 12 U.S.C. §608(e)(1)).

57. *Id.* at 41.

58. *Id.* at 42.

59. *Id.* at 42.

60. *Buckley,* 424 U.S. at 43 (Quoting *Collins,* 323 U.S. at 535).

61. *Id.* The *Buckley* court also quoted approvingly the comments of the United States Court of Appeals for the District of Columbia, which it affirmed: ''Public discussion of public issues which also are campaign issues readily and often unavoidably draws in candidates and their positions, their voting records and other official conduct. Discussions of those issues, and as well more positive efforts to influence public opinion on them, tend naturally and inexorably to exert some influence on voting at elections.'' *Id.* at 42 n.50 (quoting, *Buckley,* 171 U.S. App. D.C. 172, 226, 519 F.2d 821, 875 (D.C. Cir. 1975)).

62. There are strong arguments that a person wishing to express an opinion on any candidate to print and distribute flyers opposing or supporting candidates, or to give a donation to a campaign, should not have to think at all about possible laws restricting his or her speech in America. That is the spirit of the First Amendment, which says that ''Congress shall make *no* law . . . abridging the freedom of speech . . . .'' U.S. Const. amend. I (emphasis added). That one could today suffer penalties for political speech which is not libelous or fraudulent would, no doubt, be astounding and disconcerting to the Framers of the First Amendment.

However, the Supreme Court has said that, at a minimum, one should not have to think twice about speaking out on issues of public concern for fear of violating some law. The result of laws which limit speech in the campaign arena is to chill speech by individuals and grassroots citizen groups and to enhance the speech of organized advocacy interests who can afford to hire lawyers to watch over all their publications and expenditures. Bradley A. Smith, 105 Yale L.J. at 1077. This reality runs exactly counter to the populist rhetoric of most campaign finance reformers.

63. *Buckley,* 424 U.S. at 44.

64. *Id.* at 44 n.52.

65. *Id.* at 44.

66. *Id.* at 44–45.

67. *Buckley,* 424 U.S. at 79. The U.S. Court of Appeals for the District of Columbia has recently decided that the major purpose test does not apply to contributions, but only to independent expenditures. Akins v. FEC, 101 F.3d 731 (D.C. Cir. 1996). This case will be analyzed infra.

68. These burdens include not only detailed recordkeeping and reporting requirements for all of the organizations financial activities but also disclaimer requirements on their publications and limits on the contributions that may be received by the organization. *See* FEC v. Machinists Non-Partisan Political League, 655 F.2d 380, 392 (D.C. Cir. 1981).

69. *Buckley,* 424 U.S. at 74–75 (footnotes omitted). The threshold amount for reporting independent expenditures has been increased to $250. 2 U.S.C. §434(c)(1).

70. *Id.* at 75.

71. *Id.* at 79–80 (emphasis added).

72. *Id.* at 81.

73. *Akins,* 101 F.3d 731.

74. *Id.* at 734.

75. *Id.* at 735.

76. *Id.* at 742.

77. *MCFL,* 479 U.S. 238.

78. *Akins,* 101 F.3d at 742.

79. *Id.* at 743.

80. From the opinion, it would appear that the FEC did not make a vigorous First Amendment defense. Rather, it appears to have relied on interpretation of precedent, statutory interpretation, and a plea for deference to its interpretation of the statute in its regulations. *Id.* at 740–44.

81. Akins v. FEC, 101 F.3d 731, *petition for cert. filed,* 65 U.S.L.W. 3694 (U.S. Apr. 7, 1997) (No. 96–1590).

82. The Fair Government Foundation's special report, The FEC's Express War on Free Speech 18 (1996), sums up some of the evidence of the FEC's hostility to the Supreme Court's bright-line protection of issue advocacy in *Buckley and MCFL*:

''That the Commission dragged its feet in revising its rules to conform them with the Supreme Court rulings suggests that the FEC sought to prolong its concession to the Supreme Court in the hope of changing the high court's mind. . . . During an open meeting of the FEC, Commission chairman Trevor Potter . . . expressed concern whether the Commission was remaining faithful to Supreme Court precedent. Potter questioned whether 'enforcing the law in specific matters and then in drafting a definition in general, is consistent with the very narrow language' of *Buckley*. [End note: 'Federal Election Commission Open Meeting (Aug. 11, 1994) (taped transcript available at Commission).']

''In the end, the Commission simply would not accept the plain meaning of the *Buckley* decision because it so conflicted with a majority of commissioners' fervently held regulatory beliefs. Beliefs that were less a product of the FECA or court cases than a personal philosophical disposition.

''Comments of the FEC's chairman during consideration of the proposed rules reveal what in retrospect must seem like inadvertent candor, as they demonstrate a willful disregard of the Supreme Court's commands. Chairman Trevor Potter, who cast the decisive fourth vote to approve the revised rules, unabashedly revealed that the Commission is 'close to being on a different planet from the Supreme Court in terms of what we are looking at.' In Chairman Potter's mind, 'the [Supreme] Court doesn't understand[.]' as its rulings are 'directly contrary to what the Commission understands the purpose of the Act [FECA] to be . . . . ' *Id.*

''Commissioner Danny Lee McDonald, who also voted for the revised rules, was similarly dismissive of the Supreme Court's edicts. He concluded that 'the Court just didn't get it.' ''*Id.*

83. *See e.g.,* 11 C.F.R. §114.4(b)(5) (invalidated in Faucher v. FEC, 928 F.2d 468); 11 C.F.R. §114.1(e)(2) (invalidated in Chamber of Commerce v. FEC, 69 F.3d 600 (D.C. Cir. 1995)); 11 C.F.R. §100.22 (invalidated in Maine Right to Life Committee v. FEC, 914 F. Supp. 8 (D. Me. 1996), *aff'd,* 98 F.3d 1 (1st Cir. 1996)); 11 C.F.R. §114.10 (invalidated in Minnesota Citizens Concerned for Life v. FEC, 936 F. Supp. 633 (D. Minn. 1995)); and 11 C.F.R. §114.4(c)(4) & (5) (invalidated in Clifton v. Federal Election Commission, 927 F. Supp. 493 (D. Me. 1996)). Co-author James Bopp, Jr. was lead counsel for Plaintiffs in all of these cases except for *Chamber of Commerce.*

84. *See e.g.,* FEC v. AFSCME, 471 F. Supp. 315 (D.D.C. 1979); FEC v. CLITRIM, 616 F.2d 45 (2d Cir. 1980); Machinists Non-Partisan Political League, 655 F.2d 380; FEC v. Phillips Publishing, 517 F. Supp. 1308 (D.D.C. 1981); *MCFL,* 479 U.S. 238; FEC v. NOW, 713 F. Supp. 428 (D.D.C. 1989); FEC v. GOPAC, 871 F. Supp. 851 1466, 917 F. Supp. (D.D.C. 1994); FEC v. Survival Education Fund, 65 F.3d 285 (2nd Cir. 1995); FEC v. Christian Action Network, 894 F. Supp. 946 (W.D. Va. 1995), *aff'd,* 92 F.3d 1178 (4th Cir. 1996); and *Colorado Republican,* 116 S. Ct. 2309. These enforcement actions, however, are only the tip of the iceberg since many enforcement actions never progress beyond the administrative level. Such administrative investigations, however, can be equally chilling on free speech. *See e.g.,* MUR 4203 regarding U.S. Term Limits; MUR 4204 regarding Americans for Tax Reform; Colorado Republican Federal Campaign Committee v. FEC, 116 S. Ct. 2309 (1996); and FEC v. Christian Action Network, 110 F.3d 1049 (4th Cir. 1997) (awarding attorneys' fees against FEC for bad faith prosecution).

85. Susan Hayward & Allison R. Hayward, *Gagging on Political Reform,* REASON 20 (Oct. 1996).

86. FEC v. American Federation of State, County and Mun. Employees, 471 F. Supp. 315 (D.D.C. 1979) (*AFSCME*).

87. *Id.* at 317.

88. *Id.*

89. *Id.*

90. FEC v. Central Long Island Tax Reform Immediately Committee, (*CLITRIM*) 616 F.2d 45 (2d Cir. 1980) (en banc) (*per curiam*).

91. *Id.* at 52 (quoting 2 U.S.C. §434(e)) (emphasis supplied by court.

92. *Id.* (quoting 2 U.S.C. §441d) (emphasis supplied by court).

93. *Id.* at 53.

94. *Id.* (citations omitted).

95. *Id.* (citations omitted).

96. *Id.* (citations omitted) (emphasis in original).

97. FEC v. Nat'l Conservative Political Action Comm. (*NCPAC*) 470 U.S. 480 (1985).

98. 26 U.S.C. §9001 *et seq.*

99. *NCPAC,* 470 U.S. at 483.

100. *Id.* at 482 (citing 26 U.S.C. §9012(f)).

101. *Id.* at 493–501.

102. *Id.* at 496.

103. *NCPAC* 470 U.S. at 497.

104. *See e.g., Faucher,* 928 F.2d 468; Clifton v. FEC, 927 F. Supp. 493 (D.Me. 1996).

105. *MCFL,* 479 U.S. 238.

106. *Id.* at 243.

107. *Id.* at 244.

108. 2 U.S.C. §431(9)(B)(i).

109. *MCFL,* 479 U.S. at 249, 251, 263.

110. 2 U.S.C. §431(9)(A)(i).

111. *MCFL,* 479 U.S. at 248.

112. *Id.* at 249.

113. *Id.*

114. *Id.* at 262.

115. As discussed infra in the treatment of *Faucher,* the FEC sought to dismiss the Supreme Court's application of the express advocacy test in MCFL to corporate expenditures as nonbinding obiter dictum.

116. FEC v. Furgatch, 807 F.2d 857 (9th Cir. 1987), *cert. denied* 484 U.S. 850 (1987).

117. 2 U.S.C. §434(c)(1).

118. 2 U.S.C. §441d.

119. *Buckley,* 424 U.S. at 42.

120. *Furgatch,* 807 F.2d at 864.

121. *Id.* at 858.

122. *Id.* at 864.

123. *See, e.g.,* Maine Right to Life Committee v. FEC, 914 F. Supp. 8, 13 (D. Me. 1996), *aff'd* 98 F.3d 1 (1st Cir. 1996) (*per curiam*).

124. *Furgatch,* 807 F.2d at 858.

125. FEC v. Christian Action Network, WL 157269 (4th Cir. 1997).

126. *Id.* at 861.

127. *Id.* at 862.

128. *Id.*

129. FEC v. Christian Action Network, 110 F.3d 1049 (4th Cir. 1997).

130. *Id.* (citing the FEC's brief opposing U.S. Supreme Court review).

131. *Id.*

132. FEC v. National Organization for Women, 713 F. Supp. 428 (D.D.C. 1989), *appeal dismissed* (D.C. Cir.: Oct. 11, 1991).

133. *Id.* at 431–32.

134. *Id.* at 433–34.

135. *Id.* at 434.

136. *Id.* at 435.

137. *Id.* at 429.

138. Faucher v. FEC, 928 F.2d 468. The present authors were counsel for plaintiffs in this case.

139. 11 C.F.R. §114.4(b)(5)(i) (C) and (D).

140. *Faucher,* 743 F. Supp. 64.

141. *Id.* 928 F.2d 468.

142. *Id.* at 472.

143. *Id.*

144. FEC v. Survival Education Fund, 1994 WL 96 (S.D.N.Y. 1994), *aff'd in part and rev'd in part,* 65 F.3d 285 (2d Cir. 1995).

145. *Id.* at 3. The Second Circuit avoided the express advocacy issue by holding that Survival Education Fund was an MCFL-type organization so that it could do express advocacy, but that it was required to include disclaimers on its communications that solicit contributions that were to be used for its express advocacy. *Survival Education Fund,* 65 F.3d at 285.

146. FEC v. Christian Action Network, 894 F. Supp. 946 (W.D. Va. 1995), *aff'd,* 92 F.3d 1178 (4th Cir. 1996) (*per curiam*).

147. *Id.* at 948.

148. *Id.* at 951.

149. *FEC v. Christian Action Network,* 92 F.3d 1178.

150. *FEC v. GOPAC,* 917 F. Supp. 851 (D.D.C. 1996).

151. *Id.* at 859.

152. *Id.* at 867.

153. *Faucher,* 928 F.2d 468.
154. 11 C.F.R. §114.4(b)(5)(i)(A)–(F).
155. The Fair Government Foundation's special report on The FEC's Express War on Free Speech includes the following succinct chronology of the FEC's rulemaking efforts to regulate express advocacy: Anatomy of a Rulemaking—The FEC's Twenty Year Struggle Over Express Advocacy:
1976—*Buckley v. Valeo* decided.
1976—FEC rule defining ''express advocacy'' adopted.
1986—*Massachusetts Citizens for Life* decided.
1987—Petition for Rulemaking filed.
1988—Advanced Notice of Proposed Rulemaking.
1988—FEC holds public hearing.
1990—Request for Further Comment.
1992—Notice of Proposed Rulemaking.
1992—FEC holds public hearing.
1994—FEC open meeting to consider proposed rule.
1995—FEC open meeting to consider Final Rule.
1995—Final Rule transmitted to Congress.
1995—Revised Express Advocacy rules take effect.
1996—Revised rules struck down; *Id.* at 16.
156. *See, e.g., Main Right to Life Committee* 914 F. Supp. at 12 (considering and * * * deference to the FEC's interpretation on which these new regulations were based).
157. 11 C.F.R. §100.22.
158. In this first set of 1995 regulation (released October 5), the FEC also tacked on a set of rules dealing with MCFL-type organizations as established by the United States Supreme Court in *MCFL,* 479 U.S. 238. This part of the regulations will be discussed, infra, under a separate heading.
159. James Bopp, Jr., co-author of this article, was lead counsel in the case.
160. 11 C.F.R. §100.22.
161. *Maine Right to Life Committee,* 914 F. Supp. at 13.
162. *Id.* at 10.
163. *Id.* at 11–12; *Furgatch,* 807 F.2d at 857 (citations omitted).
164. *Id.* at 13.
165. *Maine Right to Life Committee,* 98 F.3d at 1.
166. Petition for Rehearing and Suggestion for Rehearing in Banc at 8, Maine Right to Life Committee, No. 96–1532 (1st Cir. 1996).
167. 11 C.F.R. §114.4(c)(4) & (5). The new regulations also governed several other things, including candidates appearances at corporate meetings and use of corporate letter-head in relation to campaigns.
168. 61 Fed. Reg. at 10269.
169. The regulation, 11 C.F.R. §114.4(c)(5), was promulgated under the ostensible statutory authority of 2 U.S.C. §441b (the broad statutory prohibition on corporate ''expenditures'' and ''contributions'').
170. *Clifton,* 927 F. Supp. at 497.
171. 11 C.F.R. §114.4(c)(5)(i). Paragraph (c)(5)(i) provides that corporations ''shall not contact . . . the candidates, the candidates' committees or agents regarding the preparation, contents and distribution of the voter guide. . . .''
172. It is difficult to imagine how an organization could prepare a voter guide which would be helpful to the voters without contacting the candidates and asking for responses to a survey form. The organization would be left to glean candidate views from campaign literature, news accounts, and the like. Information from such sources would often be inaccurate, incomplete, or subject to the ''spin'' supplied by a campaign strategist or reporter. Questions framed by advocacy organizations elicit much truer pictures of candidates' positions than candidates often are willing to admit without such careful framing.
173. 11 C.F.R. §114.4(c)(5)(ii)
174. 11 C.F.R. §114.4(c)(5)(ii) (A) through (E). Paragraph (c)(5)(ii) provides that a ''corporation . . . shall not contact . . . the candidates, the candidates' committees or agents regarding the preparation, contents and distribution of the voter guide, except that questions may be directed in writing to the candidates included in the voter guide and the candidates may respond in writing. . . .''
175. 11 C.F.R. §114.4(c)(5)(ii)(B).
176. *Id.*
177. *Id.*
178. 11 C.F.R. §114.4(c)(5)(ii).
179. The Supreme Court, however, has repeatedly rejected the effort of government to ''foreclose the exercise of constitutional rights by mere labels.'' NAACP v. Button, 371 U.S. 415, 429 (1963).
180. 2 U.S.C. §441b(a).
181. 2 U.S.C. §441b(b)(2).
182. S. Rep. No. 94–677, 94th Cong., 2d Sess., 59 (1976), 1976 U.S.C.C.A.N. (90 Stat.) 974.
183. Orloski v. Federal Elections Commission, 795 F.2d. 156 (D.C. Cir. 1986).
184. *Id.* at 160.
185. *Id.* (emphasis added).
186. * * *
187. The presumed coordination theory will be discussed in context of the *Colorado Republican* case below.
188. Maine Right to Life Committee was also a plaintill in *Faucher,* 928 F.2d at 468, and in *Maine Rights to Life Committee,* 914 F. Supp. at 8. James Bopp, Jr., one of the present authors, was lead counsel in all three of these cases brought by Maine Right to Life against the FEC.
189. *MCFL,* 479 U.S. at 238.
190. *Clifton,* 927 F. Supp. at 493.
191. 11 C.F.R. §114.4(c)(4) & (5).
192. *Clifton,* 927 F. Supp. at 494.
193. *Id.* at 497.
194. *Id.* at 497–98.
195. *Id.* (citing Faucher) (emphasis in the original).
196. *Clifton,* 927 F. Supp. at 494, appeal docketed, No. 96–1812 (1st Cir. July 18, 1996) (oral argument conducted December 4, 1996).
197. Colo. Republican Federal Campaign Comm. V. FEC, 116 S. Ct. 2309 (1996).
198. For instance, the FEC has also adopted a regulation at 11 C.F.R. §109.1(b)(4)(i)(B) which states that the Commission will presume expenditures ''made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent'' to be coordinated. This regulation is also of doubtful validity as a result of the *Colorado Republican* decision.
199. Section 441a(d) of the FECA permits political parties to spend $20,000 or $.02 per person of voting age in the state, whichever is greater, adjusted for inflation since 1974. *Colorado Republican,* 116 S. Ct. at 2313–44 (lead opinion of Breyer, J., joined by O'Connor and Souter, JJ.). Thus, the Colorado Republican Party was permitted to spend in 1986 about $103,000 ''in connection with the general election campaign of a candidate for the United States Senate.'' *Id.* at 2314.
200. *Id.*
201. *Id.*
202. *Id.* at 2315.
203. *Id.* at 2315.
204. *Id.*
205. *Id.* at 2318 (citing FEC advisory opinion AO 1988–22).
206. *Id.* at 2315.
207. *Id.* at 2317.
208. *Id.* at 2315.
209. *Id.* at 2321.
210. *Id.* at 2323.
211. *Id.* at 2331.
212. *FEC v. Christian Action Network,* 894 F. Supp. 946 (W.D. Va. 1995), *aff'd,* 92 F.3d 1178 (4th Cir. 1996) (per curian). *See supra* Section III.I.
213. 28 U.S.C. §2412.
214. FEC v. Christian Action Network, 110 F.3d 1049, 1064 (4th Cir. 1997).
215. *Id.* at 1051–56, 1061–64.
216. *Id.* at 1052–55, 1069–61.
217. *Id.* at 1054.
218. *Id.* at 1063 (citations omitted) (footnotes omitted) (emphasis added).
219. *Id.* The FEC also failed to quote even once key footnote 52 of *Buckley,* although it quoted the sentence to which the footnote was attached. *Id.* at 1063.
220. *Id.* at 1064.
221. *Id.* at 1061.
222. *Id.* at 1057.
223. *Id.* at 1064.
224. *MCFL* 479 U.S. 238.
225. 2 U.S.C. §441b.
226. *MCFL,* 479 U.S. at 263.
227. *Id.* at 264.
228. Day v. Holahan, 34 F.3d 1356 (8th Cir. 1994). Co-author James Bopp, Jr. was counsel for Plaintiff Minnesota Citizens Concerned for Life, Inc. in this case.
229. 60 Fed. Reg. 35292, 35297 (1995) (emphasis added).
230. 11 C.F.R. §114.10(c) (1).
231. 11 C.F.R. §114.10(c) (2).
232. 11 C.F.R. §114.10(c) (3) (ii).
233. 11 C.F.R. §114.10(c) (4) (ii) and (iii).
234. 11 C.F.R. §114.10(e)(1).
235. At 11 C.F.R. §114.10(c)(1)–(5).
236. 11 C.F.R. §114.10(f).
237. *MCFL,* 479 U.S. at 264.
238. *Buckley,* 424 U.S. at 14 (citations omitted).
239. *MCFL,* 479 U.S. at 264 (emphasis added).
240. *Id.* at 258.
241. *Id.* at 258 n.10 (quoting Whitney v. California, 274 U.S. 357, 375 (1927)) (emphasis added).
242. *Id.* at 265.
243. *MCFL,* 479 U.S. at 265 (emphasis added).
244. *Id.* at 251–52.
245. First National Bank v. Belloti, 435 U.S. 765, 786 (1978).
246. *MCFL,* 479 U.S. at 264–65.
247. *See id.* at 264.
248. *Id.* at 264.
249. *Id.* at 264.
250. *Id.* at 264.
251. *Id.* at 257.
252. *Id.* (emphasis added).
253. Austin v. Michigan Chamber of Commerce, 494 U.S. 657, 659 (1990).
254. The regulations defined the term ''business activities'' to include: (A) Any provision of goods or services that results in income to the corporation; and (B) Advertising or promotional activity which results in income to the corporation, other than in the form of membership dues or donations. 11 C.F.R. §114.10(b)(3)(i). Thus, business activities would encompass income directly related to the promotion of the corporations political ideas, such as advertising in its newsletter and sale of educational material, as well as unrelated business income.
255. 11 C.F.R. §114.10(b).
256. *MCFL,* 479 U.S. at 259.
257. *Id.* at 258.
258. *Id.*
259. *Id.*
260. *Id.* (emphasis added).
261. 60 Fed. Reg. 35292, 35299 (1995).
262. *MCFL,* 479 U.S. at 259.
263. *Id.* at 261.
264. *Id.* at 265.
265. *Id.* at 264.
266. *Id.* at 264.
267. *Id.* at 260.
268. *Id.*
269. The FEC regulations specifically included ''credit cards, insurance policies or savings plans,'' as well as ''training, education, or business information,'' in its list of disincentives to disassociate. 11 C.F.R. §114.10(c)(3)(ii)(A) and (B).
270. *MCFL,* 479 U.S. at 260, 264.
271. *Id.* at 264.
272. *Austin,* 495 U.S. at 664 (emphasis added).
273. *Id.*
274. FEC v. Survival Education Fund, 65 F.3d 285 (2d Cir. 1995).
275. *Id.* at 293.
276. *Day,* 34 F.3d 1356, 1364 (8th Cir. 1994) (emphasis in original).
277. *Id.* at 1363. *See also SEF,* 65 F.3d at 292 (''The Court's listing of the factors essential to its holding on the facts of a particular case does not impose a code of compliance that other nonprofit corporations must follow to the letter.'').
278. *MCFL,* 479 U.S. at 265.
279. Minnesota 936 F. Supp. 633 (D. Minn. 1995). James Bopp, Jr. was lead counsel in the case.
280. *Id.* at 638.
281. *Id.* at 642.
282. *Id.* at 643.
283. *MCFL,* 479 U.S. at 643, appeal docketed, No. 96–2612 MNST (8th Cir. 1996) (oral arguments held February 10, 1997).
284. 1997 WL 225120 (8th Cir. 1997).
285. United States v. Congress of Industrial Organizations (*CIO*), 335 U.S. 106 (1948).
286. *Id.* at 106–107 n.l.
287. *Id.* at 108.
288. *Id.* at 121.
289. FEC v. National Right to Work Committee, (*NRWC*) 459 U.S. 197 (1982).
290. *Id.* at 197.
291. *Id.*
292. *Id.* at 198.
293. *Id.* at 199.
294. *Id.* at 200.
295. *Id.* at 204.
296. *Id.* at 211.
297. *Id.* at 206–07.
298. *Id.* at 207.
299. 11 C.F.R. §114.1(e) (1977–1993).
300. 11 C.F.R. §114.1(e)(2) (emphasis in original).
301. Chamber of Commerce v. FEC, 69 F.3d 600, 602 (D.C. Cir. 1995).
302. ''[S]ome relatively enduring and independently significant financial or organizational attachment is required to be a 'member' under §441b(b)(4)(C).'' *NRWC,* 459 U.S. at 204 (emphasis added).
303. *Chamber of Commerce,* 69 F.3d at 604.
304. *Id.* at 605.
305. *Id.* at 606. Some hierarchical organizations had been given specific exemptions from this requirement in the regulations, but others had not received such treatment, leading the court to brand the regulations ''arbitrary and capricious.'' *Id.*
306. *See NRWC,* 69 F.3d 600.
307. McIntyre v. Ohio Election Commission, 115 S. Ct. 1511 (1995).
308. *Id.* at 1514.
309. *Id.*

310. *Id.*
311 Ohio Rev. Code Ann. §3599.09(A).
312. *McIntyre,* 115 S. Ct. at 1518–19 (citing *Buckley,* 424 U.S. at 14–15).
313. *Id.* at 1519.
314. *Id.*
315. *Id.* at 1520.
316. *Id.* at 1520 (citing *Buckley,* 424 U.S. at 14–15).
317. *Id.*
318. *Id.* at 1521.
319. *Id.*
320. *Id.* at 1521 (footnote omitted).
321. *Id.* at 1523. *See* Shrink Missouri Government PAC v. Maupin, 892 F. Supp. 1246 (E.D. Mo. 1995) (applying *McIntyre* analysis in materials relating to candidate elections), *holding not appealed in* 71 F.3d 1422 (8th Cir. 1995); State v. Moses, 655 So. 2d 779 (La Ct. App. 1995) (holding unconstitutional a ban on anonymous campaign literature).
322. *Buckley,* 424 U.S. at 75 (''disclosure provisions''); *McIntyre,* 115 S. Ct. at 1522 (rejecting contention that *Buckley* ''supports the constitutionality of its disclosure requirement,'' to wit, a disclaimer).
323. *McIntyre,* 115 S. Ct. at 1522 (emphasis added) (internal citation omitted).
324. *Id.* at 1523.
325. *Id.*
326. *Cf. Virginia Society for Human Life,* 906 F. Supp. 1071 (issuing a preliminary injunction against Virginia's disclaimer requirement on literature concerning state candidates or referenda).
327. *Buckley,* 424 U.S. at 19.
328. *Id.* at 23.
329. Nevertheless, states have made unsuccessful efforts to place a cap on independent expenditures. For example, a $1,500 cap on independent expenditures has been struck down by a federal district court in Georgia, Georgia Right to Life v. Reid, No. 1:94–CV–2744–RLV, slip. op. (N.D. Ga. Jan. 22, 1996) (unpublished decision), and a $1,000 per state election cap on independent expenditures by PACs in New Hampshire has been struck down by the First Circuit. New Hampshire Right to Life Political Action Committee v. Gardner, 99 F.3d 8 (1st Cir. 1996). James Bopp, Jr. was lead counsel in both of these cases.
330. *Buckley,* 424 U.S. at 26–27.
331. *Id.* at 27.
332. As noted above, however, this holding of *Buckley* is in jeopardy due to the recently expressed views of four members of the Supreme Court that contribution limits are also unconstitutional. *See Colorado Republican,* 116 S. Ct. 2323 (Rehnquist, C.J., and Kennedy and Scalia, JJ., concurring); *Colorado Republican,* 116 S. Ct. 2331 (Thomas, J., concurring.)
333. *Buckley,* 424 U.S. at 25.
334. *Id.* at 24–25.
335. *Id.* at 26–30 (emphasis added).
336. *Id.* at 29.
337. *See* California Med. Ass'n v. FEC, 453 U.S. 182 (1981) (upholding $5,000 annual limitation on contributions to political committees); Mintz v. Barthelemy, 722 F. Supp. 273, 281–282 (E.D. La. 1989, aff'd, 891 F.2d 520 (5th Cir. 1989) (upholding $5,000 contribution limitation for local mayoral election); Mott v. FEC, 494 F. Supp. 131 (D.D.C. 1980) ($5,000 contribution limitation upheld); Matter of Vandelinde, 366 S.E.2d 631, 636 (W. Va. 1988) (upholding $1,000 contribution limit); Florida v. Police Benevolent Ass'n v. Florida Election Comm'n, 430 So.2d 483 (Fla. Dist. Ct. App. 1983) ($1,000 contribution limitation upheld).
338. *Carver v. Nixon,* 72 F.3d 633 (8th Cir. 1995).
339. *Id.* at 633.
340. *Id.* at 638–43.
341. *Day v. Holahan,* 34 F.3d 1356 (8th Cir. 1994).
342. *See also* National Black Police v. Dist. of Col Bd. of Education, 924 F. Supp. 270, 282 (D.D.C. 1996) (striking down a contribution limit of $100).
343. *Buckley,* 424 U.S. at 48.
344. *Id.* at 47.
345. *Id.* at 21–22.
346. *Id.* at 19.
347. *Id.* at 21.
348. *Id.* at 19.
349. *Id.* at 23.
350. *National Conservative Political Action Committee,* 470 U.S. at 480. *See also* New Hampshire Right to Life Political Action Committee v. Gardner, 99 F.3d 8 (1st Cir. 1996).
351. *Buckley,* 424 U.S. at 15.
352. *Id.*
353. *Id.* at 25.
354. *Id.* at 22.
355. *Nat'l Conservative Political Action Comm.,* 470 U.S. at 494.
356. *Id.*
357. *See* Vote Choice v. DiStefano, 4 F.3d 26 (1st Cir. 1993).
358. U.S. Const. amend. 1.
359. *See e.g., Buckley,* 424 U.S. at 25–28; *MCFL,* 479 U.S. at 256.
360. First National Bank of Boston v. Bellotti, 435 U.S. 765, 786 (1978) (emphasis added) (footnote omitted) (citations omitted).
361. *Buckley,* 424 U.S. at 25.
362. United States v. Nat'l Treasury Employees Union, 115 S. Ct. 1003, 1017 (1995), quoting Turner Broadcasting System v. FCC. 114 S. Ct. 2445, 2470 (1994) (Kennedy. J., plurality). In *Colorado Republican,* the Court cited this passage in *Turner* after noting that the FEC did not ''point to record evidence or legislative findings suggesting any special corruption problems'' that would support its position. *Id.* 116 S. Ct. at 2317.
363. *Carver,* 72 F.3d 633.
364. *Id.* at 643.
365. *Id.*
366. Shrink Missouri Government PAC v. Maupin, 923 F. Supp. 1413 (E.D. Mo. 1996).
367. *Id.* at 1420–21.
368. *Colorado Republican,* 116 S. Ct. at 2330 n.9.
369. *Id.*
370. Lillian R. BeVier, 94 Col. L. Rev. at 1278.
371. *Id.* This is so because ''[s]uch legislation carries significant potential to achieve incumbent protection instead of enhancing political competition. It arouses the uncomfortable suspicion that the corruption-prevention banner is an all-too-convenient subterfuge for the deliberate pursuit of less savory or less legitimate goals.'' *Id.* at 1279.
372. *Id.*
373. John H. Ely, Democracy and Distrust 106 (1980).
374. Ralph Winter, *Political Financing and the Constitution,* 486 Annals Am. Acad. Pol. & Soc. Sci. 34, 40, 48 (1986).
375. Elrod v. Burns, 427 U.S. 347, 373 (1979).
376. Shuttlesworth v. City of Birmingham, 394 U.S. 147, 163 (1969).
377. Carroll v. President and Commissioners of Princess Anne, 393 U.S. 175, 182 (1968).
378. *See* Family Foundation v. Brown, 9 F.3d 1075 (1993); Virginia Society for Human Life v. Caldwell, 906 F. Supp. 1071 (W.D. Va. 1995) (reciting history of prior restraints in Virginia). Co-authors James Bopp, Jr. and Richard E. Coleson were both counsel for Plaintiffs in these two cases.
379. *Id.*
380. *See e.g.,* S. 25, 105th Cong., 1st Sess. (1997) (sponsored by Senators McCain and Feingold); H.R. 493, 105th Cong., 1st Sess. (1997) (sponsored by Representative Shays); H.R. 600, 105th Cong., 1st Sess. (1997) (sponsored by Representative Farr).
381. *Buckley,* 424 U.S. at 1.
382. In obvious recognition of this fact, various proposed constitutional amendments have been introduced in Congress that would overrule many of the speech-protecting rulings of the courts. *See e.g.,* S.J. Res. 2, 105th Cong., 1st Sess. (1997), reprinted in Cong. Rec. S.557 (daily ed. Jan. 21, 1997).
383. Mills v. Alabama, 384 U.S. 214, 218 (1966).
384. *Buckley,* 424 U.S. at 57.
385. *Id.* at 48–49.
386. *Id.* at 92–93.
387. It can be hoped that the FEC will be more willing to follow the enactments of Congress than they have been willing to respect the pronouncements of the United States Supreme Court.
388. *MCFL.,* 479 U.S. 238.
389. *Buckley,* 424 U.S. at 79.
390. 2 U.S.C. §431(4)(a).
391. *See e.g., GOPAC,* 917 F. Supp. 851.
392. In fact, a prohibition of contributions by certain not-for-profit corporations is currently being tested before the 6th Circuit Court of Appeals in Kentucky Right to Life v. King, No 95–6581 (6th Cir. 1996) (oral arguments conducted November 13, 1996). Co-author James Bopp, Jr. is lead counsel representing Plaintiffs in this case.
393. In fact, based on figures from the Consumer Price Index, $1,000 in 1974 was worth $2,604.57 in 1994.
394. *See e.g., Colorado Republican,* 116 S.Ct. at 2317 (''If anything, an independent expenditure made possible by a $20,000 donation (by an individual), but controlled and directed by a party rather than the donor, would seem less likely to corrupt than the same (or a much larger) independent expenditure made directly by that donor.'').
395. Efforts to limit soft money contributions to political parties have the opposite effect. If political parties must use hard money for administration, legal and accounting services, and generic, rather than candidate specific, voter registration and get-out-the-vote activities, then their relative influence with candidates is diminished and the influence of ''special interests,'' is increased.
396. *See* 2 U.S.C. §441a(c).
397. Indeed, Congress should index all expenditures and contributions limits to inflation in order to maintain the balance between them struck by Congress in any new law.
398. 28 U.S.C. §2411(d)(1)(A) allows for an award of attorneys fees against a federal agencies for its actions, ''unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.'' However, the amount of the attorneys fees is limited to $75 an hour and only private parties with modest assets are eligible for the award. *Id.* at §2411(d)(2)(A) and (B). There are no similar limitations on award of attorneys fees for prevailing private parties under §1988.
399. Current federal law does not allow an award of attorney fees against the United States for the striking down of a federal statute for violation of constitutional protections.
400. 2 U.S.C. §437c(a)(2).
401. 2 U.S.C. §437c(f).

Mr. MCCONNELL. I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that Brad Vynalek, who is a legal intern on my staff, be granted full privilege of the floor during consideration of S. 25.

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

Mr. MCCAIN. Before Senator MCCONNELL leaves the floor, I want to thank him for again the dialog that has taken place during this debate, and I look forward to its finality.

I also urge his consideration, since he has included in the RECORD so many articles, the piece that was in the Washington Post yesterday by two fairly well known Americans, former Presidents Jimmy Carter and Gerald Ford, who have said:

In order to accomplish this goal—

Talking about it is particularly important now to seize this opportunity of reform now so that it can improve the next Presidential election.

In order to accomplish this goal, both parties must lay down their partisanship and rise to meet this challenge together. Leaders of both parties have demonstrated their ability to work together on crucial and contentious issues to do what is right for the country. There is another such issue where cooperation is the only road to results. It is impossible to expect one side to disarm unilaterally in this massive arms race for funds. Rather, both sides must agree that bilateral limits are the only rational course of action to preserve the moral integrity of our electoral system. One item that we should all agree on is a banning of so-called soft money for national parties and their campaign committees. Soft money was initially intended exclusively for party building activities but has metamorphosed into a supplemental source of cash for campaigns and candidates. It is one of the most corrupting influences in modern elections because there is no limit on the size of donations, thus giving disproportionate influence to those with the deepest pockets.

And they conclude, Mr. President, by saying:

We must demonstrate that a government of the people, by the people and for the people is not a thing of the past. We must redouble our efforts to assure voters that public policy is determined by the checks on their ballots rather than the checks from special interests.

Mr. President, I would note that although former President Bush's name is not on that op-ed piece, former

President Bush joined former President Carter and former President Ford in a letter asking for the outlawing of soft money.

Why should three former Presidents join in such an almost unprecedented statement?

Let me start from the beginning, in the 1991–92 election cycle. There was $85 million in the 1991–92 cycle—$85 million. In the 1995–96 election it is now up to $250 million. And the information that we have, disturbingly, is that it is growing exponentially, again, in the year 1997.

So here is the point. It is out of control, as I have said. And the second point is that it was not always like this. Campaigns were not always financed by these massive amounts of soft money. They were not. In fact, after we reformed the campaign system in 1974, there was a dramatic improvement.

Campaign spending by Presidential candidates, 1976–96, over the last 20 years. If you look down here, these total figures were a little over $100 million in 1976 and now are approaching $400 million in 1996. Remember that this was after we passed laws that were supposed to restrain the expenditures in a Presidential campaign. Let me just point out again, this far exceeds inflation—far, far exceeds inflation.

House and Senate campaign expenditures have followed roughly the same track, only more dramatically. From roughly $300 million in the total spent on House and Senate campaigns in 1976, there was a drop in the 1986 election but, aside from that, it has been an inexorable rise to well in excess of $700 million, nearly $800 million.

The soft money has grown and grown and grown and grown. In 1992, the Republican Party raised nearly $50 million in soft money; the Democrat Party, around $36 million. In 1994 it went up to the point where, in 1996, the Republican Party raised $138 million in soft money and the Democrat Party, $123 million in soft money—all of them exponential increases, only over a 4-year period.

Again, I want to emphasize for those who say the system has always been the same and we have always had to contend with these massive amounts of money, the figures do not indicate that. I might add, this does not indicate what, of course, labor did, which was very, very significant in the campaign of 1996.

Senate candidates, dollars raised, and here is the problem. Here is a significant problem because it shows, also, why it is going to be so difficult for Members of this body to vote to change this system. I want to emphasize, these numbers show why it is so difficult in the face of overwhelming numbers of Americans who want us to fix this system. In 1996, the incumbents in the Senate races raised $96 million in PAC funds. The challengers raised $43 million. In the House the numbers are dramatically more different, in fact dramatically, significantly more in favor of the incumbents, $282 million, with $97 million in PAC funds; in the case of challengers, $75 million they raised, and $14 million in PAC funds. So you had, in this present scheme, the present way that campaigns work—you had $282 million raised by incumbents, $75 million raised by challengers, and of course about a 5- or 6-to-1 advantage in PAC money as well.

Which of these statements comes closer to your point of view? Some campaign finance reform is needed? Mr. President, 77 percent of the American people; some campaign finance reform is not needed, 18 percent; and don't know, 5 percent. I have a more and more difficult time finding people who are in that 18 percent bracket. Because, as every scandal unfolds, as every new revelation is exposed to us in the morning paper and over radio and over television, there are more and more Americans who are joining that already huge 77 percent, who are saying we need to change the system.

I don't expect the American people to know the difference between hard money and soft money. I don't expect them to know how much money a PAC has raised versus that number, and I don't expect them to have read every fundraising letter that has gone out. I wish they had. I wish they had because then that 18 percent would literally disappear. But what they do know is that something is wrong. There is really something seriously wrong here and they believe, as I do, that it needs to be repaired and it needs to be repaired soon.

I want to go back to a recurring theme that I have articulated throughout—not only this debate but for the last couple of years. If you think, as 77 percent of the American people do, that we need to fix this system, then let's sit down and reason and talk together. Let's do that. OK? If you don't think so, then obviously we will engage in vigorous debate. But please don't use the excuse or the rationale that you are for campaign finance reform but not this kind. Because Senator FEINGOLD and I have made it very clear, we will discuss any aspect, any and all aspects of the campaign abuses that exist today and ways to fix them. We are willing to sit down and agree and compromise. That has been the path we have taken on numerous other reform issues ranging from the line-item veto to the gift money to Ramspeck repeal to putting Congress under the laws that apply to the American people, and a variety of other issues—repeal of the earnings test—many others. Please, let's not hear the excuse that, Yes, the system is broken. Yes, it needs to be fixed, but that is not my solution. If you have a better solution, let me hear it because I would love to join it.

A couple of months ago—in fact February 1997, more than a couple of months ago—there was a Fox poll, Fox News poll. It says the following, ''Which of the following phrases better describes most politicians?'' Mr. President, 36 percent, ''dedicated public servant,'' 36 percent of the American people believe that most politicians are dedicated public servants; 44 percent, ''lying windbag,'' lying windbag. Maybe there is a number of reasons why 44 percent of the people contacted in this poll believe that their politicians, their elected representatives, are lying windbags, and those reasons may be a little hard to define, all of them. And all of those reasons—at least some of those reasons may be in the eye of the beholder. But I don't think anybody could deny that one of the major reasons—the major reason why the American people have such a low opinion of their elected representatives is because of campaign finance reform and the system with which we elect our people, their representatives, and perhaps more important how their elected representatives behave once in office and what they do to stay in office.

All of us should be disturbed at polling numbers like this, all of us who believe, as we all do, public service is the most honorable of professions. All of us should be disturbed about it, try to find the reasons for it, and solve it. I would argue, again, that campaign finance reform is a way to solve it.

On ''Late Edition,'' in March 1997 a lady from Bartlesville, OK, described it best. She said, ''* * * I'm a Republican supposedly. I'm more Independent than anything else. But I want to ask you something. At $735 a month, how much freedom of speech do I have? I cannot contribute to these big campaigns.'' The lady from Bartlesville, OK, Mr. President, I think, described the problem in her own very compelling fashion.

I paid attention to Senator MCCONNELL, as I always do, and listened to him and saw the learned treatises that he put down by various special interest groups, most of them headquartered here in Washington, appealing why we can't abandon soft money, why we can't reform the system, why the status quo is the only constitutional path we could pursue. We have spent a lot of time on the floor here with dueling constitutional lawyers. I still think Senator FEINGOLD and I, with 126, have the overwhelming advantage.

And, you know, that is kind of fun. But the reality is no matter what we enact it will be challenged in the U.S. Supreme Court. It will be challenged even if all of us were in total agreement that whatever we enacted was constitutional. But the fundamental point here is that if the American people believe that $735 a month doesn't buy them much freedom of speech, then it seems to me we ought to do what we can to restore their confidence and their faith in their ability.

Mr. President, there is a book written by Mr. Michael Louis called ''Trail Fever.'' It is really an enlightening book. I enjoyed reading it very much. I commend it to anyone who is interested in the 1996 campaign.

Political ads fall broadly into two categories: those designed to inflate the candidate's appeal and those intended to destroy the candidate's opponent. The Clinton ads, which the president himself helped to write, were mainly of the second type. The bulk of them were directed at the elderly and designed to prey on their natural fear of abandonment. The message they conveyed could be summarized in a sentence: If you are over sixty years old and the Republicans gain control of the White House, you will lose your health care. Vote for your life! It was a wild and wonderful distortion of the truth—

* * * *

The press was the enemy that muddied the message you were trying to deliver. Morris argued that all the old nostrums about needing the media no longer applied, that Americans were so cynical about everything that they no longer believed in anything as naive as the Simple Truth. He believed, for instance, that voters did not distinguish in any meaningful way between paid ads and the free press. ''I don't think people are any more cynical about ads than they are about the press,'' he said. ''One is what the candidate wants you to know. The other is what the media want you to know.''

Really, it was an extraordinary turn of strategic thinking, especially for a sitting Democratic president, who might rightfully expect a little help from his soul mates in the newsrooms and on the editorial boards. It was one thing to speak through political ads; it was another to speak only through political ads. But that is exactly what Morris proposed, and Clinton accepted. ''Dick wanted to spend every * * * dollar on ads,'' said Harold Ickes. ''He thought TV was the only way to communicate.'' The more airtime Clinton bought, the less need he had to appear live before the cameras—and the more he could simply ignore the trail. With Morris's help Clinton created his own metaphysical trail. Right through to the Democratic convention and beyond, the Clinton campaign remained a specter, a flickering cathode ray in the suburbs of Albuquerque, New Mexico, and Toledo, Ohio.

I think that is an accurate description of what happened in 1996. I'm not saying that the outcome would have been any different, but none of that could have happened without soft money. And none of the things that happened—it funded many of the political campaigns, most of them negative—could have happened without soft money. I believe for us to allow this as well as other aspects of the system to careen further out of control, as it is now, is an abrogation of our responsibilities.

Mr. President, I will also gather up many documents and papers in support of Senator FEINGOLD's position, and my position. I do believe perhaps most Americans would pay attention to former Presidents of the United States, as I entered in the RECORD earlier, not just, with due respect, some pundits who either live inside the beltway or are called upon as well-known political analysts—by the way, whose views I respect. But the fact is, what this really boils down to is whether we are going to restore our credibility to the American people in this body and the way we are elected.

Finally—I see the distinguished Democratic leader on the floor, as well as my friend and colleague, Senator FEINGOLD—let me emphasize again, as I have throughout to the point where it is getting monotonous, we want to negotiate a reasonable settlement amongst both parties that is fair to both parties, that the American people believe is equitable, and that the American people believe is progress. We urge our colleagues on both sides of the aisle to enter into that dialog so we can reach some consensus and move forward so we can address the important issues facing the Senate, the Congress, and the people of the country.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me compliment the Senator from Arizona for his extraordinary statement, for his compelling speech just now, and for the statesmanship he has shown all the way through this debate. I also thank the Senator from Wisconsin for the partnership he has shown on this effort from the very beginning.

The New York Times, I thought, described it quite well today in articulating what most of us perceive about both of these Senators. They are bipartisan, they seek bipartisan solutions. They recognize the importance of working through these issues, not in a confrontational way, but in a way that builds consensus rather than tears it down. The last offer of the Senator from Arizona, once more, to work with both sides to find a way with which to deal with this issue constructively, is yet another example of that manner.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 25, as modified, the campaign finance reform bill:

> Thomas A. Daschle, Carl Levin, Joseph I. Lieberman, Wendell Ford, Byron L. Dorgan, Barbara Boxer, Jack Reed, Richard H. Bryan, Daniel K. Akaka, Christopher J. Dodd, Kent Conrad, Robert G. Torricelli, Charles S. Robb, Joe Biden, Dale Bumpers, Carol Moseley-Braun, John Kerry.

Mr. DASCHLE. Mr. President, it is our desire to offer a cloture motion each day this week in an effort to bring to closure the debate on this bill. Now, obviously, it is within the majority leader's right to pull the bill to avoid having the cloture votes on the legislation itself. That certainly is his prerogative. I have indicated that it would be our intention, should that occur, on those legislative vehicles that are not appropriations bills, that we would offer the McCain-Feingold bill to each and every one of them. It really doesn't matter what legislation comes before the Senate, that would be our intention.

So I want to put our colleagues on notice that it is our strong desire to finish this debate in a constructive and in a successful way, regardless of whatever pieces of legislation may be brought before the body.

Let me also reiterate an offer that I made last week. Last week, I said we would be prepared to take up S. 9, the Lott amendment, independent of this legislation. He has, in the parliamentary usage of the term, filled the tree. He has precluded our opportunity to offer amendments, to have a constructive and a real debate. All we have done so far is debated the overall concept of campaign reform without having had the opportunity to talk about the details and whether or not there may be ways in which to improve it or deal with it in whatever legislative capacity we may so choose. That, in my view, is the essence of a good debate. If you can't offer amendments, you can't really have a good debate about the bill. So we are denied that right.

So no one should be mistaken here; we are spending time on the bill, but we are not spending time on quality debate. We are not spending time in a way that will allow us to exchange views on issues that could be the subject of amendment, and until we are, we are forced into a position of having to amend this legislation in other forms and in other scenarios legislatively.

Again, I offer that same opportunity to the majority leader that I offered last week. Let's bring up the so-called Lott amendment freestanding. Let's have an opportunity to debate it. Let's offer amendments to it. We have offered that opportunity with the hope that we could break this logjam. We have offered a suggestion along with a promise not to filibuster, not to extend the debate on the so-called Lott amendment. We would be willing to schedule it at a time certain. So there should be no question that, if under those conditions our Republican colleagues choose not to allow us to go to the bill to offer amendments, everyone will see this amendment for what it really is; that is, a poison pill designed to kill campaign reform—nothing else.

The Senator from Kentucky has been very open about his willingness to kill the bill, his commitment to do that, and he has every right to employ this tactic. All I am saying is that there is a difference between winning the battle and winning the war.

Ultimately, if we spend time on nothing else than campaign finance reform for the remainder of this Congress, we will have other occasions to have a good and meaningful debate about campaign finance reform.

So, as I said, we would be voting on cloture now on Wednesday. If the bill is still pending, we will have a vote on Thursday, and we will determine the schedule for the remainder of the time we are in session at a later date. But there should be no mistake, we will continue to fight for this bill and continue to ensure that we reach out to our Republican colleagues to break the logjam in as meaningful a way as we can. I am hopeful that that effort will be successful, and I am hopeful that at

some point we can come to some understanding about how that gets done. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BOND). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I am not the majority leader, but I wanted to make a couple observations about the comments of the Democratic leader. First of all, paycheck protection is not a poison pill; it is an important piece of legislation. It was in the top 10 pieces of legislation, I say to my friend from South Dakota, that we introduced at the beginning of this year on this side of the aisle. It has probably as many supporters as McCain-Feingold does. So it is curious to me that paycheck protection, when linked up with McCain-Feingold, is a poison pill but the converse apparently isn't true.

So, again, I am not the majority leader, but I will say it is my intent to bring up paycheck protection any time any effort was made to try to force through McCain-Feingold.

But what the majority leader has done here is offer an opportunity with a very good debate. I disagree with my friend from South Dakota; I think it is a good debate. I wish he had had a chance to listen to more of it. He might have changed his position. We are going to have a good debate this afternoon. A number of Senators want to speak.

Let me be very clear, at least as far as this one Senator is concerned, there is no campaign finance reform without paycheck protection. They are the Siamese twins, Mr. President, the Siamese twins of this discussion. So paycheck protection will, indeed, be back as well.

Mr. President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I first thank my leader, Senator DASCHLE, not only for his kind words but for his important reiteration of the offer he has made. It is an unusual offer. The offer is to have S. 9, the so-called Paycheck Protection Act, come up as its own bill and relinquishing the right that Senators always have, which the Senator from Kentucky knows very well, to filibuster. In other words, it would be guaranteed an up-or-down vote. I think that is a significant offer that raises the real issue of whether we are talking about something that is, in fact, an attempt to destroy this McCain-Feingold campaign finance reform bill, which I think it clearly is.

Mr. President, I would like to also put a few items in the RECORD, as the Senator from Kentucky has done. First of all, you see a lot of headlines when you work on an issue like this. Some are good; some are bad. Sometimes you see ''McCain-Feingold bill is dead.'' That was the litany for some time. Once in a while you see a headline you almost like, even though it isn't intended to be favorable. This one I like from The Hill, a Capitol Hill publication, of the other day, October 1, which informs us ''Most Lobbyists Oppose McCain-Feingold Bill.''

I ask unanimous consent that this article by Mary Lynn F. Jones be printed in the RECORD.

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

[From the Hill, October 1, 1997]

MOST LOBBYISTS OPPOSE MCCAIN-FEINGOLD BILL

(By Mary Lynn F. Jones)

As the Senate debates the McCain-Feingold campaign finance reform bill this week, Washington lobbyists are hoping that the deadlock will continue.

''The professional lobbying community, if they had their druthers, would do nothing,'' noted Ronald Shaiko, academic director of the Lobbying Institute at American University. Since they cannot actively oppose the bill, ''they hide behind the cause of the First Amendment.''

Lobbyist Timothy W. Jenkins, a partner at the lobbying shop of O'Connor & Hannan, agreed. ''It's definitely of interest to anyone with inside-the-Beltway'' issues, said Jenkins. ''It's a system we all participate in and lobbyists [donate] personal money and [many of] our companies are active'' in the political action committee (PAC) community.

Martin B. Gold an attorney at Johnson, Smith, Dover, Kitzmiller & Stewart, added, ''Once you open the subject of campaign finance, one never knows what kind of subjects will be raised.''

The bipartisan bill, sponsored by Sens. John McCain (R-Ariz.) and Russ Feingold (D-Wis.), would kill ''soft money'' contributions to political parties, require greater campaign finance disclosures, restrict parties from supporting candidates who bankroll their campaign with more than $50,000 of personal funds and allow union members to receive refunds for compulsory dues spent for political purposes.

Although most lobbyists are tracking the bill closely, those who represent unions and interest groups are particularly concerned, especially since Senate Majority Leader Trent Lott (R-Miss.) offered an amendment on Monday requiring unions to obtain prior permission from members before backing candidates financially.

And while PACs are limited to a $10,000 contribution per candidate per cycle, groups can circumscribe campaign finance laws by donating unrestricted money to political parties for get-out-the-vote drives, issues advertising and other activities that do not directly support a specific candidate.

''Ninety-five percent of the attention is going to issue advocacy and soft money,'' added O'Connor & Hannan's Jenkins, ''because that's where 95 percent of the dollars are.''

''PACs limit corporations and how much they spend in elections,'' said Shaiko of American University. ''Their loophole is soft money. If you take that out, it limits their voice in the electoral'' process.

In 1996, for example, the AFL-CIO spent about $35 million on issue advocacy advertising, according to an Annenberg Public Policy Center report, and a group of 32 businesses, called ''The Coalition,'' spent $5 million.

Jenkins said, ''Some people have the view that this is government regulating the most sacred of speech, that this shouldn't be about the candidates but about the public who wants to participate in elections.''

Issue advocacy and soft money raise difficult issues, primarily because of the Supreme Court's landmark 1976 decision, Buckley v. Valeo. The court equated money with free speech in that decision, ruling that campaign expenditures cannot be restricted.

By most lobbyists and analysts doubt the bill, which is staunchly opposed by Sen. Mitch McConnell (R-Ky.) and do not have enough votes to fend off an expected filibuster, will pass.

''The power of McConnell and others in the Senate to stymie it—you can't discount that,'' said Shaiko.

* * * * *

Mr. FEINGOLD. Mr. President, I guess I am delighted to see this kind of a headline, because I am not surprised. Most lobbyists do oppose campaign finance reform and the McCain-Feingold bill, because these folks are the folks I have come to regard, not as bad people, many of them are very good people, but as people who have basically become the Washington gatekeeper. They are the ones that control the campaign contributions now. If a local individual, if a local organization back home wants to contribute to your campaign or give you support, when they are part of this organization that has a lobbyist in Washington, they need to call Washington.

So it is no surprise that the lobbyists oppose our bill. They are one of the most important forces against our bill, besides the unfortunate fact, of course, that every single Member of the Congress was elected under the current system.

But even some of these groups that are represented by lobbyists have changed their minds. The Senator from Kentucky has made a great deal of the fact that the National Education Association, he has said, opposes McCain-Feingold. There was a time when their leadership did appear with Senator MCCONNELL and indicate some opposition to some aspects of the bill. But as Senator MCCAIN and I said from the beginning, we want to address various concerns of other Senators and organizations, and we have made some changes. Our bill is now supported by the National Education Association.

I would like to have printed in the RECORD a letter of October 1, 1997, from Bob Chase, the president of the National Education Association, in which he states:

> On behalf of the 2.3 million member NEA, we urge you to support real campaign finance reform and to reject legislative attacks on unions that are currently being presented in the guise of reform. NEA is supportive of the revised McCain-Feingold bill that was offered on the Senate floor on September 29.

Mr. President, I ask unanimous consent that that letter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. MCCONNELL. No.

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

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, October 1, 1997.

DEAR SENATOR: On behalf of the 2.3 million member National Education Association (NEA), we urge you to support real campaign finance reform and to reject legislative attacks on unions that are currently being presented in the guise of reform. NEA is supportive of the revised McCain-Feingold bill that was offered on the Senate floor on September 29. We are strongly opposed to the Lott amendment that would unfairly curb the advocacy rights of unions, including the NEA.

While NEA favors a broad package of reforms that would include voluntary spending limits coupled with partial public financing, the McCain-Feingold bill is an important first step. First and foremost, it would ban the unregulated and excessive ''soft money'' donations that have undermined the integrity of our political system. Further, it contains important provisions to ensure greater disclosure and stronger election laws. We are particularly pleased that the revised proposal drops any limitation on contributions by political action committees (PACs). NEA believes that small-donor PACs level the playing field and allow working Americans to have a more effective voice in politics.

NEA is supportive of full disclosure provisions affecting issue advertising. We do, however, have concerns about McCain-Feingold's provisions that would curb issue advertising in the 60 days prior to elections. These provisions are ill-defined and overly restrictive of legitimate legislative advocacy, and would inhibit the ability to speak freely on issues while they are being debated and decided in Congress. Despite this caveat, we believe that McCain-Feingold merits your support.

The Lott amendment is clearly intended not to advance the important cause of campaign finance reform, but to subvert it. The amendment is based on the false premise that members of unions do not join voluntarily; in fact, membership is voluntary. Further, unions in general, and the NEA in particular, operate under democratic decision-making processes. The annual NEA Representative Assembly, which determines the Association's policy and sets the legislative program, is the largest democratic decision-making body in the world.

On the other hand, the Lott amendment raises serious constitutional issues of free speech and association. It is a transparent attempt to curb the rights of unions to engage in not only political but legislative advocacy at the federal and state levels. The NEA strongly opposes this measure, since it would cripple our ability to advocate on behalf of our membership on the many important issues affecting children and education that come before Congress.

It is patently unfair for the Lott amendment to single out the voluntary dues of unions for this restrictive treatment, while allowing a host of other groups across the political spectrum (such as the Christian Coalition and the National Rifle Association) to continue to collect voluntary dues to fund their lobbying and advocacy efforts. The same double standard is applied to corporations, since the Lott amendment would not require businesses to effectively seek the approval of stockholders before using their funds for political activities.

In summary, we urge you to support McCain-Feingold and oppose the Lott amendment. This is an important turning point for the American political system, and it is critical that the congress take action that will foster, not hamper, the participation of working Americans in our democracy.

Sincerely,

BOB CHASE,
President.

Mr. MCCONNELL. Will the Senator yield?

Mr. FEINGOLD. I yield for a question.

Mr. MCCONNELL. I ask the Senator, is it not true in the letter—he is correct that the National Education Association, which opposed the PAC ban, has now written a letter saying they support the bill. But I refer my colleague from Wisconsin to the third paragraph of that letter. Is it not correct that they also say:

We . . . have concerns about McCain-Feingold's provisions that would curb issue advertising in the 60 days prior to elections. These provisions are ill-defined and overly restrictive of legitimate legislative activity, and would inhibit the ability to speak freely on issues while they are being debated and decided in Congress.

Am I reading that right?

Mr. FEINGOLD. Yes. The next sentence says:

Despite this caveat, we believe that McCain-Feingold merits your support.

The fact is, even though they have some concerns about this item, which I am sure any organization involved in this kind of ad may have, their conclusion, Mr. President, the conclusion I urge on the Senator from Kentucky, is that overall, they believe the bill merits support, which, of course, is the direct opposite of what the Senator from Kentucky has said for months, both on the floor and——

Mr. MCCONNELL. Will the Senator yield?

Mr. FEINGOLD. I yield.

Mr. MCCONNELL. Was it not the case prior to this letter NEA was opposing McCain-Feingold?

Mr. FEINGOLD. Of course, I am not suggesting the Senator is misrepresenting anything. I am showing a change in position by an organization which the Senator from Kentucky has placed great reliance on. I am not suggesting for 1 minute that the Senator has mischaracterized the position.

Mr. MCCONNELL. Did the Senator from Kentucky just say their principal reason for opposing the bill was the PAC ban and that when you dropped the PAC ban——

Mr. FEINGOLD. Yes, Mr. President. My point exactly. We have tried to adjust this bill to address the concerns of organizations and groups that the Senator from Kentucky has identified. That is our point. Senator MCCAIN and I don't believe we have all the answers. In fact, neither of us love the bill. That is how we were able to come up with a compromise. We heard the concerns of the NEA. We addressed their concerns. They support us now. They no longer support the Senator from Kentucky.

A further attempt that has been made on this issue is to suggest that the American people don't care about this issue, if you look at a poll or any other measure of public opinion that this isn't important to them that we change this big money system. The Senator from Arizona has already done a fine job today of helping to dispel that.

I ask unanimous consent to print in the RECORD a publication from the very conservative publication the Weekly Standard from September 22, 1997, entitled ''Republicans Get Some Very Bad News.''

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

[From the Weekly Standard, Sept. 22, 1997]

REPUBLICANS GET SOME VERY BAD NEWS

Republican senators got an unwelcome jolt last week at one of their usually uneventful Tuesday lunch meetings—a poll that showed they were in deep trouble. The poll, conducted by the Republican National Committee during the first week of September, gave the president his highest positive rating ever—almost 65 percent. For the first time in Clinton's presidency more Americans ''strongly approved'' of his performance than ''strongly disapproved.''

That was not the worst of it. For the first time this year, the numbers showed that more Americans wanted Democrats to control Congress than Republicans, and that Democrats were ahead on the ''generic ballot'' for November 1998. But what really rattled the senators was that, when asked what issues they cared most about, Americans had moved one new item into the first tier along with the old standbys of crime, education, and the like. The new issue: campaign-finance reform, which had moved from 2 or 3 percent in previous polls to double digits as the number one issue of concern.

With John McCain ready to force a confrontation on campaign reform in the Senate against the wishes of most of his GOP colleagues, there was a fair amount of senatorial murmuring about looking for a way to avoid being cast as simple defenders of the status quo. The politics of campaign-finance reform could be more interesting over the next few weeks than most pundits currently expect. And more damaging, considering that McCain's proposal is a constitutional catastrophe.

Mr. FEINGOLD. Thank you, Mr. President. I just want to highlight what was said in here. It indicates——

Mr. MCCONNELL. Will the Senator yield for one other question with regard to the Weekly Standard?

Mr. FEINGOLD. I yield for a question.

Mr. MCCONNELL. The Senator from Wisconsin referred to a statement in the Weekly Standard with regard to, what was it as he put it?

Mr. FEINGOLD. I was about to read into the RECORD the statement from the Weekly Standard which I wanted to highlight.

Mr. MCCONNELL. When the Senator is finished, I would like to have printed in the RECORD a letter from Jim Nicholson, chairman of the RNC, indicating that the polling data carried in that article is simply incorrect.

Mr. FEINGOLD. As soon as I am done, I will be happy to yield momentarily to let that happen.

Let me quote what was said by this publication that is certainly no friend of the McCain-Feingold bill and, frankly, no friend of campaign finance reform. The article indicated that:

Republican senators got an unwelcome jolt last week at one of their usually uneventful . . . lunch meetings—a poll that showed they were in deep trouble. The poll, conducted by

the Republican National Committee during the first week of September, gave the president his highest positive rating ever—almost 65 percent.

And then it goes on to state:

That was not the worst of it. For the first time this year, the numbers showed that more Americans wanted Democrats to control Congress than Republicans, and that Democrats were ahead on the ''generic ballot'' for November 1998.

The point I want to emphasize is the following statement:

But what really rattled the Senators was that, when asked what issues they cared most about, Americans had moved one new item into the first tier along with the old standbys of crime, education, and the like. The new issue: campaign-finance reform, which had moved from 2 or 3 percent in previous polls to double digits as the number one issue of concern.

Mr. President, I know that the Senator from Kentucky wants to dispel this poll. I will yield to him in a moment to do so. But I just want to emphasize, in addition to the more independent polls that the Senator from Arizona has already cited today, that even a poll that was presented to the Republican National Committee indicates that campaign finance reform is a matter of very top concern to the American people at this time.

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

Mr. FEINGOLD. I will yield.

Mr. MCCONNELL. The question is, whether the Senator wants to—I am sure he does not want to put an item into the RECORD that is simply inaccurate. What I would hope the Senator would permit me to do, even though he has the floor and it is his insert, is to include into the RECORD a letter from Jim Nicholson, the chairman of the Republican National Committee, simply correcting that story. It was simply inaccurate. And obviously the Senator from Wisconsin has the floor.

It seems to me that for those who might be reading the CONGRESSIONAL RECORD it would be best to have the correct data inserted at this time. But I will be happy to do it later if the Senator from Wisconsin feels better.

Mr. FEINGOLD. Without conceding that the information from the Senator from Kentucky is the correct information, I have no objection to the letter of Mr. Nicholson being inserted at this time.

Mr. MCCONNELL. It was an RNC poll that the Weekly Standard was referring to. And the chairman of the national committee is simply referring to the poll that his organization took and clearing up the article that was in the Weekly Standard which was simply inaccurate. So I ask unanimous consent, Mr. President, that this letter from Jim Nicholson be printed in the RECORD.

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

REPUBLICAN NATIONAL COMMITTEE,
Washington, DC, September 30, 1997.

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

DEAR SENATOR MCCONNELL: I want to take this opportunity to clarify to you recent RNC polling data in light of misinformation reported in a September 22, 1997 Weekly Standard article entitled, ''Republicans Get Some Very Bad News.''

The Standard piece erroneously claimed that a recent RNC national poll illustrated that Americans were increasingly supportive of campaign finance reform, listing it as an issue of chief concern.

Let me be clear—the Weekly Standard was wrong. In fact, the September poll discussed never contained a direct question about campaign finance reform.

Here is a synopsis of what we have found in our polling to date:

In an open-ended question from our September survey of 1,000 likely voters, not one individual surveyed identified campaign finance reform as the most important problem facing the U.S. today.

In a question offering a short list of potential concerns from our June 1997 poll, only 2% of Americans said that ''the way political campaigns are financed'' would be the most important issue to them in deciding how to vote for congress.

In a recent Wall Street Journal/NBC News survey, only 5% surveyed found that ''reforming the way political campaigns are financed'' deserved the greatest attention from the Federal government at the present time (from a list of seven issues.)

I hope this information proves useful to you as the Senate continues debate on the McCain-Feingold bill.

Sincerely,

JIM NICHOLSON,
Chairman.

Mr. FEINGOLD. Mr. President, I understand that some would feel that the poll was inaccurate, and that is what the RNC says. I also know they would have a strong desire at this point to——

Mr. MCCONNELL. Will the Senator yield?

Mr. FEINGOLD. When the Senator from Kentucky was putting items in the RECORD, I was letting him go. I will be available for questions in a moment.

All I can say, Mr. President, is this is not the only measure we put in the RECORD. What is striking is that even the Weekly Standard believes that this issue has gone very high on the list of issues. Every measure that is being taken now does indicate a tremendous growth in the concern about this issue.

I would be fascinated to hear more about exactly why the RNC changed its data on this. I will try to take a look at it later. I do not know why they indicated that it was incorrect. Somehow the Weekly Standard got the impression that this issue was on the move. On that point they are right.

Mr. President, I would also like to note with regard to the statement of the Senator from Kentucky about the American Civil Liberty Union's position on this bill, yes, the American Civil Liberties Union has expressed concerns about the bill.

I want to remind the Senator from Kentucky that the ACLU was wrong when they litigated the Buckley versus Valeo case. They did not win all the points that they litigated in that case. In fact, some of the individuals that the Senator from Kentucky has just cited were among those who litigated that case and lost. So, yes, they litigated it. They had their day in court. And they were wrong.

In fact, the ACLU, an organization which sometimes I am criticized for agreeing with, happens to be dead wrong with regard to a release that they just put out entitled ''Revised McCain-Feingold Legislation Would Trample on Americans' First Amendment Rights.''

Mr. President, I would like to just quote a sentence from that release to show how reckless some people are being about describing this bill. The quote says this:

McCain-Feingold imposes a 2-month, 60-day blackout before any Federal election on any radio or television advertisement that mentions any candidates for Federal office.

Mr. President, that is not true. The bill does ask that certain rules apply during that 60-day period that do not apply outside of that period, and the rules are that you must use hard money limits and disclosure in order to do it, but there is no blackout, there is no prohibition.

Mr. President, there isn't a single advertisement that you could possibly come up with that is barred by this bill. That is not what the bright line test is. In fact, it is very troubling to see an organization for which I have such high regard in terms of their professionalism, in terms of their ability to mount legal arguments, to see somebody actually say that the bill does something it clearly does not do.

You cannot prohibit advertisements. You cannot say that people cannot say things. What you can do, I believe, and I believe the Supreme Court will support this, is during the electioneering period, which the Supreme Court has talked about, you can require that certain kinds of messages be disclosed in terms of who is making them and also that the money that is used and raised for it be under certain kinds of limits. That is all it does. I think the ACLU is in error with regard to that provision.

Mr. President, I would also like to place in the RECORD at this time Senate bill 143 from the 102d Congress. The other day there was a spirited conversation between my friend, the Senator from Kentucky, and the Senator from Arizona which centered around the fact that the Senator from Kentucky has cosponsored legislation that did a couple of things that he has now said on the floor are unconstitutional.

In particular, Mr. President, the point was made by the Senator from Arizona that the Senator from Kentucky had cosponsored a bill that bans soft money. The Senator from Kentucky responded by saying: Well, you know, sometimes you sign on to a bill that you're not comfortable with, and you want to participate in a joint effort.

I understand that. Some of that experience has occurred for me with regard

to this bill where I am not happy with every provision. But I do need to have printed in the RECORD, Mr. President, Senate bill 143. I ask unanimous consent that that be printed in the RECORD.

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

S. 143

[102d Congress]

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 FECA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Campaign Finance Reform Act of 1991''.

(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 FECA; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Elimination of Political Action Committees From Federal Election Activities

Sec. 101. Ban on activities of political action committees in Federal elections.

Subtitle B—Ban on Soft Money in Federal Elections

Sec. 111. Ban on soft money.
Sec. 112. Restrictions on party committees.
Sec. 113. Protections for employees.
Sec. 114. Restrictions on soft money activities of tax-exempt organizations.
Sec. 115. Denial of tax-exempt status for certain politically active organizations.
Sec. 116. Contributions to certain political organizations maintained by a candidate.
Sec. 117. Contributions to State and local committees.

Subtitle C—Other Activities

Sec. 121. Modifications of contribution limits on individuals.
Sec. 122. Political parties.
Sec. 123. Contributions through intermediaries and conduits.
Sec. 124. Independent expenditures.

TITLE II—INCREASE OF COMPETITION IN POLITICS

Sec. 201. Seed money for challengers.
Sec. 202. Use of campaign funds.
Sec. 203. Candidate expenditures from personal funds.
Sec. 204. Franked communications.
Sec. 205. Limitations on gerrymandering.
Sec. 206. Election fraud, other public corruption, and fraud in interstate commerce.

TITLE III—REDUCTION OF CAMPAIGN COSTS

Sec. 301. Broadcast discount.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Federal Election Commission Enforcement Authority

Sec. 401. Elimination of reason to believe standard.
Sec. 402. Injunctive authority.
Sec. 403. Time periods.
Sec. 404. Knowing violation penalties.
Sec. 405. Court resolved violations and penalties.
Sec. 406. Private civil actions.
Sec. 407. Knowing violations resolved in court.
Sec. 408. Action on complaint by Commission.
Sec. 409. Violation of confidentiality requirement.
Sec. 410. Penalty in Attorney General actions.
Sec. 411. Amendments relating to enforcement and judicial review.
Sec. 412. Tightening enforcement.

Subtitle B—Other Provisions

Sec. 421. Disclosure of debt settlement and loan security agreements.
Sec. 422. Contributions for draft and encouragement purposes with respect to elections for Federal office.
Sec. 423. Severability.
Sec. 424. Effective date.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Elimination of Political Action Committees From Federal Election Activities

SEC. 101. 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 thereof the following new section:

''BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

''SEC. 324. 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) 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, State, or district committee of a political party, including any subordinate committee thereof;

''(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; and

''(D) any committee jointly established by a principal campaign committee and any committee described in subparagraph (B) or (C) for the purpose of conducting joint fundraising activities.''.

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraphs (B) and (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof 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.''.

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

''(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

''(A) 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

''(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.''.

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect; and

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association,

to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000.

Subtitle B—Ban on Soft Money in Federal Elections

SEC. 111. BAN ON SOFT MONEY.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end thereof the following new subsection:

''(i) BAN ON SOFT MONEY.—(1) It shall be unlawful for the purpose of influencing any election to Federal office—

''(A) to solicit or receive any soft money; or

''(B) to make any payments from soft money.

''(2) For purposes of paragraph (1), the term 'soft money' means any amount—

''(A) solicited or received from a source which is prohibited under section 316(a);

''(B) contributed, solicited, or received in excess of the contribution limits under section 315; or

''(C) not subject to the recordkeeping, reporting, or disclosure requirements under section 304 or any other provision of this Act.''.

SEC. 112. RESTRICTIONS ON PARTY COMMITTEES.

(a) DISCLOSURE OF INFORMATION BY POLITICAL COMMITTEE.—(1) Subsection (c) of section 302 of FECA (2 U.S.C. 432(c)) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ''; and'', and by adding at the end thereof the following new paragraph:

''(6) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account.''.

(2) Subsection (b) of section 304 of FECA (2 U.S.C. 434(b)) is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ''; and'', and by adding at the end thereof the following new paragraph:

''(9) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account.''.

(b) ALLOCATION OF EXPENDITURES FOR MIXED ACTIVITIES.—Title III of FECA, as amended by section 101(a), is amended by adding at the end thereof the following new section:

''REQUIRED ALLOCATION OF CONTRIBUTIONS AND EXPENDITURES FOR MIXED ACTIVITIES BY POLITICAL PARTY COMMITTEES

''SEC. 325. (a) REGULATIONS REQUIRING ALLOCATION FOR MIXED ACTIVITIES.—Not later

than 180 days after the date of the enactment of this section, the Commission shall issue regulations providing for a method for allocating the contributions and expenditures for any mixed activity between Federal and non-Federal accounts.

''(b) GUIDELINES FOR ALLOCATION.—(1) The regulations issued under subsection (a) shall—

''(A) provide for the allocation of contributions and expenditures in accordance with this subsection; and

''(B) require reporting under this Act of expenditures in connection with a mixed activity to disclose—

''(i) the method and rationale used in allocating the cost of the mixed activity to Federal and non-Federal accounts; and

''(ii) the amount and percentage of the cost of the mixed activity allocated to such accounts.

''(2) In the case of a mixed activity that consists of a voter registration drive, get-out-the-vote drive, or other activity designed to contact voters (other than an activity to which paragraph (3) or (4) applies), amounts shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than—

''(A) 33⅓ percent of the total amount in the case of the national committee of a political party; or

''(B) 25 percent of the total amount in the case of a State or local committee of a political party or any subordinate committee thereof.

''(3) In the case of a mixed activity that consists of preparing and distributing brochures, handbills, slate cards, or other printed materials identifying or seeking support of (or opposition to) candidates for both Federal offices and non-Federal offices, amounts shall be allocated on the basis of total space devoted to such candidates, except that in no event shall the amounts allocated to the Federal account be less than the percentages under subparagraph (A) or (B) of paragraph (2).

''(4)(A) In the case of a mixed activity by a national committee of a political party that consists of broadcast media advertising (or any portion thereof) that promotes (or is in opposition to) a political party without mentioning the name of any individual candidate for Federal office or non-Federal office, amounts allocated to the Federal account shall not be less than—

''(i) 50 percent of the total amount in the case of advertising in the national media market; and

''(ii) 40 percent in the case of advertising in other than the national media market.

''(B) In the case of a mixed activity by a State or local committee of a political party or any subordinate committee thereof that consists of broadcast media advertising (or any portion thereof) described in subparagraph (A), costs shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than 33⅓ percent of the total amount.

''(5) Overhead and fundraising costs of a political committee of a political party for each 2-calendar year period ending with the calendar year in which a regularly scheduled election for Federal office occurs shall be allocated to the Federal account on the basis of the same ratio which—

''(A) the aggregate amount of receipts and disbursements of such political committee during such period in connection with elections for Federal office, bears to

''(B) the aggregate amount of receipts and disbursements of such political committee during such period.

''(c) MIXED ACTIVITY.—(1) For purposes of this section, the term 'mixed activity' means an activity the expenditures in connection with which are required under this Act to be allocated between Federal and non-Federal accounts because such activity affects 1 or more elections for Federal office and 1 or more non-Federal elections.

''(2) Activities under paragraph (1) include—

''(A) voter registration drives, get-out-the-vote drives, telephone banks, and membership communications in connection with elections for Federal offices and elections for non-Federal offices;

''(B) general political advertising, brochures, or other materials that include any reference (however incidental) to both a candidate for Federal office and a candidate for non-Federal office, or that urge support for or opposition to a political party or to all the candidates of a political party;

''(C) overhead expenses; and

''(D) activities described in clauses (v), (x), and (xii) of section 301(8)(B).

''(d) ACCOUNTS.—For purposes of this section—

''(1) the term 'Federal account' means an account to which receipts and disbursements are allocated to elections for Federal offices; and

''(2) the term 'non-Federal account' means an account to which receipts and disbursements are allocated to elections other than non-Federal offices.''.

SEC. 113. PROTECTION FOR EMPLOYEES.

(a) CONTRIBUTIONS TO ALL POLITICAL COMMITTEES INCLUDED.—Paragraph (2) of section 316(b) of FECA (2 U.S.C. 441b(b)(2)) is amended by inserting ''political committee,'' after ''campaign committee,''.

(b) APPLICABILITY OF REQUIREMENTS TO LABOR ORGANIZATIONS.—Section 316(b) of FECA (2 U.S.C. 441b(b)) is amended by adding at the end thereof the following new paragraph:

''(8)(A) Subparagraphs (A), (B), and (C) of paragraph (2) shall not apply to a labor organization unless the organization meets the requirements of subparagraphs (B), (C), and (D).

''(B) The requirements of this subparagraph are met only if the labor organization provides, at least once annually, to all employees within the labor organization's bargaining unit or units (and to new employees within 30 days after commencement of their employment) written notification presented in a manner to inform any such employee—

''(i) that an employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration and get-out-the-vote campaigns;

''(ii) that no employee may be required actually to join any labor organization, but if a collective bargaining agreement covering an employee purports to require membership or payment of dues or other fees to a labor organization as a condition of employment, the employee may elect instead to pay an agency fee to the labor organization;

''(iii) that the amount of the agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's exclusive representation services to the employee's collective bargaining unit, including collective bargaining, contract administration, and grievance adjustment;

''(iv) that an employee who elects to be a full member of the labor organization and pay membership dues is entitled to a reduction of those dues by the employee's pro rata share of the total spending by the labor organization for political activities;

''(v) that the cost of the labor organization's exclusive representation services, and the amount of spending by such organization for political activities, shall be computed on the basis of such cost and spending for the immediately preceding fiscal year of such organization; and

''(vi) of the amount of the labor organization's full membership dues, initiation fees, and assessments for the current year; the amount of the reduced membership dues, subtracting the employee's pro rata share of the organization's spending for political activities, for the current year; and the amount of the agency fee for the current year.

''(C) The requirements of this subparagraph are met only if, for purposes of verifying the cost of such labor organization's exclusive representation services, the labor organization provides all represented employees an annual examination by an independent certified public accountant of financial statements supplied by such organization which verify the cost of such services; except that such examination shall, at a minimum, constitute a 'special report' as interpreted by the Association of Independent Certified Public Accountants.

''(D) The requirements of this subparagraph are met only if the labor organization—

''(i) maintains procedures to promptly determine the costs that may properly be charged to agency fee payors as costs of exclusive representation, and explains such procedures in the written notification required under subparagraph (B); and

''(ii) if any person challenges the costs which may be properly charged as costs of exclusive representation—

''(I) provides a mutually selected impartial decisionmaker to hear and decide such challenge pursuant to rules of discovery and evidence and subject to de novo review by the National Labor Relations Board or an applicable court; and

''(II) places in escrow amounts reasonably in dispute pending the outcome of the challenge.

''(E)(i) A labor organization that does not satisfy the requirements of subparagraphs (B), (C), and (D) shall finance any expenditures specified in subparagraphs (A), (B), or (C) of paragraph (2) only with funds legally collected under this Act for its separate segregated fund.

''(ii) For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications expressly advocating the election or defeat of any clearly identified candidate for elective public office.''.

SEC. 114. RESTRICTIONS ON SOFT MONEY ACTIVITIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) DENIAL OF TAX-EXEMPT STATUS FOR ACTIVITIES TO INFLUENCE A FEDERAL ELECTION.—An organization shall not be treated as exempt from tax under subsection (a) if such organization participates or intervenes in any political campaign on behalf of or in opposition to any candidate for Federal office.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any participation or intervention by an organization on or after September 1, 1992.

SEC. 115. DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax), as amended by section 114, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.—

''(1) IN GENERAL.—An organization shall not be treated as exempt from tax under subsection (a) if—

''(A) such organization devotes any of its operating budget to—

''(i) voter registration or get-out-the-vote campaigns; or

''(ii) participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office; and

''(B) a candidate, or an authorized committee of a candidate, has—

''(i) solicited contributions to, or on behalf of, such organization; and

''(ii) the solicitation is made in cooperation, consultation, or concert with, or at the request or suggestion of, such organization.

''(2) CANDIDATE DEFINED.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'candidate' has the meaning given such term by paragraph (2) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(2)).

''(B) MEMBERS OF CONGRESS.—The term 'candidate' shall include any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress unless—

''(i) the date for filing for nomination, or election to, such office has passed and such individual has not so filed, and

''(ii) such individual is not otherwise a candidate described in subparagraph (A).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act, but only with respect to solicitations or suggestions by candidates made after the date of the enactment of this Act.

SEC. 116. CONTRIBUTIONS TO CERTAIN POLITICAL ORGANIZATIONS MAINTAINED BY A CANDIDATE.

(a) CONTRIBUTIONS BY PERSONS IN GENERAL AND BY MULTICANDIDATE POLITICAL COMMITTEES.—(1) Section 315(a)(1)(A) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking ''candidate and his authorized political committees'' and inserting ''candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,''.

(2) Section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) is amended by striking ''candidate and his authorized political committees'' and inserting ''candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,''.

(3) Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 101(c), is amended by inserting at the end thereof the following new paragraph:

''(10) For the purposes of paragraphs (1)(A) and (2)(A), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

''(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

''(B) for which that candidate has solicited a contribution.''.

(b) CONTRIBUTIONS BY NATIONAL BANKS, CORPORATIONS, AND LABOR ORGANIZATIONS.—(1) Section 316(b)(2) of the FECA (2 U.S.C. 441b(b)(2)) is amended by striking ''candidate, campaign committee'' and inserting ''candidate, political organization (other than an authorized committee) maintained by a candidate, campaign committee,''.

(2) Section 316(b) of FECA (2 U.S.C. 441b(b)), as amended by section 113(b), is amended by inserting at the end thereof the following new paragraph:

''(9) For the purposes of paragraph (2), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

''(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

''(B) for which that candidate has solicited a contribution.''.

(c) DATE OF APPLICATION.—The amendments made by subsections (a) and (b) shall apply to contributions described in sections 315 and 316 of FECA (2 U.S.C. 441a and 441b) made in response to solicitations made after January _____, 1991.

SEC. 117. CONTRIBUTIONS TO STATE AND LOCAL PARTY COMMITTEES.

Section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)) is amended—

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

(2) by striking the period at the end of subparagraph (C) and inserting ''; or''; and

(3) by adding at the end thereof the following new subparagraph:

''(D) to the political committees established and maintained by a State or local political party, in connection with any activity that may influence an election for Federal office, in any calendar year which, in the aggregate, exceed the lesser of

''(i) $50,000; or

''(ii) the difference between $50,000 and the amount of contributions made by such person to any political committees established and maintained by a national political party.''.

Subtitle C—Other Activities

SEC. 121. MODIFICATIONS OF CONTRIBUTION LIMITS ON INDIVIDUALS.

(a) INCREASE IN CANDIDATE LIMIT.—Subparagraph (A) of section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking ''$1,000'' and inserting ''the applicable amount''.

(b) APPLICABLE AMOUNT DEFINED.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 116(a)(3), is amended by adding at the end thereof the following new paragraph:

''(11) For purposes of subsection (a)(1)(A)—

''(A) The term 'applicable amount' means—

''(i) $1,000 in the case of contributions by a person to—

''(I) a candidate for the office of President or Vice President or such candidate's authorized committees; or

''(II) any other candidate or such candidate's authorized committees if, at the time such contributions are made, such person is a resident of the State with respect to which such candidate seeks Federal office; and

''(ii) $500 in the case of contributions by any other person to a candidate described in clause (i)(II) or such candidate's authorized committees.

''(B) At the beginning of 1991 and each odd-numbered calendar year thereafter, the Secretary of Labor shall certify in the same manner as under subsection (c)(1) the percent difference between the price index for the preceding calendar year and the price index for calendar year 1989. Each of the dollar limits under subparagraph (A) shall be increased by such percent difference and rounded to the nearest $100. Each amount so increased shall be the amount in effect for the calendar year for which determined and the succeeding calendar year.''.

SEC. 122. POLITICAL PARTIES.

ITEMS NOT TREATED AS CONTRIBUTIONS OR EXPENDITURES.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clauses (x) and (xii), by inserting ''national,'' after ''the payment by a''; and

(B) in clause (xii), by inserting ''general research activities,'' after ''the costs of''.

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clauses (viii) and (ix), by inserting ''national,'' after ''the payment by a''; and

(B) in clause (ix), by inserting ''general research activities,'' after ''the costs of''.

SEC. 123. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

''(8) For purposes of this subsection—

''(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate.

''(B) If a contribution is made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

''(C) No conduit or intermediary shall deliver or arrange to have delivered contributions from more than 2 persons who are employees of the same employer or who are members of the same trade association, membership organization, or labor organization.

''(D) No person required to register with the Clerk of the House of Representatives or the Secretary of the Senate under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), or an officer, employee or agent of such a person, may act as an intermediary or conduit with respect to a contribution to a candidate for Federal office.''.

SEC. 124. INDEPENDENT EXPENDITURES.

(a) ATTRIBUTION OF COMMUNICATIONS; REPORTS.—(1) Section 318 of FECA (2 U.S.C. 441d) is amended by adding at the end thereof the following new subsection:

''(c)(1) If any person makes an independent expenditure through a broadcast communication on any television or radio station, the broadcast communication shall include a statement—

''(A) in such television broadcast, that is clearly readable to the viewer and appears continuously during the entire length of such communication; or

''(B) in such radio broadcast, that is clearly audible to the viewer and is aired at the beginning and ending of such broadcast,

setting forth the name of such person and, in the case of a political committee, the name of any connected or affiliated organization.

''(2) If any person makes an independent expenditure through a newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising, the communication shall include, in addition to the other information required by this section—

''(A) the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.'; and

''(B) a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization, and the name of the president or treasurer of such organization.

''(3) Any person making an independent expenditure described in paragraph (1) or (2) shall furnish, by certified mail, return receipt requested, the following information, to each candidate and to the Commission, not later than the date and time of the first public transmission of the communication:

''(A) Effective notice that the person plans to make an independent expenditure for the purpose of financing a communication which expressly advocates the election or defeat of a clearly identified candidate.

''(B) An exact copy of the intended communication, or a complete description of the contents of the intended communication, including the entirety of any texts to be used in conjunction with such communication, and a complete description of any photographs, films, or any other visual devices to be used in conjunction with such communication.

''(C) All dates and times when such communication will be publicly transmitted.''.

(2) Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended by striking ''Whenever'' and inserting ''Except as provided in subsection (c), whenever''.

(b) DEFINITION OF INDEPENDENT EXPENDITURE.—Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended—

(1) by striking ''(17) The term'' and inserting ''(17)(A) The term''; and

(2) by adding at the end thereof the following new subparagraph:

''(B) For the purpose of subparagraph (A), an expenditure shall be considered to be made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, authorized committee, or agent, if there is any arrangement, coordination, or direction by the candidate or the candidate's agent prior to the publication, distribution, display, or broadcast of a communication, and it shall be presumed to be so made when it is—

''(i) based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or

''(ii) made by or through any person who is, or has been—

''(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees;

''(II) serving as an officer of the candidate's authorized committees; or

''(III) providing professional services to, or receiving any form of compensation or reimbursement from, the candidate, the candidate's committee, or agent.''.

(c) HEARINGS ON COMPLAINTS.—Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

''(13) Within 3 days after the Commission receives a complaint filed pursuant to this section which alleges that an independent expenditure was made with the cooperation or consultation of a candidate, or an authorized committee or agent of such candidate, or was made in concert with or at the request or suggestion of an authorized committee or agent of such candidate, the Commission shall provide for a hearing to determine such matter.''.

(d) EXPEDITED JUDICIAL REVIEW.—Section 310 of the FECA (2 U.S.C. 437h) is amended by adding at the end thereof the following new sentence: ''It shall be the duty of the courts to advance on the docket and to expedite to the greatest possible extent the disposition of any matter relating to the making or alleged making of an independent expenditure.''.

TITLE II—INCREASE OF COMPETITION IN POLITICS

SEC. 201. SEED MONEY FOR CHALLENGERS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 111, is amended by adding at the end thereof the following new subsection:

''(j)(1) Notwithstanding subsection (a)(2), the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees) which in the aggregate do not exceed the lesser of—

''(A) $100,000; or

''(B) the aggregate qualified matching contributions received by such candidate and the candidate's authorized committees.

''(2) Any contribution under paragraph (1) shall not be treated as an expenditure for purposes of subsection (d)(3).

''(3) For purposes of this subsection, the term 'qualified matching contributions' means contributions made during the period of the election cycle preceding the primary election by an individual who, at the time such contributions are made, is a resident of the State in which the election with respect to which such contributions are made is to be held.

''(4) For purposes of this subsection, the term 'eligible candidate' means a candidate for Federal office (other than President or Vice President) who does not hold Federal office.''.

SEC. 202. USE OF CAMPAIGN FUNDS.

Section 313 of FECA (2 U.S.C. 439a) is amended by inserting ''(a)'' before ''Amounts'' and inserting at the end thereof the following new subsection:

''(b) Notwithstanding subsection (a), a holder of Federal office may not transfer any amounts received as contributions or other campaign funds to any account maintained for purposes of defraying ordinary and necessary expenses in connection with the duties of such Federal office.''.

SEC. 203. CANDIDATE EXPENDITURES FROM PERSONAL FUNDS.

(a) Section 315 of FECA (2 U.S.C. 441a), as amended by section 201, is amended by adding at the end thereof the following new subsection:

''(k)(1)(A) Not less than 15 days after a candidate qualifies for a primary election ballot under State law, the candidate shall file with the Commission, and each other candidate who has qualified for that ballot, a declaration stating whether the candidate intends to expend for the primary and general election an amount exceeding $250,000 from—

''(i) the candidate's personal funds;

''(ii) the funds of the candidate's immediate family; and

''(iii) personal loans incurred by the candidate and the candidate's immediate family in connection with the candidate's election campaign.

''(B) The declaration required by subparagraph (A) shall be in such form and contain such information as the Commission may require by regulation.

''(2) Notwithstanding subsection (a), if a candidate—

''(A) declares under paragraph (1) that the candidate intends to expend for the primary and general election funds described in such paragraph an amount exceeding $250,000;

''(B) expends such funds in the primary and general election an amount exceeding $250,000; or

''(C) fails to file the declaration required by paragraph (1),

the limitations on contributions under subsection (a), and the limitations on expenditures under subsection (d), shall be modified as provided under paragraph (3) with respect to other candidates for the same office who are not described in subparagraph (A), (B), or (C).

''(3) For purposes of paragraph (2)—

''(A) the limitation under subsection (a)(1)(A) shall be increased to $5,000; and

''(B) if a candidate described in paragraph (2)(B) expends more than $1,000,000 of funds described in paragraph (1) in the primary and general election—

''(i) the limitation under subsection (a)(1)(A) shall not apply;

''(ii) the limitation under subsection (a)(2) shall not apply to any political committee of a political party; and

''(iii) the limitation under subsection (d)(3) shall not apply.

The $5,000 amount under subparagraph (A) shall be adjusted each calendar year in the same manner as amounts are adjusted under subsection (a)(11)(B).

''(4) If—

''(A) the modifications under paragraph (3) apply for a convention or a primary election by reason of 1 or more candidates taking (or failing to take) any action described in subparagraph (A), (B), or (C) of paragraph (2); and

''(B) such candidates are not candidates in any subsequent election in the same election campaign, including the general election,

paragraph (3) shall cease to apply to the other candidates in such campaign.

''(5) A candidate who—

''(A) declares, pursuant to paragraph (1), that the candidate does not intend to expend funds described in paragraph (1) in excess of $250,000; and

''(B) subsequently changes such declaration or expends such funds in excess of that amount,

shall file an amended declaration with the Commission and notify all other candidates for the same office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending a notice by certified mail, return receipt requested.

''(6) Contributions to a candidate or a candidate's authorized committees may be used to repay any expenditure or personal loan incurred in connection with the candidate's election to Federal office by a candidate or a member of the candidate's immediate family only to the extent that such repayment—

''(A) is limited to the amount of such expenditure or the principal amount of such loan (and no interest is paid); and

''(B) is not made from any such contributions received after the date of the general election to which such expenditure or loan relates.

''(7) For purposes of this subsection, the term 'immediate family' means—

''(A) a candidate's spouse;

''(B) any child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

''(C) the spouse of a person described in subparagraph (B).

''(8) The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to ensure compliance with this subsection.''.

SEC. 204. FRANKED COMMUNICATIONS.

(a) AMENDMENT OF TITLE 39, UNITED STATES CODE.—(1) Section 3210(a)(6)(A) of title 39, United States Code is amended—

(A) by striking clause (i) and inserting the following new clause:

''(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or''; and

(B) in clause (ii)(II), by striking ''fewer than 60 days immediately before the date'' and inserting ''during the year''.

(2) Section 3210(a)(6)(C) of title 39, United States Code, is amended by striking ''fewer than 60 days immediately before the date'' and inserting ''during the year''.

(3) Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

''(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of the group or groups of persons to whom the mass mailing was mailed.

''(II) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed.

''(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Member shall register annually with the Clerk of the House of Representatives such mass mailings. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

''(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed.''.

(b) AMENDMENT OF STANDING RULES OF THE SENATE.—(1) Paragraph 1 of Rule XL of the Standing Rules of the Senate is amended by striking ''less than sixty days immediately before the date'' and inserting ''during the year''.

(2) This subsection is enacted—

(A) as an exercise of the rulemaking power of the Senate; and

(B) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 205. LIMITATIONS ON GERRYMANDERING.

(a) REAPPORTIONMENT OF REPRESENTATIVES.—Section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress,'' approved June 18, 1929 (2 U.S.C. 2a), is amended—

(1) by striking subsection (c); and

(2) by adding at the end thereof the following new subsections:

''(c)(1) In each State entitled in the One Hundred Third Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to the second paragraph of the Act entitled 'An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting', approved December 14, 1967 (2 U.S.C. 2c), as in effect prior to the date of enactment of this subsection, there shall be established in the manner provided by the law of the State a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only by eligible voters from districts so established, no district to elect more than 1 Representative.

''(2) Such districts shall be established in accordance with the provisions of this Act as soon as practicable after the decennial census date established in section 141(a) of title 13, United States Code, but in no case later than such time as is reasonably sufficient for their use in the elections for the One Hundred Third Congress and in each fifth Congress thereafter.

''(d)(1) The number of persons in congressional districts within each State shall be as nearly equal as is practicable, as determined under the then most recent decennial census.

''(2) The enumeration established according to the Federal decennial census pursuant to article I, section II, United States Constitution, shall be the sole basis of population for the establishment of congressional districts.

''(e) Congressional districts shall be comprised of contiguous territory, including adjoining insular territory.

''(f) Congressional districts shall not be established with the intent or effect of diluting the voting strength of any person, group of persons, or members of any political party.

''(g) Congressional districts shall be compact in form. In establishing such districts, nearby population shall not be bypassed in favor of more distant population.

''(h) Congressional district boundaries shall avoid the unnecessary division of counties or their equivalent in any State.

''(i) Congressional district boundaries shall be established in such a manner so as to minimize the division of cities, towns, villages, and other political subdivisions.

''(j)(1) It is the intent of the Congress that congressional districts established pursuant to this section be subject to reasonable public scrutiny and comment prior to their establishment.

''(2) At the same time that Federal decennial census tabulations data, reports, maps, or other material or information produced or obtained using Federal funds and associated with the congressional reapportionment and redistricting process are made available to any officer or public body in any State, those materials shall be made available by the State at the cost of duplication to any person from that State meeting the qualifications for voting in an election of a Member of the House of Representatives.

''(k) Nothing in this section shall be construed to supersede any provision of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

''(l)(1) A State may establish by law criteria for implementing the standards set forth in this section.

''(2) Nothing in this section shall be construed as limiting the power of a State to strengthen or add to the standards set forth in this section, or to interpret those standards in a manner consistent with the law of the State, to the extent that any additional criteria or interpretations are not in conflict with this section.

''(m)(1) The district courts of the United States shall have exclusive jurisdiction to hear and determine any action to enforce subsections (c) through (l).

''(2) A person who meets a State's qualifications for voting in an election of a Member of the House of Representatives from the State may bring an action in the district court for the district in which the person resides to enforce subsections (c) through (l) with regard to the State in which the person resides.

''(3) Notwithstanding any other provision of this section, the district courts of the United States shall have authority to issue all judgments, orders, and decrees necessary to ensure that any criteria established by State law pursuant to this section are not in conflict with this section.

''(4) With the exception of actions brought for the relief described in paragraph (3), the district court for the purposes of this section shall be a three-judge district court pursuant to section 2284 of title 28, United States Code.

''(5) On motion of any party in accordance with section 1657 of title 28, United States Code, it shall be the duty of the district court to assign the case for briefing and hearing at the earliest practicable date, and to cause the case to be in every way expedited. The district court shall have authority to enter all judgments, orders and decrees necessary to bring a State into compliance with this Act.

''(6) An action to challenge the establishment of a congressional district in a State after a Federal decennial census may not be brought after the end of the 9-month period beginning on the date on which the last such district is so established.

''(7) For the purposes of this section, an order dismissing a complaint for failure to state a cause of action shall be appealable in accordance with section 1253 of title 28, United States Code.

''(8) If a district court fails to establish a briefing and hearing schedule that will permit resolution of the case prior to the next general election, any party may seek a writ of mandamus from the United States Court of Appeals for the circuit in which the district court sits. The court of appeals shall have jurisdiction over the motion for a writ of mandamus and shall establish an expedited briefing and hearing schedule for resolution of the motion. Such a motion shall not stay proceedings in the district court.

''(9) If a district court determines that the congressional districts established by a State's redistricting authority pursuant to this Act are not in compliance with this Act, the court shall remand the plan to the State's redistricting authority to establish new districts consistent with subsections (c) through (l). The district court shall retain jurisdiction over the case after remand.

''(10) If, after a remand under paragraph (9), the district court determines that the congressional districts established by a State's redistricting authority under the remand order are not consistent with subsections (c) through (l), the district court shall enter an order establishing districts that are consistent with subsections (c) through (l) for the next general congressional election.

''(11) If any question of State law arises in a case under this section that would require abstention, the district court shall not abstain. However, in any State permitting certification of such questions, the district court shall certify the question to the highest court of the State whose law is in question. Such certification shall not stay the proceedings in the district court or delay the court's determination of the question of State law.

''(12) With the exception of actions brought for the relief described in paragraph (3), an appeal from a decision of the district court under this section shall be taken in accordance with section 1253 of title 28, United States Code. An appeal under this paragraph shall be noticed in the district court and perfected by docketing in the Supreme Court within thirty days of the entry of judgment below. Appeals brought to the Supreme Court under this paragraph shall be heard as soon as practicable.

''(13) For purposes of this section, the term 'redistricting authority' means the officer or public body having initial responsibility for the congressional redistricting of a State.''.

(b) CONFORMING AMENDMENTS AND REPEALER.—(1) The first sentence of section 1657 of title 28, United States Code, is amended by striking ''chapter 153 or'' and inserting ''chapter 153, any action under subsection (m) through (l) of section 22 of the Act entitled 'An Act to provide for the fifteenth and subsequent censuses and to provide for apportionment of Representatives in Congress,' approved June 18, 1929 (2 U.S.C. 2a), or''.

(2) Section 141(c) of title 13, United States Code, is amended by adding at the end thereof the following: ''In circumstances in which this subsection requires that the Secretary provide criteria to, consult with, or report tabulations of population to (or if the Secretary for any reason provides material or information to) the public bodies having responsibility for the legislative apportionment or districting of a State, the Secretary shall provide, without cost, such criteria, consultations, tabulations, or other material or information simultaneously to the leadership of each political party represented on such public bodies. For purposes of this subsection, the term 'political party' means any political party whose candidates for Representatives to Congress received, as the candidates of such party, 5 percent or more of the total number of votes received statewide by all candidates for such office in any of the 5 most recent general congressional elections. Such materials may include those developed by the Census Bureau for redistricting purposes for the 1990 Census.''.

(3) The second paragraph of the Act entitled ''An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting'', approved December 14, 1967 (2 U.S.C. 2c), is repealed.

SEC. 206. ELECTION FRAUD, OTHER PUBLIC CORRUPTION, AND FRAUD IN INTERSTATE COMMERCE.

(a) ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.—(1) Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

''§ 225. Public corruption

''(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, political subdivision, or Indian tribal government shall be fined under this title, or imprisoned for not more than 10 years, or both.

''(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

''(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

''(2) through paying or offering to pay any person for voting;

''(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

''(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than 10 years, or both.

''(c) Whoever, being a public official or an official or employee of a State, political subdivision of a State, or Indian tribal government, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

''(d) The circumstances referred to in subsections (a), (b), and (c) are that—

''(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

''(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

''(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

''(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

''(D) uses or causes to use of any facility of interstate or foreign commerce;

''(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

''(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

''(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

''(f) Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or any State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

''(g)(1) An employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee or official on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and shall be entitled to all relief necessary to make such employee or official whole. Such relief shall include reinstatement with the same seniority status that the employee or official would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

''(2) An individual shall not be entitled to relief under paragraph (1) if the individual participated in the violation of this section with respect to which relief is sought.

''(3) A civil action brought under paragraph (1) shall be stayed by a court upon the certification of an attorney for the Government, stating that the action may adversely affect the interests of the Government in a current criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

''(h) For purposes of this section—

''(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

''(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 and shall also include any person acting or pretending to act under color of official authority;

''(3) the term 'official' includes—

''(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

''(B) any person acting or pretending to act under color of official authority; and

''(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

''(4) the term 'under color of official authority' includes any person who represents that the person controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

''(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.''.

(2)(A) The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

''225. Public Corruption.''.

(B) Section 1961(1) of title 18, United States Code, is amended by inserting ''section 225 (relating to public corruption),'' after ''section 224 (relating to sports bribery),''.

(C) Section 2516(1)(c) of title 18, United States Code, is amended by inserting ''section 225 (relating to public corruption),'' after ''section 224 (bribery in sporting contests),''.

(b) FRAUD IN INTERSTATE COMMERCE.—(1) Section 1343 of title 18, United States Code, is amended—

(A) by striking ''transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds'' and inserting ''uses or causes to be used any facility of interstate or foreign commerce''; and

(B) by inserting ''or attempting to do so'' after ''for the purpose of executing such scheme or artifice''.

(2)(A) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

''§ 1343. Fraud by use of facility of interstate commerce''.

(B) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

''1343. Fraud by use of facility of interstate commerce.''.

TITLE III—REDUCTION OF CAMPAIGN COSTS

SEC. 301. BROADCAST DISCOUNT.

(a) FINDINGS.—The Congress finds that—

(1) in the 45 days preceding a primary election, and in the 60 days preceding a general election, candidates for political office need to be able to buy, at the lowest unit charge, nonpreemptible advertising spots from broadcast stations and cable television stations to ensure that their messages reach the intended audience and that the voting public has an opportunity to make informed decisions;

(2) since the Communications Act of 1934 was amended in 1972 to guarantee the lowest unit charge for candidates during these important preelection periods, the method by which advertising spots are sold in the broadcast and cable industries has changed significantly;

(3) changes in the method for selling advertising spots have made the interpretation and enforcement of the lowest unit charge provision difficult and complex;

(4) clarification and simplification of the lowest unit charge provision in the Communications Act of 1934 is necessary to ensure compliance with the original intent of the provision; and

(5) in granting discounts and setting charges for advertising time, broadcasters and cable operators should treat candidates for political office at least as well as the most favored commercial advertisers.

(b) AMENDMENT OF COMMUNICATIONS ACT.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (b)(1), by striking ''class and'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

''(c) A licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased such use pursuant to subsection (b)(1).''.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Federal Election Commission Enforcement Authority

SEC. 401. ELIMINATION OF REASON TO BELIEVE STANDARD.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by striking the first sentence and inserting the following: ''Except as otherwise provided in subparagraph (B), if the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities determines, by an affirmative vote of 4 of its members, that an allegation of a violation or from pending violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986 states a claim of violation that would be sufficient under the standard applicable to a motion under rule 12(b)(6) of the Federal Rules of Civil Procedure, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such vote shall occur within 90 days after receipt of such complaint.''.

SEC. 402. INJUNCTIVE AUTHORITY.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)), as amended by section 401, is amended by adding at the end thereof the following new subparagraph:

''(B) The Commission may petition the appropriate court for an injunction if—

''(i) the Commission believes that there is a substantial likelihood that a violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

''(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

''(iii) such expeditious action will not cause undue harm or prejudice to the interests of others; and

''(iv) the public interest would be best served by the issuance of an injunction.''.

SEC. 403. TIME PERIODS.

Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by—

(A) striking '', for a period of at least 30 days,''; and

(B) striking ''90 days'' and inserting ''60 days''; and

(2) in clause (ii) by striking ''at least'' and inserting ''no more than''.

SEC. 404. KNOWING VIOLATION PENALTIES.

Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking ''may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation'' and inserting ''shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation, except that if the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 has been committed during the 15-day period immediately preceding any election, a conciliation agreement entered into by the Commission under paragraph (4)(A) shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation''.

SEC. 405. COURT RESOLVED VIOLATIONS AND PENALTIES.

Section 309(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(6)) is amended—

(1) in subparagraph (A) by—

(A) striking ''Commission may'' and inserting ''Commission shall'';

(B) striking ''including'' and inserting ''which shall include''; and

(C) striking ''which does not exceed the greater of $5,000 or an amount equal to any'' and inserting ''which equals the greater of $10,000 or an amount equal to 200 percent of any''; and

(2) in subparagraph (B) by—

(A) striking ''court may'' and inserting ''court shall''; and

(B) striking '', including'' and inserting ''which shall include''; and

(C) striking ''which does not exceed the greater of $5,000 or an amount equal to any'' and inserting ''which equals the greater of $10,000 or an amount equal to 200 percent of any''.

SEC. 406. PRIVATE CIVIL ACTIONS.

Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)), as amended by section 405, is amended—

(1) by inserting ''(i)'' after ''(6)(A)''; and

(2) by adding at the end thereof the following new clause:

''(ii) If, by a tie vote, the Commission does not vote to institute a civil action pursuant to clause (i), the candidate involved in such election, or an individual authorized to act on behalf of such candidate, may file an action for appropriate relief in the district court for the district in which the respondent is found, resides, or transacts business. If the court determines that a violation has occurred, the court shall impose the appropriate civil penalty. Any such award of a civil penalty made under this paragraph shall be made in favor of the United States. In addition to any such civil penalty, the court shall award to the prevailing party in any action under this paragraph, all attorneys' fees and actual costs reasonably incurred in the investigation and pursuit of any such action, including those attorneys' fees and costs reasonably incurred in bringing or defending the proceeding before the Commission.''.

SEC. 407. KNOWING VIOLATIONS RESOLVED IN COURT.

Section 309(a)(6)(C) of FECA (2 U.S.C. 437g(a)(6)(C)) is amended by striking ''may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation'' and inserting ''shall impose a civil penalty which is not less than the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation, except that if such violation was committed during the 15-day period immediately preceding the election, the court shall impose a civil penalty which is not less than the greater of $15,000 or an amount equal to 300 percent of any contribution or expenditure involved in such violation''.

SEC. 408. ACTION ON COMPLAINT BY COMMISSION.

Section 309(a)(8)(A) of FECA (2 U.S.C. 437g(a)(8)(A)) is amended—

(1) by striking ''act on'' and inserting ''reasonably pursue'';

(2) by striking ''120-day'' and inserting ''60-day''; and

(3) by striking ''United States District Court for the District of Columbia'' and inserting ''appropriate court''.

SEC. 409. VIOLATION OF CONFIDENTIALITY REQUIREMENT.

Section 309(a)(12)(B) of FECA (2 U.S.C. 437g(a)(12)(A)) is amended—

(1) by striking ''$2,000'' and inserting ''$5,000''; and

(2) by striking ''$5,000'' and inserting ''$10,000''.

SEC. 410. PENALTY IN ATTORNEY GENERAL ACTIONS.

Section 309(d)(1)(A) of FECA (2 U.S.C. 437g(d)(1)(A)) is amended by striking ''exceed'' and inserting ''be less than''.

SEC. 411. AMENDMENTS RELATING TO ENFORCEMENT AND JUDICIAL REVIEW.

(a) TIME LIMITATIONS FOR AND INDEX OF INVESTIGATIONS.—Section 309(a) of FECA (2 U.S.C. 437g(a)), as amended by section 124, is amended by adding at the end thereof the following new paragraphs:

''(14) The Commission shall establish time limitations for investigations under this subsection.

''(15) The Commission shall publish an index of all investigations under this section and shall update the index quarterly.''.

(b) PROCEDURE ON INITIAL DETERMINATION.—Section 309(a)(2) of FECA (2 U.S.C.

437g(a)(2)), as amended by section 402, is amended by adding at the end thereof the following: ''Before a vote based on information ascertained in the normal course of carrying out supervisory responsibilities, the person alleged to have committed the violation shall be notified of the allegation and shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the information. Prior to any determination, the Commission may request voluntary responses to questions from any person who may become the subject of an investigation. A determination under this paragraph shall be accompanied by a written statement of the reasons for the determination.''.

(c) PROCEDURE ON PROBABLE CAUSE DETERMINATION.—(1) Section 309(a)(3) of FECA (2 U.S.C. 437g(a)(3)) is amended by adding at the end thereof the following: ''The Commission shall make available to a respondent any documentary or other evidence relied on by the general counsel in making a recommendation under this subsection. Any brief or report by the general counsel that replies to the respondent's brief shall be provided to the respondent.''.

(2) Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended by adding at the end thereof the following new clauses:

''(iii) A determination under clause (i) shall be made only after opportunity for a hearing upon request of the respondent and shall be accompanied by a statement of the reasons for the determination.

''(iv) The Commission shall not require that any conciliation agreement under this paragraph contain an admission by the respondent of a violation of this Act or any other law.''.

(d) ELIMINATION OF EN BANC HEARING REQUIREMENT.—Section 310 of FECA (2 U.S.C. 437h), as amended by section 124(d), is amended by striking '', which shall hear the matter sitting en banc''.

SEC. 412. TIGHTENING ENFORCEMENT.

(a) REPEAL OF PERIOD OF LIMITATION.—Section 406 of FECA (2 U.S.C. 455) is repealed.

(b) SUPPLYING OF INFORMATION TO THE ATTORNEY GENERAL.—Section 309(a)(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(12)(A)) is amended by adding at the end thereof the following new subparagraph:

''(C) Nothing in this section shall be deemed to prohibit or prevent the Commission from making information contained in compliance files available to the Attorney General, at the Attorney General's request, in connection with an investigation or trial.''.

Subtitle B—Other Provisions

SEC. 421. DISCLOSURE OF DEBT SETTLEMENT AND LOAN SECURITY AGREEMENTS.

Section 304(b) of FECA (2 U.S.C. 434(b)), as amended by section 112, is amended by striking ''and'' at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a semicolon, and by adding at the end thereof the following new paragraphs:

''(10) for the reporting period, the terms of any settlement agreement entered into with respect to a loan or other debt, as evidenced by a copy of such agreement filed as part of the report; and

''(11) for the reporting period, the terms of any security or collateral agreement entered into with respect to a loan, as evidenced by a copy of such agreement filed as part of the report.''.

SEC. 422. CONTRIBUTIONS FOR DRAFT AND ENCOURAGEMENT PURPOSES WITH RESPECT TO ELECTIONS FOR FEDERAL OFFICE.

(a) DEFINITION.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended by striking ''or'' after the semicolon at the end of clause (i), by striking the period at the end of clause (ii) and inserting ''; and'', and by adding at the end thereof the following new clause:

''(iii) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of drafting a clearly identified individual as a candidate for Federal office or encouraging a clearly identified individual to become a candidate for Federal office.''.

(b) DRAFT AND ENCOURAGEMENT CONTRIBUTIONS TO BE TREATED AS CANDIDATE CONTRIBUTIONS.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

''(12) For purposes of paragraph (1)(A) and paragraph (2)(A), any contribution described in section 301(8)(A)(iii) shall be treated, with respect to the individual involved, as a contribution to a candidate, whether or not the individual becomes a candidate.''.

SEC. 423. SEVERABILITY.

If any provision of this Act or 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 such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 424. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on November 10, 1992, and shall apply to all contributions and expenditures made after that date.

Mr. FEINGOLD. Senate bill 143 from the 102d Congress was offered by the Senator from Kentucky. It was not a group of people that had to sort of pull together to support the leader on this. Mr. MCCONNELL, the Senator from Kentucky, was the lead author, and then other Senators, distinguished Senators, agreed with him—Senator Dole, Senator Simpson, Senator Packwood, Senator COCHRAN, Senator DOMENICI, Senator MURKOWSKI, Senator ROTH, and Senator Hatfield; but the lead author of the bill was the Senator from Kentucky. And the bill banned soft money.

Mr. President, it specifically provides for the ban of soft money which the Senator from Kentucky has denounced as an unconstitutional part of the McCain-Feingold bill. So this notion that somehow the Senator from Kentucky was not supportive of this kind of concept, at least at that time, does not seem to withstand scrutiny.

Mr. President, I would also like at this time to spend a few moments talking a little bit about a very important item, and that is the proposal before us offered by the majority leader. That represents, to me, an attempt to put the onus of the entire campaign finance issue just on organized labor. That is the substantive impact of this proposal.

But I am afraid the proposal is, in the end, going to serve a larger purpose, if it prevails. The majority leader made it pretty clear that was his purpose. The purpose of the proposal, it seems to me, is to kill the McCain-Feingold bill. I know the majority leader has said that that is not the case. But I am not the only one who believes this is a poison pill. Just about everyone who has looked at this feels this is an attempt to kill this bill by insisting that Senate bill 9 be brought up at this time.

The Senator from Kentucky said that Senate bill 9 was a very important bill; that is why it was No. 9. I understand the rules around here. The leaders get to introduce about five bills each they consider to be a top priority. Senate bill 9 was one of those top priorities of the Republican leadership.

Why then, if it was such a top priority, did they wait almost until the end of this entire year, the end of this entire session, to bring it up? If it was so important, why wasn't it given the importance that it supposedly had? Others agree.

Mr. President, I ask unanimous consent that the editorial from the New York Times entitled ''The Swing Senators'' of October 5, 1997, be printed in the RECORD.

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

[From the New York Times, Oct. 5, 1997]

THE SWING SENATORS

It takes many routine votes to build and sustain a Senate career, but one memorable vote can destroy a reputation. For a handful of Republican senators who have championed campaign finance reform, that fatal vote could come on Tuesday if they kill the McCain-Feingold bill. It is hard to imagine how Olympia Snowe of Maine, James Jeffords of Vermont and John Chafee of Rhode Island can face their constituents if they bury the best chance in a generation to fashion a more rational system of financing Presidential and Congressional campaigns.

That is the simple, unforgiving logic of Tuesday's vote. Trent Lott, the majority leader, has scheduled a showdown on the McCain-Feingold bill, which would curb the unlimited donations to political parties that have been at the heart of the scandals this year. The bill would also restrict the ability of independent groups to raise money from rich individuals, corporations and labor unions to broadcast candidate attack ads masquerading as issue ads two months before an election. To kill the legislation, Mr. Lott has made the first order of business a vote on an amendment he knows Democrats do not support. It would limit the ability of labor unions to raise and spend money on elections. If the amendment is approved, the overall bill will die.

All 45 Democrats are prepared to vote against Mr. Lott's amendment, so just five Republicans are needed to defeat it. Senator John McCain of Arizona, a conservative who would otherwise support the Lott amendment, will vote against it because he knows it will strangle reform. Fred Thompson of Tennessee, Susan Collins of Maine and Arlen Specter of Pennsylvania, all supporters of McCain-Feingold, seem likely to join Mr. Cain.

Senator Snowe has sponsored campaign finance reform legislation in the past and Maine, her home state, last year overwhelmingly approved a referendum that established public financing of campaigns and limits on contributions and candidate expenditures. She would betray her own record and her state if she supported Mr. Lott's effort to torpedo the McCain-Feingold bill.

Since entering the Senate in 1989, Mr. Jeffords has been among the most articulate backers of campaign finance reform. In 1992, he voted to override a veto by President

Bush of legislation imposing spending and contribution limits. Senator Chafee has also consistently favored reform over the years.

Another swing vote this week ought to come from Alfonse D'Amato of New York. Mr. D'Amato is up for re-election next year and is counting on labor support. In the past he has opposed the kind of labor fund-raising curbs now pushed by Mr. Lott. He was even quoted recently as saying he favored a ban on unlimited donations to campaigns. Mr. D'Amato could enhance his standing among moderate Republicans and independents by rallying behind the McCain-Feingold bill.

If Mr. Lott prevails, supporters of campaign reform must not give up. Senator McCain has promised to attach his bill to every piece of legislation before the Senate in the coming weeks. That strategy worked last year for raising the minimum wage. After a year of scandal and abuse, there is no greater priority for Congress than removing the stain of corruption from American politics. The public's desire for reform demands nothing less. If Senators Snowe, Jeffords and Chafee would vote on principle rather than blindly following Mr. Lott, the Senate could approve reform this week.

Mr. FEINGOLD. Mr. President, that editorial identifies clearly the belief of most Americans that the purpose of this amendment is not necessarily to simply resolve this issue, although I am sure Members on the other side of the aisle, many of them, feel strongly about it, but it is to kill the McCain-Feingold bill.

Mr. President, I also ask unanimous consent that an editorial from the USA Today, dated October 6, 1997, entitled ''Squabble over union dues a pretext to stop reform'' be printed in the RECORD.

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

SQUABBLE OVER UNION DUES A PRETEXT TO STOP REFORM

Our View—As in the past, those in power are trying to kill campaign-finance reform without taking the rap.

For 20 years, Congress has mounted pieties about cleaning up the swamp of special-interest money in politics, while making quite sure nothing gets done about it.

Year after year, stalling, stalemate and deception have been weapons of choice for those who have mastered the system to get elected and have little interest in change. This week, masked in a contrived debate over union dues, it may happen again.

After finally agreeing to debate campaign-finance reform, Senate Majority Leader Trent Lott has made the first order of business his own amendment requiring that union members give written permission before their dues can be used for political purposes.

Sounds noble, but it's a phony. The campaign-reform bill already includes provisions effectively barring union treasuries from making political contributions.

It closes the so-called ''soft money'' loophole which has allowed massive, unregulated contributions to parties by both unions and business interests.

It brings ''independent expenditure'' and ''issue advocacy'' ads that target candidates under the same regulations as campaign contributions. That makes them a no-no for both unions and business.

Limited contributions from union political actual committees would remain legal, but PACs already must obtain sign-offs from contributors. Further, union members unhappy with the use of their dues already have a right to quit the union.

But the amendment is a useful vehicle for Lott and fellow Republicans to posture for the favor of employers whose contribution they seek—and to make retaliatory mischief for the unions, which spend $35 million attacking Republicans last year. And while they moan about it, the debate gives Democratic opponents a chance to preen as friends of the union leaders.

Unfortunately, the amendment also carries the risk of fracturing the fragile coalition pushing for much-needed change. Lott has as good as said that is its real purpose.

It's an old story. In 1990, the House and Senate actually passed somewhat similar campaign-reform bills, but the conferees appointed to iron out the differences never got around to meeting. In 1994, a slightly different scenario brought a similar result.

In 1988, a reform bill was killed by a filibuster. In 1992, a bill passed but was vetoed; the votes to override weren't there. Repeatedly, representatives and senators who want to get on record as reformers have been able to do so—but with little risk of change actually becoming law.

Now, despite a $260 million flood of unregulated campaign contributions in 1995-96, despite $3 million in illegal or questionable contributions, despite an unseemly money chase by the president and vice president that has prompted Justice Department and congressional investigations, reform is again at risk of being sidetracked.

Another modest effort to get at the mess of money in politics would be dead, with few fingerprints at the scene of the crime. Just stalemate and deception as usual.

Mr. FEINGOLD. The article, of course, lays out the arguments about the issue of union dues. In fact, as is the practice of USA Today, they give an opportunity to the majority leader to respond within the article. But the subheadline sort of says it all. ''As in the past, those in power are trying to kill campaign-finance reform without taking the rap.''

Mr. President, at this time I ask unanimous consent to have printed in the RECORD an article from the Washington Post by David S. Broder entitled ''Campaign Finance: A 'Poison Pill'* * *.''

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

[From the Washington Post, Oct. 5, 1997]

CAMPAIGN FINANCE: A ''POISON PILL''. . .

(By David S. Broder)

From Capitol Hill to California, conservatives claim to have found a new weapon for their arsenal—a device to disarm labor unions and put Democrats on the defensive. But it is a weapon that can produce a dangerous backlash.

The devicde is wonderfully simple: a legal requirement that workers give written permission before unions can use their dues for political purposes.

In Washington, Senate Majority Leader Trent Lott (R-Miss.) this week will try to attach such an amendment to the pending campaign finance reform bill. He calls its approval ''the price of admission'' to every other aspect of the debate Democrats call it a ''poison pill'' and say if it passes, they will filibuster to protect their union allies—which would allow Lott to blame them for sinking the overall reform package that he despises.

In California, where I was reporting last week, Republican Gov. Pete Wilson announced that he will lead an effort for a 1998 ballot initiative to enact a similar requirement. At the Republican state convention in Anaheim, Wilson, drew a standing ovation by declaring that ''union members shouldn't be forced to have their pockets picked for candidates or causes they don't support.''

This ''payroll protection'' drive, as proponents call it, is the handiwork of J. Patrick Rooney, an Indianapolis insurance tycoon who previously put millions into making medical savings accounts and school vouchers part of the national Republican agenda.

Rooney told me that, through the Evergreen Freedom Foundation in Seattle he is financing lawsuits by teachers against the Washington Education Association for allegedly violating a 1992 state initiative that is the model for the Lott and Wilson proposals.

The California initiative ''was going to stall out for lack of money,'' Rooney told me, ''so I got involved,'' and became chairman of a signature drive that seems likely to put the issue on next June's ballot. But that is not the end of it, Rooney said he and Grover Norquist, another conservative activist, have enlisted Wilson to take the proposal to next month's meeting of all Republican governors and urge them to do the same thing in their states. A parallel bill has attracted more than 160 co-sponsors in the House of Representatives.

Polls show the idea of letting union members control how their dues are spent is popular with voters. As a device for limiting labor's voice, it is devastatingly effective. ''It has had a dramatic, negative impact on us,'' by drying up funds and bringing on a lawsuit by the state attorney general, Trevor Neilsen, spokesman for the Washington teachers' union, told me. At the state employees' union, officials have reported that authorizations for payroll deductions for its political operations had been signed by only 82 of its 2,500 members.

In 1988, the Supreme Court ruled in *Teamsters* v. *Beck* that workers in a unionized company must be allowed the option of reclaiming the portion of their dues used for political purposes. But the *Beck* decision has not been enforced. Most employers are reluctant to risk union trouble by encouraging dissidents. In 1992, President Bush, responding to conservative pressure, issued an executive order requiring government contractors to inform employees of their *Beck* case rights. But President Clinton rescinded it on taking office, as a boon to unions and because, a White House official said, ''he thought it was one-sided.

Sens. John McCain and Russ Feingold, sponsors of the main Senate campaign finance bill, have included a codification of the *Beck* decision in their measure. But Lott and Wilson and Rooney would go much further by requiring written permission from workers each year for political use of their dues. Feingold and other opponents say that is unfair, noting that it would leave corporations free to continue making soft money political contributions without permission of stockholders who might hold opposing views. And the pending initiatives do not affect hundreds of other mass-membership organizations such as the National Rifle Association and the American Association of Retired Persons, which are also hip-deep in politics.

Whether this is a political masterstroke for Republicans remains to be seen. In 1958, conservatives promoted right-to-work initiatives, barring union shop contracts, in six states. They lost everywhere but in Kansas. In California and Ohio, the two biggest targets, labor's mobilization fueled Democratic victories that devastated the GOP.

California unions are threatening to retaliate against the Rooney-Wilson initiative by

placing on the ballot a measure that would ''sunset'' every existing corporate tax break not approved by two-thirds vote of the people and redistribute the estimated $8 billion to $12 billion a year of revenue in $1,000-a-person tax rebates.

Conservatives may learn that if you play with fire, you can be burned.

Mr. FEINGOLD. Mr. President, the Senator from Kentucky is fond of quoting Mr. Broder, a leading columnist and expert on these kinds of issues in the country. But he lays out pretty clearly the fact that this is not simply another piece of legislation that happens to come up as the first and potentially only amendment on the campaign finance reform bill. He clearly lays out some of the political and other considerations that are involved in bringing up such a poison pill.

Mr. President, I ask unanimous consent that an editorial dated October 1, 1997, from the New York Times entitled ''Trent Lott's Poison Pill,'' be printed in the RECORD.

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

TRENT LOTT'S POISON PILL

Trent Lott, as expected, has come up with a perverse stratagem to kill campaign finance reform this year. The Senate majority leader would add a provision to the McCain-Feingold bill requiring unions to get approval from workers before using their dues or fees for political purposes. The idea might deserve consideration another day, but Mr. Lott's purpose today is to scuttle the bill by making it unacceptable to Democrats.

After months of disclosures about excesses in both parties, all 45 Senate Democrats have joined 4 Republicans to support the McCain-Feingold legislation, which would prohibit unlimited donations to the parties by wealthy individuals, labor unions and corporations. These contributions were at the heart of the access-buying scandals of the Clinton campaign, and they figure in the influence of money from tobacco and other industries on Capitol Hill. Mr. Lott knows there are nearly enough senators to approve the bill, so he wants a poison pill to repel Democrats and shatter its bipartisan support.

Only one additional Republican would be needed to join other Republican backers of reform to block Mr. Lott's plan. But it will not be easy for Republicans to resist his seductive amendment. Even two reformers, Senators John McCain of Arizona and Susan Collins of Maine, support the principle behind the amendment, though they have said they oppose the amendment itself as a threat to reform at this crucial point. Many other Republicans would like to vote for something that would punish labor for its recent campaign spending, particularly the $35 million that paid for attack ads directed at Republican candidates in 30 Congressional races last year.

The McCain-Feingold bill would codify a nine-year-old ruling of the Supreme Court holding that non-union members who pay union dues or fees as a condition of employment are entitled to demand that the fees not be used for political purposes. If Republicans want to vote on a broader provision giving that right to all union members, they should accept the Democratic offer to consider it on another day without the threat of a filibuster. It would only be fair to consider a similar curb requiring corporations, which outspent unions nearly 9 to 1 on politics last year, to get approval from shareholders when making political expenditures.

If the four Republican supporters of McCain-Feingold stand firm, only one other Republican will be needed to defeat Mr. Lott's disingenuous amendment. Senator Alfonse D'Amato of New York, no particular champion of campaign reform in the past, is in for a tough re-election fight next year and has always had the backing of at least some labor unions. Senator Jim Jeffords of Vermont, a long-time champion of campaign reform should see the wisdom of standing up now. Senator Olympia Snowe of Maine, where campaign finance reform has been approved locally, can join with Senator Collins to save the reform legislation.

Other senators who have shown independence on this issue in the past, like John Chafee of Rhode Island, should also come to the rescue. Down the road, still more Republicans will be needed to save the bill, because it will take 60 votes to thwart a promised filibuster. For now, they should realize that if they let Mr. Lott kill the bill by subterfuge, their criticism of Democratic excesses will be mere opportunism and hollow rhetoric.

Mr. FEINGOLD. Mr. President, this again is another editorial indicating that people around this country know very well that what is going on here is not an opportunity to freely and fully debate and amend this bill but an attempt to narrow it down to one issue—and I am not saying it is not an important issue—but to narrow this whole issue down to one issue having to do with union dues, which could be easily resolved.

If everybody took a look at the McCain-Feingold provision, a provision that codified the Beck decision, a provision we placed in the bill after much negotiation, it says if you are a nonunion member and you do not want your dues to go to a political campaign, we can refund that. We codified what the Supreme Court said in that.

Our concern is that the majority leader's amendment goes well beyond that, knowing full well it would make it impossible for a real bipartisan bill to come out of this body.

Mr. President, if this were a proposal offered by a Democrat, and it had as its central premise the idea that the Federal Government should be regulating the internal functions of a voluntary organization, such as the Christian Coalition or the National Rifle Association, you can bet those on the other side would be beside themselves.

Mr. President, that is what a labor union is. In fact, if you read the Beck decision, as I did again today just to be sure, that whole decision is about the fact that the Taft-Hartley Act said they were not going to permit any more closed shops in America. So if you do not want to be a member of a union, you do not have to be but there would still be union shops. And that is because under that legislation, under that law, a union is a voluntary organization.

If members of a labor union do not approve of the collective bargaining activities or the political activities or any other activities of the union, they have the right to use the democratic process to change those activities. They can run for office within the union. They can build coalitions and seek leadership posts. And of course, Mr. President—and this is a point that has been glossed over far too often in debate—if the individual wants absolutely nothing to do with the union, he or she has the option of quitting or not joining the union in the first place.

Union membership is not mandatory. It is voluntary. But as the Democratic leader has pointed out, this provision, this amendment is not about reform. I am afraid it is a little more about the last election.

The sponsors of this proposal have come to the conclusion that all of the problems in our campaign system can be traced to the political activities of just labor unions. Who believes that? Clearly, labor unions are participants, but they are only one kind of participant and by no means the greatest participant when it comes to the kind of money that has been spent in recent elections.

The Senator from Arizona and I have come to a different conclusion. I know the Senator from Arizona believes passionately that the spending by organized labor has to be controlled with regard to elections, but he and I have come to the conclusion that to simply say that unions alone are the problem does not really measure the problem.

We have concluded we should craft a reform proposal that affects both parties—that affects both parties—in a fair and equal manner. We have concluded that corporate America is just as much to blame for our campaign system as labor unions or anyone else. That is the point here. There is plenty of blame to go around for everybody. Democrats are responsible, Republicans are responsible, corporations are responsible, labor unions are responsible, groups that are trying to divide us in this country are responsible. Everybody can and should accept part of the blame for this disastrous system.

What we are trying to do, what the Senator from Arizona and I are trying to do, is to get this nonsense to come to an end. Instead, we are being told by the supporters of the Lott amendment, apparently that when the Ford Motor Co. takes the money of its shareholders and makes a $500,000 soft money contribution to a political party, that is perfectly fine; but if the United Auto Workers makes a similar soft money contribution to a political party, that is not OK. That has to be what the authors of this amendment are suggesting because they are not suggesting that we treat them in the same way.

Of course, the other problem with the amendment is that it appears to be offered under the mistaken assumption that the underlying McCain-Feingold proposal would have no impact on labor unions. Mr. President, that is just false. The Senator from Arizona and I have worked hard to make sure that in a fair manner the activities of unions and other organizations that

seem to distort the political process are affected.

First of all, the bill bans all union and corporate soft money contributions to the parties. We ban it across the board. That includes all union soft money. But it also includes if it is done by the Ford Motor Co. In short, Mr. President, under McCain-Feingold it will be illegal—illegal—for a labor union to use the dues of its members or nonmembers—members or nonmembers—to make a soft money contribution to political parties.

So what is the problem if the dues can't be used for soft money, I say to my colleagues, whether union member or nonunion member? Where is the evil that we are not correcting?

Second, the McCain-Feingold bill provides that no organization, whether it is a labor union, a corporation or any other organization, can use unregulated soft money to fund those phony attack ads against candidates that are disguised as so-called issue ads. That is because of our concern that if we only ban soft money, all the money will flow into phony issue ads and you will end up with the same situation. That is a very significant restriction on the way in which unions participated in the last election, probably even more significant in terms of dollars than the soft money restrictions.

Again, it would be illegal, Mr. President, illegal under McCain-Feingold for a union to use the dues of its members or nonmembers, either one, to run those political ads attacking or supporting candidates that are not raised using hard money and properly disclosed during the 60-day period.

Mr. President, the third provision in this bill is one that is actually aimed only at labor unions. The other two really take care of the problem. The issue of phony issue ads and soft money are the big-ticket items with regard to union or corporate spending, but the third provision is aimed directly only at labor unions. Mr. President, it does exactly what the folks on the other side of the aisle have been calling for for years. It codifies the decision of the U.S. Supreme Court in the Beck decision.

This provision requires unions to notify nonunion members that those individuals are entitled to have their agency fees reduced by the amount the union spends on political activities. Mr. President, as you can see, the unions have every right to participate in our political system, and are taking a number of hits already under this bill. Our point is they should not be singled out as the only ones to be limited in this regard. Unfortunately, that is not enough for the sponsors of this proposal. I fear they want to cut unions out of our political process completely.

Some Senators have said they do not believe anyone in America should have to contribute involuntarily, Mr. President, to any political campaign. But what would happen if you applied that principle to corporations and other organizations, as well? Say I am living in Eau Claire, WI, and I own several shares of stock in AT&T. I assume that money I have invested in that corporation was being used to grow that company and improve its market share. That is what I would hope the company would do to protect my dollar, to do their fiduciary duty to their stockholders. Would I be surprised to learn my money is being used to finance a $500,000 soft money contribution to a national political party? Sure I would. Would I be informed of that contribution? Would AT&T have to get my permission before they use my money for that purpose under the Lott amendment? Absolutely not. Unions have to do it but AT&T doesn't have to do it. So much for fairness under this amendment.

Another telling indicator of the true purpose of this proposal, I am afraid, is the timing. If these union activities are such an affront to our democratic system, I want to repeat, why wasn't S. 9, a bill introduced on the first week of our Congress, brought to the floor before this point? The senior Senator from Oklahoma introduced this bill on this matter on the very first day of the session back in January. It was one of the highest priorities of the Republican leadership. Why hasn't it been marked up, even in committee? The answer is clear. It is serving a different function. Its function here is to fill up the tree, as we say, and prevent other amendments and perhaps to kill the bill. Mr. President, I am afraid this is not about the role of labor unions. It is too much about partisanship.

The majority leader stated a week ago Friday his intention was to create a situation where the Democrats would be forced to filibuster campaign finance reform. Those on the other side know that the passage of this amendment will trigger such opposition. I am disappointed that some have concluded that the purpose of this debate should be to see which party can get the other one to kill campaign finance reform. The Senator from Arizona and I have been working hard on ensuring that this proposal is fair to both parties. We have made compromises. We have attempted to craft a bill that would give both parties credit, together, for passing campaign finance reform.

Make no mistake, whether it was truly intended to do this or not, the proposal before the Senate today in the form of the Lott amendment would kill campaign finance reform. The vote on this proposal would be the vote to determine if we pass meaningful campaign finance reform this year or not. We know the vote will be close. We know it will come down to one or two Senators. So I hope, regardless of every Senator's personal feelings about how much we should do with regard to unions specifically, my colleagues will recognize this is not a vote about restricting labor unions but a vote to kill campaign finance reform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I rise today in support of the Lott amendment and in opposition to the McCain-Feingold bill. It is not without some reservation that I take that position. I have the greatest esteem and respect for the Senator from Wisconsin and the Senator from Arizona. I know their motives in all of this are good and honorable.

I just happen to come from a State, however, where we enacted a bill not dissimilar—not identical, but not dissimilar—to the McCain-Feingold bill. My State legislative process went through an entire cycle with Byzantine kinds of rules applied before our State supreme court, a very liberal supreme court, threw it all out as unconstitutional, as violating the right of freedom of speech.

Now, Oregon is a State that is known for good clean government, good clean many things. We have in our State no allegations of corruption, or frankly they are very infrequent. We have voter turnout that often exceeds 80 percent. We have a very healthy democratic system in my State.

Notwithstanding that, in 1994 there was an initiative that came to our ballot, very similar to McCain-Feingold, that applied to State legislative and gubernatorial races. I will admit that it passed by a large margin. I said to myself, why would it pass by a big margin if we have a good thing going here, frankly, good government in our State? I think it is simply because people don't like to be inconvenienced by democracy sometimes, and I know how they feel. I don't like to see negative ads and I don't like to be imposed upon sometimes, but frankly, democracy sometimes is uncomfortable. It is sometimes messy.

On first blush it appeared to be a very good bill. However, when it came to its enactment, our secretary of state tried to explain it to all the legislative candidates. Everyone was wondering how you can run for public office. There were limits placed upon what a candidate could raise. There were limits placed upon what a citizen could contribute of $100. And the net effect of it all is that a State legislative office seeker could raise about $20,000 to $30,000, and that would buy maybe a couple cracks at communicating with his constituents.

The interest in the process didn't leave. It just simply vacated the open air of democracy and went back into the smoke-filled room. I am talking about organized labor and I am talking about big business. They, then, ran campaigns about candidates in the most slanderous and scurrilous of ways. For those campaigns, no one was accountable, no one was responsible. And in the end, I believe our democracy in the 98th cycle was dumbed down and disserved. Importantly, our

Supreme Court, as I mentioned, declared it all unconstitutional. They did so correctly.

Now, when I ran for the U.S. Senate I ran in a special election against my friend, now my colleague, my former competitor, RON WYDEN, a Member of this Chamber. He and I became the focus of the entire country in contesting for the seat formally held by Bob Packwood. Let me tell you what happened. Both of us were running hard-hitting campaigns. Then we became the victims, and I believe myself especially, by what I term ''drive-by shooting'' on our democratic process. I had, in the course of several weeks time, $1 million of the most scurrilous kinds of ads run against me and I hated what they said.

I remember my little boy sitting watching television when I happened to be there and seeing one of the ads that they ran, and he turned back to me with wide eyes and tears in his eyes and he said, ''That was a very bad ad, Dad,'' and it was.

You might think because of that I would want to shut down the ability of the unions to participate I don't want to do that, but I don't want to shut down the right of people like me and you to respond to these kinds of attacks. That is what these kinds of limits will do.

I truly believe that banning soft money is unconstitutional for many of the same reasons our State supreme court found it unconstitutional. I believe the U.S. Supreme Court would find such attempts here to be unconstitutional. Limit it—you may be able to do. But if you limit it, and I may even be able to vote for some form of limitation as we apply limits on contributions directly to candidates, perhaps there can be some constitutional limit on soft money. But if you do that, then there should be no more compulsory element left in this process.

Frankly, the huge loophole is this loophole provided by compulsory union dues. Unless the Lott amendment passes, I can't go any farther, because I saw what happened. It happened to me, and it happened to Republicans and Democrats alike in the State of Oregon. They had campaigns run about them and they were grossly unfair. I don't want to support campaign finance reform that will dumb down our democracy in that way. Indeed, I believe some of the best things that we could do are to require voluntarism in this process and then to put some reasonable spending limits or caps on soft money contributions and then to require candidates to disclose on a daily basis the source of their contributions 3 months out from a campaign so that the public knows if one candidate is getting too much from business or another candidate is getting too much from labor. Then they can decide whether that is significant to them when they cast their sacred vote.

In my view, the cure for bad democracy is not less of it but more of it and more open. I don't see that we provide for that in the McCain-Feingold bill. I see many things resulting, as they did in Oregon, which left my State in one election cycle, I believe, poorer for it.

So I plead with my colleague, vote for the Lott amendment, and then let's talk seriously about some things that we can do to make this whole process fair for both sides.

I yield the floor.

Mr. BRYAN. Mr. President, I rise today in strong support of the bipartisan campaign finance reform legislation offered by my colleagues, Senator FEINGOLD and Senator MCCAIN. I am pleased to join with all 44 of my Democratic colleagues, as well as Senators MCCAIN, THOMPSON, COLLINS, and SPECTER. I hope during the course of this debate others will join us in this first step in campaign finance reform that we so desperately need.

Campaign finance reform is an issue that deserves our full consideration and one that must be voted on this year, whatever time it takes. Mr. President, I would like to, at the outset, commend Senators FEINGOLD and MCCAIN for their thoughtful and careful bipartisan approach in crafting a piece of campaign finance reform that, although I believe it to be modest—more modest than I would have preferred—nevertheless marks a beginning.

The integrity of our political system is threatened by the tremendous amounts of money required to run for public office. The Members in this Chamber know it, political scholars know it, and the American people know it.

Mr. President, I first sought elective public office in 1968 as a candidate for my State legislature. Then and now, some money was required in order to put together a campaign, to prepare the necessary kinds of materials, and to make sure the constituents that one sought to persuade knew what your message was. Over the intervening years, I have had occasion to run for State elective office on four different occasions and have had an opportunity to run for the U.S. Senate twice now. There is no question, from any perspective, any point of view, that the amount of money that is involved today in the American political system far exceeds, by any measure, any growth that may be attributed to inflation or any other reasonable consequence, including the growth of the population in my own State and generally across the country.

There has been, during that intervening nearly 30 years since the time I have been involved in the elective political system, a marked decline in voter participation in this system. This is an alarming trend. It does not bode well for Democrats or Republicans or Independents, nor does it bode well for the future of democratic institutions.

Mr. President, I believe that there is an absolute correlation between declining voter interest and the ever larger sums of money being raised to fuel the money chase. Nearly $2.7 billion was spent on campaigns in the last election cycle. Every year the expense of campaigning climbs higher and higher, and the pressure to seek financial support for those who seek public office intensifies accordingly.

I know that some contend there is not enough money being spent in the American political system. I respectfully disagree with that opinion, and I believe that the great majority of the American public disagrees as well.

A full 92 percent of Americans believe that too much money is spent on campaigns. The Wall Street Journal poll of December of last year reflects that number. Indeed, money has become a dominant factor in American politics as to who runs and who wins. As a consequence, our political system is on a downward spiral that will continue to spin out of control unless we have the courage to take the steps necessary to stop it. There is a sense of irony, Mr. President, that the institution that benefits the most from the current system is the only one that can reform it. But we must put the interest of country ahead of our own political success and ahead of party interests.

The revised McCain-Feingold bill is, as I have said, a very modest proposal; nevertheless, it is a first step in reforming a campaign financing system that cries out for change. It just might begin to restore the people's trust in the ability of their elected officials to stop the hemorrhaging of the political system and to allow the healing process to begin. As I said, I would have preferred a more comprehensive approach, but that is not to be. However, this is an effort which may have a chance to attract more support and thus has a chance of becoming law. Senators FEINGOLD and MCCAIN have carefully reshaped their original bill as a compromise with the hope of attracting additional Republican votes, which will be needed for its passage.

First, the McCain-Feingold legislation bans the use of so-called soft money by the national political parties from corporations, labor unions, and wealthy individuals. State parties would be banned from spending soft money on activities related to Federal elections.

The creative expanded uses by both political parties of soft money has significantly increased the demand for campaign contributions. This past 1996 election year was the costliest ever in our Nation's history. Both parties raised overall $881 million for the election—a 73 percent increase over the amount of the preceding 4 years when the parties raised $508 million. In soft money alone, Democrat and Republican parties raised $263.5 million. That is nearly three times the amount that was raised in the preceding 4-year cycle. From 1988 to 1996, the amount of soft money raised by the parties has increased by nearly 600 percent.

What needs to be done? The American people have been asked what they

think needs to be done to reform the political process in this country. From the NBC/Wall Street Journal survey of June 1997 when that question was propounded, the American public is not confused. Perhaps some Members of Congress are confused, but the American public is not confused.

Reduce the amount that candidates can accept from political action committees, impose overall spending limits on campaigns, eliminate large contributions to political parties, and provide some financial incentives to candidates.

Sixty-two percent of the American people believe that is what ought to be done.

Among the other options that were discussed were:

Remove all limits on contributions so people can give as much money as they want, but require more timely disclosure of these donations.

Some of our colleagues believe that we ought to be spending more money in running for public office. The American public disagrees overwhelmingly. Only 18 percent favor the removal of limits on contributions.

Leave the current campaign financing system intact.

Only 14 percent favor that course of action.

Now, I understand that the debate and the argument is that campaign spending is a form of free speech and therefore cannot be regulated in any form. The American people, when asked that question, conclude that—18 percent of them—as a form of free speech, that cannot be regulated; and 74 percent believe campaign spending has nothing to do with free speech and that spending limits should be imposed. That data is also from the previously cited 1997 NBC News/Wall Street Journal survey.

Mr. President, I understand, having had occasion to practice law and having served as the attorney general of my State, that the constitutionality of an issue cannot be determined simply by a majority of public opinion at any one time. I certainly do not argue that to be the case because constitutional principles rise to a higher level than what a majority at any given point in time might favor. Nevertheless, during the course of debate on this and other legislation, critics of proposed legislation frequently invoke the contention that the legislation as drafted is unconstitutional. That debate has occurred in the context of this bill. The able and distinguished Senator from Kentucky has cited a number of constitutional scholars who weighed in in favor of the proposition that this legislation, in its attempt to limit soft money and other restrictions, is unconstitutional. On the other side of the constitutional divide, an equal body of distinguished scholars have weighed in on behalf of the proposition advocated by Senators FEINGOLD and MCCAIN and have asserted that these provisions are indeed constitutional.

My point in mentioning this is that we in this Chamber are not going to be able to decide that issue. We will not be able to resolve it. That is not our function. The function of the legislative branch of the two Houses of Congress is to enact legislation and, indeed, if the legislation that we have enacted is in any way constitutionally flawed, the courts—ultimately the Supreme Court of the United States—will make that decision, and the courts have done so when they believe that we have overstepped the constitutional limits in imposing restrictions on our campaign financing system.

Mr. President, we ought to allow the courts to make that determination and to move this legislation forward so that those who seek to challenge it have an opportunity to do so in the only meaningful forum in which this issue can be resolved on a constitutional basis, and that is in the judicial arena.

Mr. President, unless we have the good sense to change the rules of the game, candidates and their political parties will continue to pursue the money chase and the amount of money involved in future campaigns will continue to grow rapidly. I frequently tell the constituents in my own State that this fatally flawed campaign system that is involved has locked good people into a bad system in which, almost from the moment of our election, it is impressed upon us that the next campaign, if we choose to run for reelection, will be more costly than the previous one, and our focus almost immediately is upon how much money will I have to raise each week that I serve, each month that I serve, if I choose to seek reelection.

The amount of money has increased, as I have indicated, not just arithmetically based upon factors of inflation and the growth that is occurring in the populations of our respective States, but they have grown exponentially, and it might constitute the gravest threat to the integrity of the political system in America.

This bill proposed by Senators MCCAIN and FEINGOLD would do several things. In addition to the ban on soft money, the bill places a restriction on issue ads by independent special interests. If a Federal candidate's name is mentioned in any broadcast television or radio communication within 60 days of an election, for example, then this candidate-related expenditure will be subject to Federal election law and must be disclosed and financed with so-called hard dollars.

The Supreme Court has ruled that only communications that contain express advocacy of candidates are subject to Federal disclosure requirements and restrictions. This proposal would extend to include issue ads running 60 days prior to the election in which the individual candidate's name is mentioned in those ads.

Third, the legislation increases disclosure requirements and requires the Federal Election Commission to make campaign finance records available on the Internet within 24 hours of their filing. It requires political ads to carry a disclaimer identifying who is responsible for the content of the ad. Simply put, disclosure requirements would bring more accountability and responsibility to our political process.

Fourth, the bill prohibits political parties from making coordinated expenditures on behalf of Senate candidates who do not agree to limit their personal spending to $50,000 per election. This provision, in my opinion, will help to level the playing field between wealthy candidates and those candidates who do not have deep financial pockets.

Fifth, this bipartisan legislation prohibits anyone who is not a U.S. citizen from making financial contributions.

Finally, and what has become a central focus of this issue in recent days, McCain-Feingold requires that labor unions notify nonunion members that they are entitled to have their agency fees reduced by an amount equal to the portion of the fees used for political purposes if they file an objection to the use of those fees—a so called opt-out system in which the member can notify the union that he or she does not want any union dues used to finance any part of the political campaign contribution system. Fair enough, it seems.

The Supreme Court's 1988 Beck decision explicitly states that nonunion members in union shops may choose to pay reduced agency fees, and the McCain-Feingold bill simply codifies the Beck decision.

(Ms. COLLINS assumed the chair.)

Mr. BRYAN. Madam President, we hear that opponents of McCain-Feingold have argued for the need to codify the Beck decision. Senators FEINGOLD and MCCAIN have done just that by including a provision that expressly codifies the Supreme Court decision.

Now, however, there is an effort to seek a new amendment, a new provision. The pending amendment is clever. It indeed may rise to the level of being ingenious. But its sole purpose and function is to kill the cause of campaign finance reform. The majority leader himself was quoted in the Wall Street Journal in September this past month as saying:

I set it up [referring to the amendment] so they will be filibustering me.

This is a political tactic that is designed to thwart, to prevent campaign finance reform. It clearly indicates that this is not a serious debate about reforming our campaign laws.

Perhaps the Washington Post editorial of October 1, 1997, sets the record in the proper context. And I quote:

Senate Majority Leader Trent Lott, having magnanimously allowed campaign finance reform legislation to come to the floor, now proposes to kill it with an amendment affecting the use of labor union dues for political purposes.

I regret that the amendment in that form was offered. I hope that some

mechanism might be developed to permit us to pursue campaign finance reform and offer other amendments without this particular provision which has been variously characterized as a ''killer'' amendment or a ''poison pill'' amendment because I believe that its purpose is to effectively prevent campaign finance reform.

Mark Twain once observed that ''Everyone complains about the weather, but nobody does anything about it.'' The same could be said about the way we finance our campaigns for elective office.

If there ever was a time to reform our political system, the time is now. Neither political party has benefited in terms of public opinion from our present campaign finance system. Overwhelmingly, 92 percent of the American people believe that our system desperately needs reform and the time for us to do it is now. If we let this opportunity slip away, I fear that real campaign finance reform may not be enacted.

We need to ban soft money, and to stop the onslaught of negative ad attacks on political candidates.

We need to level the playing field, and give challengers who want to run for Congress and to prove that their ideas have merit and represent a broad base of public support the opportunity to do so.

Madam President, we need to restore public confidence in the American political system. And I believe that the McCain-Feingold revised measure represents our best hope for making these significant and needed changes prior to the next election.

I yield the floor.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Madam President, I am very pleased that the Senate has finally taken up the discussion of the McCain-Feingold campaign reform legislation.

I very much appreciate the efforts of Senator DASCHLE in pushing this process forward. His role in demonstrating that all 45 Senate Democrats support the revised version of McCain-Feingold I think was essential. And I hope that it becomes clear to all Americans that with the one additional Republican vote necessary that we will in fact achieve historic reform of the campaign funding system in our Nation.

But I also want to applaud Senators MCCAIN and FEINGOLD for what has been a tireless effort on their behalf in forging this bipartisan compromise legislation. We have seen many good bills fall by the wayside over the years. But this seems to be one of the best opportunities in recent years to actually achieve real reform.

That said, I have to express disappointment on my part that this legislation has been stripped down to a more modest level from its original version. In particular, I am disappointed that the system no longer creates a system of voluntary spending limits in the way that the original bill did. I believe that kind of limitation, that kind of restraint that will slow the nuclear arms race of campaign fundraising and spending in the long run, will in fact be essential.

Madam President, I have been a longtime supporter of campaign reform legislation. My experiences over these past 2 years have made it even more apparent to me that passage of this campaign finance reform legislation is absolutely critical to the health of our democracy.

There are those who would suggest that any restraint on spending of any kind is somehow a dumbing down of our democracy when in fact the reality is just the opposite. The quality of our democracy, the integrity of our democracy, is not a function of how much money we spend. It is a function of how well the debate is conducted.

There are those who have legitimate philosophical problems. There are those who simply see the status quo as being supportive of their own current election to the body, and to the House of Representatives. But I think that there are a great many of us here—and I believe a majority, if the opportunity were afforded to us to actually cast a vote on the merits of campaign finance reform—who would actually support this sweeping legislation.

I personally have just been through one of the longest and, frankly, one of the most expensive per voter Senate campaigns in the history of America. My opponent and I spent a total of $24 for every vote cast. And, if one were to include the money spent by the national party organizations and the various independent groups, total spending would rise to around $29 per vote. All of this money produced one of the longest political campaigns the Nation has ever seen. My opponent began running campaign commercials 17 months from the election, then 13 months before the election—an attack ad campaign, one that I had to respond to, although I was not yet even formally an announced candidate in the race.

That is the kind of campaign negative—vitriolic, long-winded, longstanding—that did nothing to improve the confidence of the American public in our political process, and did nothing to restore confidence that in fact the system reflects their values and their ideals and their values. It was simply a system awash in too much money.

Put in perspective, in South Dakota, our small State, with statewide television advertising relatively inexpensive, for a race like this, if one were run in a State like California at $29 per vote cast, the cost would be staggering. The equivalent cost in the State of California would be a $250 million Senate campaign.

Some argue that the money is good for democracy, that the voters will be more educated by this kind of enormous financial overkill.

Last week, the Washington Post quoted the House Speaker saying that ''If you have enough resources on both sides, you can actually communicate rationally.'' In his view, the more money spent by candidates the better.

But I can tell you with utmost certainty, given my own experience, that these arguments are utterly wrong. Voters in fact over recent years have been turned off by campaigns of this duration and of this negative quality because of unending commercials.

As I speak to South Dakotans in every corner of my State, there is a fervent wish that we could return to the days when campaigning began with great seriousness around Labor Day of the election year—not Labor Day of the year prior.

The appearance of this amount of money, the appearance of the raising of this amount of money, is one that gives rise to attitudes that the entire system is corrupt, the entire system is unresponsive, and the American public, that there is too much time spent raising the money.

Madam President, how long is it going to be that Members of this body and Members of the other body vacate their offices daily to go to their private campaign offices in the row houses and the streets off the Hill to make their fundraising phone calls, to do this ''dialing for dollars,'' as it is referred to around here, trying to raise the amount of money necessary to run one of these campaigns?

The typical U.S. Senate campaign, if it were raised in an equal level of energy throughout the 6-year term, would require the incumbent to raise $14,000 a week, every week, 52 weeks a year, for 6 years. Madam President, that is not the kind of money that can be raised casually. That is not the kind of money that can be raised with a barbecue in your backyard back home in South Dakota, or whatever State you are in. That is not the kind of money that can be raised in small increments. That requires a concerted, sophisticated, methodical effort. And it is corrupt and demeaning to the service in this body. And it is destroying the public's confidence in the quality of the deliberations that take place here, and in the kind of accountability that this body has.

As the amount of money rises, what we have seen last year in the last cycle becomes only more so in the future. The amount of money to raise to win a congressional seat has continued to rise astronomically. According to the Federal Election Commission, the typical candidate for an open seat in the House of Representatives raised nearly $600,000—close to double what was required only 4 years ago. The growth in so-called soft money has been even more explosive. Data from the 1996 elections show that the amount of soft money that was raised and spent was more than three times what was spent in 1992, and 11 times more than was spent in 1980.

It should be so fundamentally absolutely clear that something is wrong—

something is terribly wrong with our system of financing elections in this country.

Campaigns have become in many ways little more than a campaign finance arms race. And the American public has understandably become disenchanted with politics in large part because of this process.

There are people who suggested that all we need to do is to ban soft money raised by the political parties. Again, a mistake. Banning soft money without addressing the expanding role of independent groups and political campaigns would not go far enough, and it could create a whole new set of problems. We need to redefine the term ''soft money'' to include all forms of campaign spending that is presently unregulated.

During the 1996 election cycle when we experienced a flurry of campaign activity by independent organizations and congressional races, independent expenditures accounted for $19 million of spending—most of it targeted to key congressional races.

An even more pressing problem is the new phenomenon of issue advocacy advertisements. Last year's Supreme Court decision in the Colorado case opened the floodgates for this kind kind of activity.

According to a study by the Annenberg Center at the University of Pennsylvania, one-third of all campaign advertising totaling $150 million came from these so-called issue ads. Just as influential as other ads, they are political ads. They are not subject to the same fundraising regulations as in reporting requirements. Nobody knows where the money comes from. They are utterly unregulated.

The Annenberg study indicated that issue ads were the most virulently negative ads on the air. Overall, 81 percent of these ads were attack ads.

We have also seen the last expansion in the political activity by tax-exempt organizations—organizations, in effect, using taxpayer dollars to further a very political agenda on the left and on the right. And 30 tax-exempt groups are not supposed to be engaged in partisan political activity. But the reality has become very apparent to everyone who has even had a casual following of what has transpired over these last 2 years. In particular, banning soft money to political parties without addressing the growing problem of third-party groups would merely cause more money to flow into these unregulated groups.

One of my fears is, while we may limit spending that flows formally through the campaign structures of the respective candidates and their parties, that the money then as water flowing downhill washes increasingly into even more unregulated and less accountable mechanisms for running the campaigns, and the candidates will find themselves increasingly irrelevant to their own political campaigns, the political themes. And the political attacks and responses will be orchestrated and designed and organized by these so-called tax-exempt groups—groups that are, in fact, using taxpayer dollars in effect to run their partisan independent issue advocacy kinds of campaigns.

That does a disservice to the political dialog in our Nation. That does a disservice to any hope that we have that political candidates will be accountable to the public for the positions they take. The American public deserves better than that, and that is why we need campaign finance reform and that is why we need a broadened sense of soft money regulation.

It is not clear whether there are going to be any amendments allowed in the course of this debate. It is certainly my hope there will be. That is the nature of debate in this body. It is what we have done for 200 years on issues of great public significance. And yet we find a parliamentary procedure being used that may, unfortunately, stop amendments, stop debate and cause this whole exercise to come tumbling down.

But if we have an opportunity for a full, meaningful debate, involving amendments, if we are allowed to offer amendments, I have two I want to pursue. One is an amendment that would deal with the problem of candidates spending their campaign funds for personal use. This is something I think has become out of hand, as reimbursement payments to elected officials are not itemized and there are literally thousand-dollar reimbursements coming back to candidates for their personal use.

I think we need to clean this up. I think we need to take another step in the right direction to make the American public think that in fact this system is responsive to them, that campaign money is not some additional source of slush fund, not some additional source of personal financial wealth that is available to candidates.

A recent study by the Gannett News Service last year showed that many candidates have reimbursed themselves thousands upon thousands of dollars from their campaign funds with virtually no explanation of where the money has gone, what it has been used to purchase. I believe the same itemization requirements ought to be applied to candidates as are applied to other areas.

Second, I believe another matter in cleaning the system up and restoring a greater sense of integrity to the system is campaigns ought to pay the fair market value for use of private aircraft such as the corporate jets that transport Members from one corner of this continent to the other. Currently, candidates simply reimbursing the equivalent of first-class airfare, when in fact the cost of this transportation is often in the tens of thousands of dollars, and again going unrecorded, results in less accountability than I believe we should have.

We have had a historic first session of the 105th Congress as we come down now to this final month in the sense I think we have dealt responsibly with the Federal budget, the Federal budget deficit, with the design of some tax relief, in placing I think a greater emphasis on education, preserving a commitment to the environment, doing I think some positive things. But this Congress cannot be deemed a success and history will treat this Congress poorly, in my view, if we miss this opportunity now to enact meaningful, significant campaign finance reform, reform that is supported by the nonpartisan reform organizations around the Nation, one that is not designed to tilt the playing field to one political party or the other because, frankly, in past years that has happened from time to time. We need to get away from that and, in fact, to pursue this kind of significant reform that has bipartisan support, that is supported on a very broad basis by the American public and to quit making excuses to the American public about why it could not get done, no more excuses about why the money will continue to mount, no more excuses why there will not be any greater accountability than in the past, about where the money is raised and how it is spent, no more excuses about why these campaigns are taking now years and years rather than months and months to transpire, no more excuses about where the money came from and who, in fact, has their interests best being considered by our legislative bodies in Washington.

We have that opportunity now. We cannot allow this to escape from us. We have, today and tomorrow, an opportunity to cast a historic vote to get past some of the parliamentary abuses that are attempted to be used here, the poison pill parliamentary efforts, to get past that and to allow each one of us in this body to go home at the end of this session of the 105th Congress and to look our constituents in the eye and say, I voted for or I voted against campaign finance reform on the merits, up or down. Let us be permitted to cast that vote with the full breadth of debate. While I am worried that that may not in fact transpire today or tomorrow, during the remainder of this 105th Congress we have this great opportunity and it is certainly my hope we will not allow it to slip.

I yield the floor.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. I thank the Chair.

Madam President, much of the debate this past week about campaign finance reform has missed an important dynamic of the political process. The integrity of any process depends on the integrity of the individual. We recapture the trust and confidence of the American people not by passing more laws, more regulation and more Government but by taking responsibility for our own actions and the conduct for our own campaigns—personal responsibility. Will more Government control, more regulation, more law really

change our behavior and our conduct? Will more Government control make us more honest and fill us with newfound integrity? I do not think so.

Systems are corrupt because of the people. Systems are not corrupt because of the system. When we lower our expectation and we lower our standards, as we have in American politics, we lower our self-worth. We lower the system. And when we do not expect much, we do not get much. When we do not expect much from our candidates and our politicians, we will not get much. It all becomes self-fulfilling.

Now, why do we blame the system and excuse the violators? Where is the outrage over those who subvert the system and deliberately break the rules and the laws already in place? Where is the outrage over individuals who break the law and refuse to take responsibility for their own actions? Where are the voices demanding personal responsibility and personal accountability? Where are those voices? Those voices are now talking about the system.

We glide over the alleged wrongdoing of individuals, saying, well, it doesn't count, it doesn't matter—like it is beyond our control. We say that it is the system; that is the problem. The system is flawed, not the individual but the system. We say that money is evil, money is the terrible evil in our system. We excuse the alleged wrongdoing and corruption by blaming the so-called vagaries of the campaign finance system and the laws.

We dance on the pinhead of technicalities. What is allowed? What is not allowed? What is the correct shading of the law? Did the person really break the law? How must we change the rules and regulations so that this never happens again? All we need is more Government. Everybody knows that. If we have more rules, more regulation, more enforcement, more Government, then people will abide by the law.

Something is greatly amiss when we are debating the technicalities of right and wrong. There are no technicalities between right and wrong. Right is right. Wrong is wrong. There are no shades of right or degrees of wrong. The difference between right and wrong is not subject to a controlling legal authority. It is a matter of honesty. It is a matter of simply just doing the right thing. Is that difficult to grasp? Is that so difficult to this body to grasp?

We are here today debating whether or not to pass new laws based on the fact that some people broke the law, or at least allegedly broke the law. Those are laws that we already have. Those are regulations and rules on the books now. It is very clear. We already have laws prohibiting foreign contributions. We already have laws prohibiting the solicitation of campaign funds in a Government building. We already have laws that very clearly spell out the difference between so-called hard money and soft money.

I ask my colleagues one question: How will changing the rules and the laws and the regulations change behavior of those already inclined to break them? It will not. No number of new laws and new regulations will change the basic integrity of the candidate. The integrity of the system depends on the integrity of the candidate. Each candidate must take personal responsibility for his or her own actions in the conduct of their campaigns. We need to focus on individual violations of current law. We need to focus on individual conduct and behavior, individual responsibility and accountability. If each of us in public office conducted our campaigns, every aspect of our campaigns in a manner that our constituents will be proud of, not necessarily always agreeing with our positions but be proud of how we conduct ourselves and our campaigns, then we would not be engaged in this campaign finance reform debate.

People get involved and participate in a democracy because they believe in things. The idea that more people will participate in our political process if we pass more laws and regulations completely discounts the nature of free people. Politics is about people. Politics is not about Government. Politics is not about rules and regulations. Politics is about people. Politics is about people who believe in things. We will not restore the trust and confidence of the American people in elected officials and the political system by placing further restrictions, by placing further restrictions on the rights of Americans to participate in the political process.

A former Governor of Deleware and former Member of Congress, Pete DuPont, made a very compelling argument in last week's Wall Street Journal when he wrote that limits in campaigns are akin to price controls in the economy. And he said, ''All of these ideas are bad economics, bad politics and, as 40 centuries have proved, very bad public policy.''

The best way to correct the system is not to replace an old bad set of rules with a new bad set of rules. That is not reform. That is rearranging the restrictions. Too many people here in Washington confuse the two. The best thing to do would be to provide the American people complete and immediate disclosure of all contributions—complete and immediate disclosure of every dollar in the system. Hard money, soft money, independent expenditures, every single dollar that goes into the system must be disclosed immediately.

The press already does a good job of telling the people who is giving money to whom, when the media knows, that is. I have every confidence that if we had full disclosure of every dollar, the press would inform the people as to who is giving and receiving these contributions. They will tell the people who is spending the money for or against candidates. They will let the people know where candidates are getting their campaign contributions. Let the press do the job and report all of these contributions.

I trust the people. I trust the people of this country to be able to sort it out. If they have the information, if the people of this country have the information, they will make an informed decision. They will determine what is acceptable to them, not because some bureaucrat or Washington regulator tells them what is right or wrong but the people sort it out. Just give the people the information.

As Governor DuPont wrote, ''A well-informed electorate will safeguard American campaigns far better than any appointed group of the best and brightest Washington regulators.''

Another change we might look at is to again make political contributions tax deductible. We used to do that. We allow people to deduct contributions to charities. We allow union members to deduct their union dues, but if people want to participate in American democracy by giving money, it is not tax deductible. Is not our system of self-government just as important as a charity or a union?

How will we restore the trust and confidence of the American people in their elected officials? By electing good people to office, by holding those who serve in public office accountable for their actions, and holding them to the highest standards. I consider serving in public office to be an honor and privilege. I know every one of my colleagues feels the same. This is not a right. This is not a right, to be in this body, to hold public office. It is not mine to hold onto by whatever means I can, no matter how questionable those means. It is a privilege bestowed on me by the people of my State. It is a privilege they also have the right to revoke. The people need to be our partners in the political process. We can create all the laws we want, but only the people—not the laws, not the regulators, not the regulations, not the system—but only the people can hold elected officials accountable for their actions. Only the people can, through their votes, determine when someone no longer deserves their trust and confidence.

I believe that for far too long we have been creating a society less dependent on the voluntary rule of honesty and good behavior of the citizen than on the impressive mandates of Government. Government does not mold human behavior. Behavior comes from within. I cannot support any proposal that seeks to limit the ability of the people and institutions to express themselves and takes the power to shape our public policy debate away from the people and gives it to the Government. I cannot support such legislation. That is what McCain-Feingold would do, in the name of reform.

What are we really reforming, the right of people to participate in the political process? In a free democracy, taking away people's rights is not reform. In *Buckley* v. *Valeo* the Supreme Court ruled the debate about campaign finances is about the fundamental role of the people in our democratic society. The Court wrote:

In the free society ordained by our Constitution, it is not government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

Madam President, the system has not failed us. Campaign dollars are not the problem. They may be the excuse—the system, dollars, may be the excuse for some. But our problems are with ourselves. What outrages the American people is the conduct of some politicians—and my good friend, Senator MCCAIN, talked about this earlier this afternoon when he referenced in the poll the ''lying windbags,'' the lying windbags that many people think of as politicians, and I know that is true. But what really outrages the American people is the conduct of some politicians and their supporters who have corrupted the system by violating the integrity of the process for their own end.

Our political leaders have, as one of their most sacred responsibilities, the responsibility to set the moral tone in America and give moral leadership. I do not mean religious leadership. I do not mean religious leadership. I mean moral leadership. Moral leadership goes well beyond the rule of law and regulation. Were the great leaders of our Nation great because of laws and regulations dictating their actions and behavior? No. Our great leaders were great because they had a moral compass and they shared that moral compass with our people and our Nation. And they relied upon that moral compass for governance. America deserves leaders who lead through the force of character and integrity, not through the force of regulation and law. Before we reform the campaign finance system, we should first look at how we might reform ourselves. We might look at how we might reform ourselves.

Madam President, I would like to end my speech this afternoon with a quote from Thomas Jefferson, our third President, one of our Nation's strongest defenders of the rights of the American people. Thomas Jefferson said, many, many years ago:

I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is surely not to take it from them, but to inform their discretion by education.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Madam President, as I mentioned when I was last on the floor, the campaign finance reform bill we are debating will not produce meaningful political reform. The McCain-Feingold proposal will not lead to reform because it leaves the single greatest obstacle to competitive elections untouched. In fact, it will strengthen the single greatest obstacle to competitive elections. That obstacle is the advantage of incumbency, which is now and always has been the single greatest perk in politics. An incumbent has access to the podium, access to the news media, and the ability to create name identification. Any time you limit political spending, any time you limit what the competitor can generate in terms of information, you strengthen the incumbent.

I submit that Hershey doesn't need to advertise that it sells chocolate, but a new competitor does. And those who inhabit public office are well-known for the fact that they inhabit it. But new individuals need to have the ability to create that same awareness in the mind of the public.

Campaign finance legislation that restricts core political speech strengthens incumbents by limiting the ability of challengers to increase their own name recognition and to highlight the incumbents' voting record on issues of concern to the voters.

So, if you say you cannot spend much money against an incumbent, and your supporters can't talk about his or her voting record, then you can't match the incumbent's advantages of being on C-SPAN in the Senate Chamber, of moving through the news industry with press releases. If Senators want true political reform, the answer is to limit terms, not to limit speech. Let's limit politicians, not the citizens. We should be talking about limiting the tenure of people in public office, not the first amendment rights of the citizens of this country.

To this end, this afternoon, I have filed an amendment to the pending campaign finance reform legislation that would authorize States to impose term limits on their Senators and Representatives. However, my amendment will not come up for debate or a vote if cloture is invoked on the McCain-Feingold bill. Accordingly, a vote for cloture on McCain-Feingold is a vote against term limits.

Let me just review for a second why term limits would provide the true reform. Incumbency is the real problem in our system. It is the single greatest perk. Committee assignments and the ability to control committees relates to incumbency, and committee assignments translate into big bucks. The value of incumbency is as strong or stronger, now that we have had modest reforms over the last several years, than it was before. As a matter of fact, when campaigning was wide open 100 years ago the value of incumbency wasn't anything like what it is now.

Madam President, 94 percent of all Members who seek reelection get reelected, and an individual challenging them, if limited in what he or she can spend, is at a disadvantage. Madam President, 94 percent is 19 out of 20. That means that the only true elections are for open seats.

Term limits are a tried and tested kind of reform: Forty one Governors, 20 State legislatures and the U.S. President have term limits. It is time that the Congress be term limited as well.

Term limits mean no more politics as usual. As a matter of fact, studies done by research institutes indicate that we would have had the balanced budget amendment to the Constitution long ago if we had term limits, which would have brought new individuals to Washington who voted the way people do in their first two terms in office instead of voting the way they do after they have spent term after term after term here and begin to endorse the bureaucracy and to sanction it and to support it. I believe we should not limit the amount that citizens can spend on politics. We should limit the amount of time politicians can spend in Washington.

I will ask that individuals vote against cloture on the McCain-Feingold bill so we would have an opportunity to vote on term limits. A vote for cloture on McCain-Feingold will be a vote against term limits. A vote against cloture will at least provide us with the opportunity to bring forward amendments. Those amendments, including my term limits amendment, hold the promise of giving us a real opportunity to amend and to otherwise change the election procedures for the benefit of the people.

The people deserve honest elections. They first deserve enforcement. So much of what is being talked about these days is the violation of laws in existence. We don't need to proliferate the laws in order to enforce them. But we do need to give opportunity to individuals who are not a part of the system now. That cannot be done by limiting what they can spend to get known or limiting what their supporters can spend to expose the record of those who are in office. But it can be given to them if we decide America has enough talent to allow it to circulate individuals through the Senate and the House, and by term limits, to say that no individual should be a lifetime occupant here, that we should give individuals an opportunity to seek election and that is the kind of campaign reform which will really benefit America.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

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

Mr. BINGAMAN. Madam President, is there any limitation on speaking at this point? What is the parliamentary situation?

The PRESIDING OFFICER. There is none.

Mr. BINGAMAN. Madam President, let me speak for a few minutes, then, on campaign finance reform. I would like to step back from the details of the debate. There has been some debate about limiting spending: Should we limit spending or not, should we ban soft money or not, should we regulate phony issue advocacy ads or not, should we provide more power to the Federal Election Commission or not—those are the kinds of questions we debate here. But I believe this entire discussion about campaign finance reform

is about one central question and that is what should determine the outcome of our Federal elections? Should we allow money to determine the outcome of our Federal elections? Or should we allow, or try to get to a situation, where a complete and a balanced discussion of the differences between the candidates determines the outcome of the election? Should we allow money or helpful information to change the minds of voters? And should we allow money or robust debate to determine who wins the race?

This fundamental issue, which I think is at the center of campaign finance reform, has been obscured because opponents of campaign finance reform have been hiding behind what I believe are mistaken Supreme Court opinions that have tried to equate money and speech. They argue that money is speech, and, therefore, to limit money is to limit speech. They say that money is robust debate. They say money is helpful information for voters. And they even say that money is or constitutes a complete and a balanced discussion about the differences between candidates.

In my view this argument is blatantly wrong. To any reasoned observer of our Federal campaigns, the argument obviously is without merit. Ask any challenger to an incumbent Senator if the millions of dollars that an incumbent is able to raise and spend in the race has meant more robust debate, more helpful information for the voters, more complete and valuable discussions about the difference between the candidate and the challenger?

The challenger will laugh out loud at the question.

My colleague said, to limit spending in campaigns is to assist incumbents because you have a lot of challengers out there who would like to be able to spend more than incumbents to challenge them and to get their message out and they are not able to do so. Madam President, that may be true for a very few rich individuals who have very substantial private wealth that they can put into races. But for an average candidate for public office in this country, your ability to raise large sums of money and compete in the media and buy the air time is directly dependent upon your incumbency. Accordingly, a challenger is at a very substantial disadvantage unless we somehow restrict or control the amount of money coming into this process.

Ask any voter who has been deluged with negative TV ads, funded by swelling campaign war chests, whether those TV ads have produced a more robust debate and provided more helpful information to the voters, or a more complete and balanced discussion of the differences between the candidates? They would think that you were crazy to suggest that those 30-second negative TV spots in fact improve their ability to make a reasoned judgment.

No, the vast increases in money spent in political campaigns have not produced more robust debate, they have not produced more helpful information for voters, or more complete and balanced discussions about the differences between candidates. This increased amount of money has meant the very opposite. In fact, voters will tell you not only that money does not equal speech, but that excessive campaign money does equal the erosion and the undermining of our political system.

To them, money means bad government. To them, money is not speech; money is the corruption of the system. The American people are very specific in their beliefs about this, Madam President. Voters surveyed recently by the Princeton Survey Associates tell us exactly what the public thinks:

55 percent of the public think that campaign money gives one group more influence by keeping other groups from having their say in policy outcomes;

50 percent think that campaign money gets some people appointed to government office who would not otherwise be considered;

48 percent think that campaign money keeps important legislation from being passed in the Senate and in the House of Representatives;

45 percent think that campaign money leads elected officials to support policies that even those elected officials don't think are best for the country;

41 percent think that campaign money even leads elected officials to vote against the interests of the constituents who sent them to Washington;

63 percent of the public think that campaign money leads elected officials to spend too much time fundraising;

And, finally, 52 percent think that money, and not speech, determines the outcome of elections under our current system.

Madam President, it is hard to argue with the public's view on these various points. I submit that the arguments by opponents of campaign finance reform, that money is speech, should not and fortunately does not pass the laugh test with the American people.

The people are right, that we desperately need to reform the campaign system. In fact, they are right that we need to do a full U-turn from where we are today. We need to reduce the amount of money raised and spent in campaigns. We need to increase the amount of robust debate, providing really helpful information to voters. We need to increase the amount of complete and balanced discussions about the differences between candidates so the public has good information.

Even the modified McCain-Feingold campaign reform bill is a big step in the right direction. It does at least two very important things. First, it will reduce the amount of big unregulated donations from corporations and unions and wealthy individuals in our campaigns, and that is good. We need to reduce that. And second, it will regulate the huge amounts of money spent by so-called independent special interest groups on advertising that they disguise as issue ads but are, in fact, designed to advocate the defeat of a particular camp.

The original McCain-Feingold bill did much more. There were more affirmative proposals to actually encourage more robust debate, more helpful information for the voters, more complete and balanced discussions of the differences between the candidates, but the bill had to be scaled back to reduce the objections of some of the opponents of campaign finance reform. This modified version of the bill that we now have before us does not complete the U-turn that we ought to be making, but it is turning the car in the right direction.

Madam President, I stand ready to support the modified version of McCain-Feingold. I hope we will have an opportunity at some point in the near future, and hopefully this week, to have an up-or-down vote on the bill. Perhaps at some point we can get past these parliamentary maneuvers of killer amendments, of filling out the amendment tree, second-degree amendments to block an up-or-down vote. Perhaps at some point in the near future the opponents of campaign finance reform will listen to the people and conclude that money is not speech, that money, in fact, is undermining the political system that we were sent here to help ensure the functioning of.

I hope we will move expeditiously this week to pass campaign finance reform. Our constituents desire it, and we should do it.

Madam President, I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Madam President, there has been a development today that has a direct bearing on this debate that I thought would be of interest to our colleagues and particularly the occupant of the chair.

The Supreme Court today denied cert and, therefore, refused to overturn a first circuit decision, in effect confirming a district court decision, specifically ruling unconstitutional, once again, most of the issue advocacy language in the McCain-Feingold bill which we have before us. The similarities are noteworthy. Two of the three categories of restrictions on issue advocacy in McCain-Feingold read as follows. As we all know, the courts have been very clear for 21 years that you are free to go out and express your views about any of us as often as you want to, in any way that you want to, as long as you don't say certain things like ''vote for'' or ''vote against.'' That does not fall within the jurisdiction of the Federal Election Commission. That group does not have to answer to a Federal agency in order to criticize us. The Federal Election Commission, as

we all know, doesn't like that. So they have issued regulations seeking to change by regulation previous Court decisions on what is or what is not issue advocacy.

In those regulations, which are remarkably similar to two of the three sections in McCain-Feingold dealing with issue advocacy, the similarities are noteworthy.

In the McCain-Feingold bill, the following words are used, and the words mean this in the bill, as I understand it, that if any of these things happen, the group would fall under the Federal Election Commission and be subject to their jurisdiction. In addition to the bright line test that the Supreme Court has already laid down, the bill would seek to add to that the following:

. . . or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.

Madam President, that is part of the language in the underlying bill.

Other language in the underlying bill remarkably similar to the FEC regulations struck down by the Supreme Court today read as follows:

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

What the underlying bill is seeking to do is to outline a series of circumstances under which a group would fall within the jurisdiction of the Federal Election Commission. Currently, they are outside of that jurisdiction unless they say ''vote for'' or ''vote against,'' tests which the Supreme Court laid down 21 years ago and has never changed.

That was the language from McCain-Feingold. Let me now read the language out of the FEC regulations which were struck down by the Supreme Court today:

. . . more communications of campaign slogans or individual words which in context can have no other reasonable meaning than to urge the election or defeat of a candidate.

Further language from the proposed FEC regulations which were struck down by the Supreme Court:

. . . when taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more candidates.

Further from the FEC regulations struck down by the Supreme Court today:

The electoral portion of the communication is unmistakable, unambiguous and suggestive of only one meaning.

Madam President, there is a remarkable similarity between the language struck down by the Supreme Court today and the language of two of three of the sections in the McCain-Feingold bill which seek to redefine by statute what happens in an issue advocacy campaign. This is an important new development.

We have had a lot of discussion on the floor of the Senate over the last week and a half about what is and isn't constitutional. It has been suggested that there are 126 constitutional scholars out there who are certifying, in effect, that these new restrictions on issue advocacy are, in fact, constitutional. That has been asserted by some of our colleagues, even though there have been a whole line of Supreme Court decisions before the one today reiterating that they crafted this the way they did on purpose; it was not an accident. The Supreme Court wanted to have the widest latitude possible for organizations to criticize us, and there is no indication that they intended that criticism to necessarily be evaded just because it was in proximity to an election.

There is no language on the 60-day test, which is the third provision of the McCain-Feingold bill. Frankly, that is sort of a new item. The FEC has not yet tried that. But if you look at that language and look at the fact that the Court has confirmed time and time and time again that it meant what it said it did with regard to issue advocacy, I don't think it is much of a stretch to predict that, if the Court is going to strike down language almost the same as two of the three sections in McCain-Feingold seeking to make it difficult for groups to criticize us, they would be very likely to strike down the third, which makes it impossible effectively for them to criticize us without becoming a federally registered committee in the last 60 days of an election.

As I said—I see my colleague from Washington on his feet—we can discuss as long as we want to what is and isn't constitutional. The final word on that is the U.S. Supreme Court, and they just spoke again today on the very subject that we have been discussing on the floor of the Senate in the last week and a half. I think it is a very important additional indication that the Court, in spite of all the prodding of the Federal Election Commission to set up a new standard for issue advocacy, the Court has absolutely no intention of changing its mind. It has been absolutely, unequivocally consistent for 21 years as to what you would have to put in an advertisement to be brought within the Federal Election Campaign Act and thereby covered by the FEC.

Here is what the Court said back in Buckley—and it has had many opportunities to revisit that, it hasn't changed its mind over the years, didn't change its mind again today—this is what the Court said. For a communication by a group to fall within the Federal Election Campaign Act, you would have to have express words of advocacy of election or defeat, such as ''vote for,'' ''elect,'' ''support,'' ''cast your ballot for,'' ''Smith for Congress,'' ''vote against,'' ''defeat'' or ''reject.''

They have had 21 years to revisit that standard, 21 years to decide the Federal Election Commission knew better than the courts about how to craft this language, 21 years to change its mind, new judges coming onto the bench and old judges leaving, and the Court has never changed its mind, up to and including today when it refused to grant certiorari on a lower court decision, in effect upholding the same language that has been on the books since 1976.

So, Mr. President, I think this is an important addition to the debate. I hope that Senators will note that the Supreme Court is not of a mind to change its opinion on issue advocacy versus express advocacy, one of the important issues that we have been debating here in the context of the proposed McCain-Feingold bill.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Washington is recognized.

Mr. BUMPERS. Will the Senator yield for a parliamentary inquiry?

Mr. GORTON. He would.

Mr. BUMPERS. Mr. President, is there any order of sequence on the speaking?

The PRESIDING OFFICER. There is not.

Mr. BUMPERS. I thank the Chair.

Mr. GORTON. Mr. President, in 1974, impelled by certain individuals and groups who felt that too much money was being spent on political campaigns and on political speech, the Congress of the United States passed a law limiting the amount of money that a candidate for Federal office could receive from any individual source, and limiting the amount of money that a candidate for a Federal office could spend advocating his or her election to that office.

The Supreme Court of the United States upheld the half of that statute that limited the amount of money that a candidate could seek from any given individual or organization or group; but about the proposition that a candidate could be limited in the amount of money that he or she could spend on a campaign, the Supreme Court of the United States made this statement—and I quote

A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money. The distribution of the humblest handbill or leaflet entails printing, paper and circulation costs. Speeches and rallies generally necessitate hiring a hall and publicizing the event. The electorate's increasing dependence on television, radio, and other mass media for news and information has made these expensive modes of communication indispensable instruments of effective political speech. Being free to engage in unlimited political expression subject to a ceiling on expenditures is like being free to drive an automobile as far and as often as one desires on a single tank of gasoline.

And the Supreme Court of the United States found invalid, as a violation of the fundamental first amendment right of free expression, any such limitation.

The same mindset that gave us those laws and that has forced those individuals or groups who feel vitally interested in the election or defeat of a candidate to spend money in other ways, often through the political parties that sponsor those candidates, now has brought this McCain-Feingold bill to the floor of the U.S. Senate.

Finding it ineffective simply to limit the amount of money that candidates can collect from a given individual, the bill now seeks to limit severely the amount of money that political parties can collect with which to express their message to the American people. The fact that this flies in the face of most thoughtful academics observing the political scene in the United States who call for greater party responsibility and a greater role for political parties to play in order to create a greater degree of responsibility and responsiveness in carrying out the will of the people as expressed in elections, the McCain-Feingold bill seeks to tie the hands of parties and to render them largely ineffective.

The sponsors of the bill do recognize, however, that there are other methods of communicating political ideas. While they did not attempt to limit the right of other individuals or organizations in communicating their ideas directly, and in some cases not at all, they do attempt, as the Senator from Kentucky has just pointed out, to take a form of communication called issue advocacy—that is to say, making your views known to the people of the United States with respect to issues that come before the Congress of the United States—and force it into a category which they define as express advocacy, essentially whenever the name of a candidate or a Government officeholder is used, and once again provide limitations on the amount of money that can be collected for the expression of that form of advocacy.

As the Senator from Kentucky has so clearly pointed out, not only is that portion of the McCain-Feingold bill unconstitutional on the basis of a long line of Supreme Court decisions, its unconstitutionality was reaffirmed this morning, this very morning by the refusal of the Supreme Court even to listen to a challenge to a first circuit decision on exactly that subject.

So what we have in McCain-Feingold is, in addition to the limitation on the amount of money that can be spent or contributed to individual candidates, an additional limitation on the amount that can be contributed to political parties, but no limitation at all on the amount of money that can be spent independently of those political parties by the widest range of groups and individuals in the United States who have a vital interest in the actions of this Congress unless those groups make a mistake which is absolutely unnecessary to make and use one of a handful of magic words.

Finally, of course, McCain-Feingold does not attempt in any respect whatsoever to limit the commentary, either in news columns or on editorial pages, on the part of the newspapers in the United States or similar commentary on radio and television stations. It isn't long, however, since exactly such a set of potential restrictions were proposed.

With a degree of intellectual honesty, absent from this debate, in February and March of this year many of those who are here today promoting the McCain-Feingold bill recognized that the goals they sought were blatantly violative of the first amendment to the Constitution of the United States and proposed to amend the first amendment.

At this point, Mr. President, I think it not at all inappropriate once again to read into the RECORD what those Senators—I think some 30-plus of them altogether in the final vote—proposed to do to the first amendment to the Constitution of the United States. They proposed to say:

> Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

It seems clear to me, Mr. President, that that constitutional amendment, were it placed in the Constitution of the United States, would have permitted Congress to state that the New York Times, or a newspaper in a city of 50,000 people in a city in Kentucky, could have its commentary on election campaigns limited in the same way that the present law limits contributions to candidates today.

Now, Mr. President, I think a newspaper—I will take one of my own—say the Tri City Herald in central Washington, with a circulation of some 40,000 newspapers a day, if it writes an editorial in favor of my candidacy, which I am pleased to say that it has, and distributes 40,000 copies of that newspaper, it has exceeded that $1,000 campaign contribution limit if the cost of writing and printing and distributing that newspaper exceeded 2.5 cents a copy.

Lord knows by how much the New York Times would exceed that contribution by making any kind of commentary on behalf of or in opposition to a candidate for political office. Lord knows how much more such a commentary on network television news could be considered to be worth.

Yet, Mr. President, at least the proponents of that constitutional amendment were being intellectually honest and at least they were being consistent, or would have been consistent had they been willing to say they wanted to limit the way newspapers and radio stations and television stations could comment on politics, because, obviously, if every other form of communication is going to be limited, how in the world can we justify letting those few people in the United States with enough money to own the newspapers or having the good fortune to be on their editorial boards and, for that matter, to write news stories about politics not be limited? Of course they should.

But, Mr. President, the first amendment was written not when we had television or radio stations, but when we had thousands of newspapers in the United States of America, most of them speaking much more sharply about candidates and issues than do newspapers today. And the men who wrote the first amendment to the Constitution of the United States knew that every one of those newspaper publishers had a greater first amendment right by the definition used by the promoters of McCain-Feingold than did the average citizen who did not own or write for a newspaper. But they consider that right of mass communication about political ideas to be a fundamental liberty of the people of the United States. Now we have opponents of this bill who say it is not only not a fundamental liberty of the United States; it is such a great evil that we need effectively to muzzle them.

Hark back to the Supreme Court in which the Supreme Court says virtually every means of communicating ideas in today's mass society require the expenditure of money. We have proponents who say we should not allow the expenditure of money in amounts that are sufficient to communicate those ideas.

Having limited the amount of money candidates can get, they now wish to limit the amount of money political parties can get. It is clear they wish to limit the amount of money that these independent groups can get, but in the absence of their constitutional amendment, they can't do that.

Now, last year, Mr. President, I asked this question: Were the expenditures of candidates or of political parties or of third party interest groups the least responsible? The answer, obviously, is the latter. A candidate whose name must go on all political communications can be immediately called to account for falsehood and, in fact, can readily be called to account even for what is considered to be an unfair characterization of his or her own candidacy or an unfair criticism of an opponent. Expenditures by political parties don't carry that same degree of responsibility. The occupant of the chair at the present time is not really responsible for the communications of the Kansas State Republican Party, nor am I in my political party in my State. We will catch a certain degree of criticism for what our parties do, but we at least have plausible deniability. But now having forced even the parties

out of the field of effective communication, we leave all political communication to the newspapers and the television stations and those organizations, whether they are of the left or the right or of a narrow special interest, almost wholly to the field of unregulated communication for which neither beneficiaries have any responsibility nor the victims any effective way of responding.

The Senator from Oregon, during the course of this debate, has pointed out the impact of a law very much like the one that we are discussing here on politics in Oregon. There the limitations on contributions for candidates were even tighter. The point that he made of what happens in the real world was the candidates can't raise very much money, the political parties are fairly weak, so campaigning became more negative than it had ever been before—not only more negative because of the use of the undocumented constitutional rights of these outside groups to criticize, but from the fact that almost all of their communication was critical and negative in nature, and the limitations on the candidates made it effectively impossible for them to answer.

My own State, Mr. President, is going through pretty much the same experience. The more the limitations on the candidates, the greater the expenditure of money independently in so-called issue advocacy will be, and the more negative political communication will be, as it was in the classic example of the tens of millions of dollars spent by the labor unions in 1995 and in 1996.

Now, Mr. President, one other point, and I will have to admit, along with everyone else who has spoken today, almost everything that has been said today has been with respect to the revised McCain-Feingold bill. The issue before the Senate, however, is the Lott-Nickles amendment. The same analysis does not attain to the Lott-Nickles amendment because it simply says that labor unions and labor union-type organizations, while they remain entirely unlimited in the way in which they can spend their money, and with respect to issue advocacy, can only be involved in politics by the use of money to the extent that there are members who have paid dues into those unions who allow their money to be spent in such a fashion.

It is curious in the mind of this Senator that such an obviously just policy—not allowing my money, your money or anyone else's money to be used to communicate ideas with which you or I or that third party disagrees, a proposition that is clearly constitutional—should be considered to be a poison pill or the death knell for campaign reform. What could be more fundamental, Mr. President, than the idea that the individual whose money is being spent in connection with the communication of political ideas should have some control over how that money is spent?

Now, Mr. President, I am in a position to tell you how that works in practice because another element of one of the latest of the campaign reforms in the State of Washington was to make just such a provision. When that provision became law, 80 percent or more of the members of the Washington Education Association, the teacher's union, refused to allow their money to be used in politics at all. I have just heard, though I can't be entirely certain of this statistic with respect to other labor unions, the percentage of members who are willing to permit their money to be used is in single digits. Presumably, the members of those organizations prefer their money to be used for the primary function of a union with collective bargaining rights and not even on politics with which they agree, much less politics with which they disagree.

That, Mr. President, is the reason the opposition to this amendment is so fierce. That is the reason we are told most of the proponents of McCain-Feingold will filibuster this very bill if it is included. It is just because the opposition on the part of members of these organizations to spending their money in the way in which it has been spent over the last several years is so deep, so broad, and so fierce.

But in this case, I want to state once again, Mr. President, we are not talking about a matter over which there could be any serious constitutional challenge at all. We are simply talking about whether or not it is good policy. We are talking about something that would meet the goals of McCain-Feingold to the extent that their goals are to limit the amount of money being spent on political speech. It would certainly limit it in connection with the last campaign.

Now, I am not convinced of the case that we are spending too much money on political speech. I believe the wide diffusion of political ideas was exactly what the first Congress of the United States had in mind when it passed the first amendment. However, if you are going to limit political speech, you ought to do so fairly and across the board. To do so fairly and across the board, you must gut the first amendment to the United States, you must change the Constitution, and you must say we are going to have Government—Members of this body and the appointed Federal Election Commission—decide what speech in the political context is legitimate and what speech is not, and the definition of that challenge is its own death knell because, defined in that fashion, there aren't 5 percent of the American people who would agree.

We have before the Senate, Mr. President, a flawed bill with a flawed and unconstitutional goal, together with the breathtaking statement that should we make the fundamental requirement that a man or woman's money not be spent on politics with which he or she disagrees, that we are killing this flawed proposal.

Well, I don't think the bill becomes any more constitutional by the adoption of the Lott-Nickles amendment. I don't believe the obvious constitutional flaws reiterated once again today by the Supreme Court of the United States are improved by it. Abstract fairness probably is. But a bill that says that there is something wrong with the communication of ideas—the last Democratic speaker criticized the way in which campaigns were conducted, apparently feeling that maybe we ought to have a governmental entity that says what an individual says in a political campaign is fair or unfair. We have created the greatest and strongest democracy in history and the greatest debate over political ideas with the first amendment as it is. I, for one, believe we ought to leave it alone.

Mr. McCONNELL. Will the Senator yield?

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

Mr. McCONNELL. As the Senator from Washington pointed out, today's huge news that the Supreme Court has struck down essentially most of the issue advocacy language in the McCain-Feingold bill, maybe we shouldn't waste our time talking about this. But if you look at the original bill, it was designed to shut down campaigns, shut down parties, and shut down issue advocacy, and the Senator from Washington pointed out the only entity exempt from this would have been the press which enjoys a specific exemption under the Federal Election Campaign Act.

In fact, I have it here for our viewers if they want to look, section 431(9)(B), subsection 1:

> Any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

In other words, a blanket exemption for the press that no one else would enjoy.

I say to my colleague from Washington, just to ask a question, Westinghouse owns CBS, Disney owns ABC, and GE owns NBC. Now, these big corporate giants in America will, through the ownership of these television broadcast networks, enjoy a total exemption from all the restrictions that would be placed on the political speech of everybody else. This is not an unrealistic hypothetical. We just saw Ted Turner, who used to control CNN, declare on Friday he would not sell ads to a certain group because he did not like what they were saying.

So I ask my friend from Washington if he could speculate with me for a moment the mischief that might be created by the ownership of the only exempt avenue to engage in free and unfettered political expression without the heavy hands of the Federal Government, what kind of mischief he might imagine could happen in our country?

Mr. GORTON. It would certainly increase the price of television stations and television networks. It would be a bonanza to those corporate owners, as any other corporation that had a political agenda would find the only way it could effectively communicate its ideas would be through the ownership of a television network or a major metropolitan newspaper and the like.

But the point made by the Senator from Kentucky is a most interesting one. Westinghouse and Disney and GE don't need to give soft money to parties, do they? They don't need to come up with their political ideas indirectly. They have the ability to communicate them directly, without control, without limitation as to amount, to the people of the United States. So the Senator from Kentucky has made my own point better than I did myself. If you are going to limit political speech effectively, you are going to have to limit everyone's political speech. And the fewer the exemptions from those limitations, the more valuable those unlimited mouthpieces are because they cannot effectively be countered, except by someone else with the exemption.

I want to repeat one more time that I believe the constitutional amendment that was seriously debated, but defeated, on the floor of this Senate in March would have permitted limitations on what those television networks could have done, what the New York Times and every newspaper in the United States could have done. And it is the very fact that that constitutional amendment would have allowed such limitations that is the reason it should not have gotten one-third of the votes of the Members of this body. It should not have gotten any at all.

Once, however, you determine that we should continue the more than 200 years of unrestricted freedom on the part of the mass media, it becomes increasingly difficult to justify the proposition that we should limit the ability to communicate of everyone else.

As the Supreme Court decided more than 20 years ago, the ability to use money and to use, in turn, the mass media is at the very heart of the first amendment rights. The Senator from Nebraska, who was here before, it seemed to me, had the appropriate answer to this question. Political contributions should be freely given, not coerced. They should be immediately publicized and made available. Those who violate those laws of disclosure ought to be appropriately punished. None of these elements is a part of the law today, and that is where reform ought to start.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, today, I want to take a few minutes and let my views be known concerning campaign finance reform. First, I want to commend my colleagues from Arizona and Wisconsin. It is not easy to introduce legislation that you know will be adamantly opposed from the outset. I recognize this and I want to congratulate them. Second, I want to commend the Senator from Kentucky, who on more than one occasion has stood on this floor and took an unpopular stand against popular legislation for all the right reasons.

Mr. President, I have always been a strong advocate of congressional reform, even to the point of introducing legislation that has upset many of my colleagues. I have always believed that congressional reform should make Congress more like the people we represent not above them. That is why I have long been a supporter of term limits, which I believe would be one of the best campaign finance reform measures we could ever enact.

Campaign finance reform should give every American the opportunity to participate, as fully or as little as they want. This country's principles are based on freedom. People should have the ability to choose whether they want to participate in the system. We cannot and should not coerce or force citizens participation in this process. Nor should we stifle citizens participation in the electoral process. I do not believe that this quick fix of McCain-Feingold passes either one of these tests.

First, I do not believe this legislation protects the working men and women in this country. Our electoral system is a voluntary activity. The U.S. Congress should never force participation in a voluntary activity, whether through individual activity or through financial contributions. This is why I believe the Lott amendment is so important for any campaign finance reform legislation. I would never do anything to stop outside groups from participating in the system, I just ask that all activity be voluntary. I would never force anyone to support me by either their vote or through a contribution if they disagreed with my views and I believe this should apply across the board to any group involved in our political system.

I have heard complaints that the Lott amendment would weaken the union's power and hurt the union membership. If the political positions of the union bosses are supported like they believe they are by the membership, then there should be no problem whatsoever for the unions to stay strong. But, if the unions' Washington office takes positions that are contrary to its membership, then maybe they need to rethink their ways.

Also, a provision that is forgotten by many who oppose the Lott amendment is that it also applies to corporations and national banks. The amendment makes it unlawful for any corporation or national bank to collect from or assess its stockholders any dues, initiation fee, or other payment as a condition of employment if such dues, fee or payment will be used for political activity in which the national bank or corporation is engaged. Likewise, a labor organization cannot collect or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payments will be used for political activities.

I think this amendment is very clear, no matter where you work, you should not have to choose between putting food on the table for your family or participating in an election or supporting an election. Let's make it very clear, the people who do not support this amendment believe that working men and women, union or not, should have to choose between working or supporting issues and elections with which they disagree.

I have also heard that being a union member is voluntary and one of the most democratic institutions since employees must vote to start a union, elect its leaders and if they do not like the direction the union is taking then they can work to change it or as a last resort, quit the union. If you do not like the direction of the union, you must quit your job as a last resort. I do not think any union member should have to make that choice—a job or a political contribution. This same provision applies to corporations and national banks. No employee should have to choose between keeping their job or participating financially to causes or elections they disagree with.

Some want to apply this amendment to groups such as the NRA or the Sierra Club or other issue groups. The difference between these groups and the employment condition in the Lott amendment is that joining these groups is completely voluntary and is not tied to a job. If a member of one of these issue groups wants to quit their respective group, then they just stop paying the dues and rip up the card. There is no employment backlash that causes that person to lose their job.

Thomas Jefferson summed it up best when he said, ''To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical.''

Second, in our quest of campaign finance reform, American citizens should not have to lose their voice. The first amendment is very clear in its wording, ''Congress shall make no law * * * abridging the freedom of speech or the press * * *.'' While campaign finance reform efforts are based on the best of intentions, whether by legislation or just simple suggestions, most of the time they will affect individuals' first-amendment rights.

The Supreme Court has been very clear where it stands on the first amendment and campaign finance laws. Since the post-Watergate changes to the Federal Election Campaign Act of 1971, 24 congressional actions have been declared unconstitutional, with 9 rejections based on the first amendment. Out of those nine, four dealt directly with campaign finance reform laws. In each case, the Supreme Court

has ruled that political spending equals political speech. This Senate attempted to change this through a constitutional amendment limiting the amount one can spend in a campaign, which only tells me that this fact is undeniably recognized by this body.

In the now famous, or infamous to some, Buckley versus Valeo case, the Court states that:

The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

This simply states that the Government may not ration or regulate political speech of a citizen through spending limits or limit its quantity any more than it can tell the local newspaper how many papers it can print, what it can print, or when it can print.

Also, the court states that '' * * * the mere growth in the cost of Federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending * * * .'' This goes for not just the candidate but also outside groups who want to participate in the process.

That brings me to a specific provision in the legislation before us. I have yet to hear what makes 60 days such a magic number. How can an outside issue group's ad carry a valid message 61 days before an election but if run the next day, it would lose all validity and become illegal. This just makes little sense. When I ran for this seat in the Senate, I was blasted from all angles by many different groups, but that's fine. It made my life and campaign a little more difficult, but it let me explain why I voted the way I did. These groups brought all the issues into play and no candidate can hide their record from the public.

However, no matter how I have to defend my record against these ads, I will never attempt to legislatively silence their voice. To do so would place myself over the rest of America. I cannot support the idea that my viewpoint is so much more important, that no one outside of the candidate can speak less than 60 days before the election. I cannot and will not quiet the electorate.

I did forget one exception during the 60-day blackout, the media. This 60-day blackout only strengthens the media and whatever they say, cannot be challenged, except by the candidate. Today, newspaper endorsements are held off until the end of the campaign to maximize their effect, but this 60-day blackout period will let the endorsement go without criticism from outside groups. And I question whether once a candidate gets an endorsement, if their campaign will be covered with the same amount of scrutiny as the other candidate, for again, any rebuttal to their coverage can only come from the candidates opponent.

I believe this provision places too much power in the hands of a few. I have the utmost respect for the media and the professionals who work for in the field, but too much of one gets too powerful for all.

Also, I believe this 60 day blackout will be used to remove Congress from the close scrutiny of the public. Let me explain. I am afraid that Congress will hold off some of the more controversial issues until the last 60 days before an election in order to escape the scrutiny of these outside groups. This regulation is nothing more than politicians wanting to quiet citizens from bringing up issues that politicians want to ignore.

Another problem arises regarding soft money. The definition of soft money is campaign money raised outside the regulatory structure for Federal elections—or non-Federal money. These funds are raised and spent by political parties outside of the Federal fundraising limitations to benefit the party's State and local elections efforts. While soft money is not federally regulated, it is regulated by the 50 States. Current law already bans the use of soft money in Federal elections. Basically, a complete ban on the ability of the parties to raise and spend any soft money would federalize all elections because any money given to the national parties in support of state and local candidates would fall under the stricture of Federal laws.

The Buckley case clearly states that ''[S]o long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views.'' The ACLU says that ''the purpose of this profound distinction is to keep campaign finance regulations from overwhelming all political and public speech. And it is this distinction which defenders of the constitutionality of a ban on soft money continue to disregard.''

The Court has permitted the unrestricted use of soft money by political parties and nonparty organizations in the Buckley decision and has enhanced and given it legitimacy in its subsequent decisions, including a decision involving the Republican Party from my own State of Colorado in 1996.

Let me also make a point about money being the determining factor in elections. In my Senate race, I was outspent by almost $750,000—a quarter of $1 million. You don't have to have the most money to win, you just have to have the right message and I will not legislatively try and stop someone from speaking their message during a campaign, not even my opponent's.

Many believe that now is the right time to pass a restrictive campaign finance measure with all the scandal surrounding the last Presidential campaign and that we should take a chance on the Supreme Court to rule it constitutional. The problem with this logic is that since 1976, the Supreme Court has referred to the Buckley decision over 100 times in setting limits on the Government's authority to regulate political speech. I just cannot see this Supreme Court overturning a ruling that has become the landmark decision and reference point for all campaign finance decisions.

In the end, our campaign finance system needs to be fixed, but any reform must not run counter to the first amendment. The first amendment ensures that even if we don't like what someone says, they have the right to say it. While many believe that the amount of money being spent in campaigns is objectionable, the Court has clearly stated that campaign spending is equal to speech and no matter how objectionable, it is protected under the first amendment.

I will have to say that the McCain-Feingold bill has gotten organized efforts behind it, like this ad run in the Denver Post on Thursday, October 2, by the group Campaign for America. However I would like to point out a few things.

I find some great irony in this ad. First, if McCain-Feingold passes and this ad was to be aired on TV or radio, it may just be illegal, especially if it is within the 60-day blackout period before an election. If an incumbent believes this ad to be an attempt to influence an election, they can challenge it, thus stifling debate. The very message they wish to send could be stopped by the legislation they support. That is the point I would like to make.

They want to stop big money and big guys with their big bucks from buying the system, which I want to do also by the way. Well, this group is backed by the some of the richest people in America. Actually, two of the men are on the Forbes 400 list. Plus, many of them have given hundreds of thousands of dollars to each party. It seems to me that this group is a bunch of rich guys using their big bucks to buy legislation. And, despite my request, I have yet to receive a full disclosure from this group on how much is spent, who gives and how much. All I know is who sits on their board of directors.

But in all honesty, I cannot in good conscience stop them from exercising their first amendment rights. I want any campaign finance reform legislation to encourage this—not stop it.

This is why I introduced my own bill, the Campaign Finance Integrity Act. My bill does not restrict one from exercising their political speech rights, but asks for complete and honest disclosure for all campaign spending. While this statement is not one of endorsement concerning my legislation, but in a review of the McCain-Feingold bill, the ACLU says, ''Disclosure, rather than limitation, of large soft money contributions to political parties, is the more appropriate and less restrictive alternative.'' My bill does just

that. As a matter of fact, I believe my bill has the strongest open disclosure requirements of any bill introduced.

My bill also will require candidates to raise at least 50 percent of their contributions from individuals in the State or District in which they are running;

Equalize contributions from individuals and political action committees [PAC's] by raising the individual limit from $1,000 to $2,500 and reducing the PAC limit from $5,000 to $2,500;

Index individual and PAC contribution limits for inflation;

Reduce the influence of a candidate's personal wealth by allowing political party committees to match dollar for dollar the personal contribution of a candidate above $5,000, by using only hard money;

Require organization, groups, and political party committees to disclose within 24 hours the amount and type of independent expenditures over $1,000 in support of or in opposition to a candidate.

Incorporate the Lott amendment, along with the requirement of an annual full disclosure of those activities to members and shareholders;

Prohibit depositing of an individual contribution by a campaign unless the individual's profession and employer are reported;

Encourage the Federal Election Commission to allow filing of reports by computers and other emerging technologies and to make that information accessible to the public on the Internet less than 24 hours of receipt;

Completely ban the use of taxpayer financed mass mailings; and

Lastly, will create a tax deduction for political contributions up to $100 for individuals and $200 for a joint return to encourage small donations.

One of the best way to reduce special interest money is to reduce the size and scope of Federal Government and I am not alone believing this. A recent survey by Rasmussen Research shows that 62 percent of Americans think that reducing Government spending would reduce corruption in Government. The same survey showed that 44 percent think that cutting Government spending would do more to reduce corruption than campaign finance reform, while 42 percent think campaign finance reform would reduce corruption more than cutting Government spending. I have said many times, if the Government rids itself of special interest funding and corporate welfare, then there would be little influence left for these large donors.

That is why I am fighting corporate welfare, especially thee Overseas Private Investment Corp. Some may not see OPIC in the same light, but any benefit for corporations will just keep them coming back for more. Another way to achieve campaign finance is too eliminate the Department of Commerce, where a majority of the corporate welfare programs are funded. Also, by scrapping the existing Tax Code with its many tax breaks in favor of a flatter and simpler system would clean up our campaigns greatly. Big Government solutions will not stop big business and big labor money. To break special interest money, we must break the so-called iron triangle of big business, big labor, and big Government.

I must say that by objecting to the Washington media is very difficult for any politician, but turning your back on the first amendment is more difficult for me. I want campaign finance reform and I have shown in my legislation how I would like to do it, but I will not do so at the expense of the first amendment. Not even at the expense of those people's speech who will disagree with me on this issue. The first amendment is the reason we can disagree.

Let me end with this. While big money has been made the villain, I believe it is not the money but the people. Bad people will do bad things if given the chance. I believe that the tighter we made it, the more people will try to find loopholes resulting in more scandals. We need to enforce the laws on the books first before we add more Government regulation is not always the answer. To me it sounds like those who are under investigation and are calling for more Government regulation of campaigns are saying, ''Stop me before it sin again.'' Well let's first uphold the law and then we can better fix it. And when we do, let's not do so at the expense of those who legally want to exercise their first amendment rights. Don't let the bad shut out the good participants in our system.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, very briefly, I thank the distinguished Senator from Colorado for an outstanding contribution to this debate. I listened carefully to his entire speech. I thought it was truly outstanding. I just wanted to commend him for that and thank him for his contribution to this important debate.

Mr. ALLARD. I thank the Senator.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, let me say, first of all, that the distinguished Senator from Maine, Senator COLLINS, has been waiting for a long time. I am most reluctant to take her spot. But I understand she has to leave. So rather than waste the time, and with her indulgence, I hope she will forgive me, I will go ahead and proceed with my statement.

First of all, Mr. President, I would like for every Member of Congress to ask himself or herself this very simple question: How much longer do you think our democracy can survive if we continue under the present system of financing our campaigns?

The first question ought to be: Can we continue to pass laws and elect people based on how much money they have and expect a participatory democracy to survive?

Question No. 2: Can this democracy survive under the present system of financing campaigns if we adopt McCain-Feingold?

With the utmost respect for two dear friends in the Senate, Senator FEINGOLD and Senator MCCAIN, I would have to say that this bill will help our democracy last a little longer than it would if we do nothing.

We call ourselves a participatory democracy. And yet, most people have long since quit participating.

So another question that every Member of the Senate ought to ask before they vote on this bill is: Why do only 50 percent of the people in our country bother to vote?

The next question they ought to ask is: Why do only about 4 percent of the people in the country contribute to candidates and parties?

We can contribute 3 bucks to the Presidential Election Fund by checking a box on our tax return, without any cost to ourselves, yet the percentage of people who check that box is down now to about 13 percent of the people who file tax returns. Thirteen percent will say, ''Yes. I want $3 of my taxes to go to the Presidential campaigns.'' I think there are an awful lot of people in this country that think they are paying that $3 out of their own pocket. They don't pay the $3. All they do is say I would like for $3 of my existing tax liability to go to the Presidential campaign. That system has attracted much higher percentages than in the past. But it has been declining.

So, ask yourself. Why do only 50 percent of the people vote?

Why do only 4 percent of the people contribute?

Why is the number of people checking the box on their Federal tax return continuing to go down?

The answer to that is very simple. They don't think they count. They say to themselves: ''Why should I contribute? Yes. I could give 25 bucks. I could give 50 bucks.'' But when you see $100,000 contributions in soft money, and you see the $2,000 contributions to candidates, really $4,000 if the contributor's spouse also contributes, who will believe that his $15 or $20 is going to make a difference? And they are showing in big numbers they don't believe they count by staying home on election day. And they see legislation passed continually where they know money was the determining factor.

I can remember when I was a young attorney just out of law school practicing law in my little hometown. A man came into my office one day. He said, ''I want you to give me $250 for a Member of Congress.'' And I said, ''He's not even up for reelection this year. Why would I give him $250?'' He said, ''Well, they have a lot of expenses,'' and so on. And I said, ''Well, I'm not going to give

you $250,'' the primary reason being I don't have $250. The second reason is $250 is two monthly house payments. And the third reason is I don't even like the guy; he doesn't represent my views. And fourth, I thought, if I were going to give $250, why would I give it to you? Why wouldn't I give it to the candidate so he would at least know I had given him $250 and I would also like for him to know that that is a big, big amount of money for a struggling young lawyer in a little town in Arkansas.

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

Mr. BUMPERS. No, I won't yield, Senator. I have been waiting all afternoon to speak.

When I ran for Governor the first time, I found asking for money the most difficult thing I had ever done. I could not believe that I had to go around pleading with people to give me a few dollars. Nobody wanted to give me any money anyway because I had 1 percent name recognition when I started running. Some guy gave me a $100 one day, and he said, ''I bet the horses all my life, but I have never bet on such a long shot as yours.'' But he gave me $100 anyway.

I asked Tom Eagleton, the fine Senator from Missouri, when he announced he was going to leave the Senate, ''TOM, why are you leaving?'' He gave me three reasons. First of all, he said, ''I'm tired of laughing at things that ain't funny.'' The second was, ''I'm tired of answering hate mail.'' And third, ''I'm tired of going around with my tin cup out''—three very compelling, perfectly legitimate reasons for wanting to leave the Senate.

As good as McCain-Feingold is, it does not remove the problem Senators face of voting on issues in which an awful lot of people who have given them money have a dynamite interest. My son, who lives in Little Rock, and his wife had twins about a year ago, and they had a woman who came to stay with them when the twins were born. They are very fortunate they can afford that. A lot of people have twins and they can't afford to have that kind of help. Be that as it may, she has been a very intelligent woman. I visit with her when I go over to see the twins. Last week she said, ''You know, DALE, I don't know much about what's going on up there, but it seems to me like you all spend all your time investigating each other.'' I said, ''That's right, Nancy.''

That is all we are ever going to do as long as we finance campaigns the way we do now. Every time you vote on an issue, Senators, you are vulnerable to accusations if it benefits anybody who ever helped you. When you take money from somebody and you vote on an issue, you better hope two things: That the issue turns out well, and that the guy who gave you money does not turn out to be a crook because if he does, the press comes running to you: How much money did he give you or why did he give you money? Was there any quid pro quo?

I am reluctant to mention this, but I am going to tell you the truth. I never did like the Keating case. A colleague whom I consider to be one of the most honest men I have ever known spent $600,000 of his own personal money defending himself because he was said to have helped somebody who gave him money in a campaign. I can promise you he would never have taken it in a thousand years if he thought it had the least taint to it. And if Keating's S&L had made it, you would never have heard about the Keating case. There would have been no case. But because he was giving money to a lot of people and his S&L went under, and he turned out to be a crook, then we had this big dog and pony show in the Senate that lasted a year or more.

You know, I have been a friend of the President's for now 26 years. And as well as I knew the President, as close a friend as we have been through the years, I never heard of Whitewater until he became President, never knew there was such a place, never knew there was such a corporation. And if Bill Clinton hadn't had the temerity to come to Washington as the President of the United States, you would never have heard of Whitewater. It is all how things turn out.

But to reemphasize the point I started to make, that is, colleagues, when you take a contribution from anybody, even if your own intentions are pure, you better hope that money is coming from an honorable person. You better hope it is coming from somebody who isn't out defrauding people. And you better be careful how you vote on issues that can help a contributor if they turn sour or turn out to be a crook. It doesn't matter if you cast that vote on the merits. And as long as we have this system of financing campaigns you can lie awake at night worrying about it because it is a real threat. Where a quid pro quo can be inferred, it will be. That is the perception that will remain until we change the campaign finance law.

We have reached the point, Mr. President, where every single Member is constantly just one step away from disaster. And guilt or innocence has little to do with the outcome. One woman told me the other day that she had been interviewed and appeared before grand juries in one of these many investigations and was going to have to deed her house—I promise you she is totally innocent of anything—going to deed her house to her lawyer because it is the only asset she has that will come close to covering her legal bills.

Well, we have reached the point in this country where simple negligence, bad judgment, just plain policy differences are becoming criminal offenses. How many independent counsels do we have running loose in this town? And how many more will we have? I can answer that partially. As long as we finance campaigns the way we do now, there are going to be independent counsels galore in this city. When you increase funding, spending on congressional elections in 1976 from $99 million to, in 1996, almost $800 million, you have to ask, where is this going to end? That is an 800 percent increase in 20 years, with no letup in sight.

Look at the $450 million or almost $500 million in soft money for both parties during the last election cycle. It will be more this year, they are already ahead of the 1995–1996 cycle. Who gives that money? It is not little struggling lawyers as I was 40 years ago in a little town in Arkansas. It is not average folks with five and ten and fifty dollar contributions.

I will tell you when it is going to end, Mr. President. It is going to end when the American people rise up in righteous indignation and come to the realization that the system is rotten, come to the realization that they do not count. It will end when enough people in Congress get tired of every contribution that goes sour being microscopically addressed by the press and wondering about when you are going to be on one of the news magazines the next episode.

There is no perfect solution to this. I happen to come down on the side of public financing. I have a bill. I wanted to introduce my bill as an amendment. Senator KERRY and Senator WELLSTONE have a bill. We discussed whether to try to offer our bills as amendments to this bill. We concluded that would probably be counterproductive, would not get many votes, probably would not get a single Republican vote, maybe 25 or 30 Democrat votes. Yet 66 percent of the people, according to a Gallup poll in October of last year, 66 percent of the people in this country said they favor public financing of our campaigns.

I heard the distinguished Senator from Colorado say a moment ago that he won even though he was outspent. I was too in my first race. I ran against a Rockefeller. I guess you would call that stupidity. But in any event, I won, and when I ran for the Senate against an incumbent, I was badly outspent. But I tell you, those are rare exceptions. I applaud anybody who spends less money than his opponent and manages to win because 90 percent of the candidates in this country who spend the most money end up winning. Pretty heavy odds. According to statistics to this date, if you have the money, you have a 9-to-1 chance of winning.

In the 1995–96 election cycle, 400 corporations, labor unions, and individuals contributed $100,000 or more in soft money; 400 of them gave over $100,000. Were they after good government? Is that what they wanted? I don't mean to demean anybody, because I have a lot of friends who have been faithful to me for 26 years in the contribution area. I can truthfully say I am most grateful to all of them. But when I first started running for Governor in my State, there were no campaign laws and I was absolutely aghast

at the amount of cash money, greenbacks, that was floating around in campaigns. One man handed me fifty $100 bills. I knew he had a deep and abiding interest in certain things that were bound to come up when I was elected, if I was elected. So I handed him his fifty $100 bills back.

Do you know something? He doesn't like me to this day. You can't give people money back and make them like it, can you, Senator?

My campaign finance director came up and said, ''How are we going to run this race? You are giving more money back than we are taking in.'' I have given a lot of money back. All I am saying is, when you think about how much money $100,000 is, and when you think about who gave it, you have to believe that they wanted something more than good government.

In 1996—listen to this—in the U.S. Senate, Senate incumbents had a 2 to 1 spending advantage over challengers. You hear people say public financing of campaigns is welfare for the politicians. Do you know what I say to chamber of commerce and Rotary Club members, all conservative businessmen who do not much like this idea of public financing? I remind them, you have been investing in the stock market for several years now and you have been doing well. But I can tell you, if you really want to make some money, if you really want a return on your investment, you opt for public financing. That will give you the biggest return of any investment you ever made in your life, because we won't be spending a lot of money on unworthy projects that contributors supported. It will be a great investment because it will yield a cleaner government and the people will believe it is a cleaner government.

The average successful Senate race today costs $4 million. That is average. Some races have cost as much as $28 million. Where will we be 20 years from now if the costs of Senate races continue to go up another 800 percent? You can't count that high. You can't get computers to count that high at the rate we are going.

One of the problems that I have with the McCain-Feingold bill, and I am a cosponsor and ardent supporter and I certainly intend to vote for it, but I will tell you one of my fears is, while it will help preserve our democracy for a little longer and it will take some of the problems out of the way we finance campaigns today, nothing will cure the problem like public financing.

But the point I want to make, what I worry about is, if we pass McCain-Feingold, there will be a lot of hoopla about it, because I have never known people as tenacious and determined and as hard-working as Senator FEINGOLD and Senator MCCAIN have been on this issue. They have my deep and abiding admiration for their tenacity and their determination to try to do something about what is wrong with the system. But if it passes, we will go home and we will pat ourselves on the back and give ourselves the ''good government'' award, as Senator HOLLINGS is always saying, and the American people will be thinking the system has been fixed. A lot of it will have been fixed, but problems will remain and I fear that they will make the people even more cynical.

The issue advocacy ads that are really ads for a candidate—they drive me crazy. This bill would help to bring them under control, require disclosure of the sources of money used to produce them. They are really campaign spending.

I can tell you, I have voted for one constitutional amendment since I have been in the Senate. I voted for ERA soon after I arrived in the Senate.

Since that time, I have voted about 32 times against every constitutional amendment. Either earlier this year or last year, I voted against Senator HOLLINGS' amendment to the Constitution which would have allowed the Congress to set campaign spending limits. I am going to vote for it. I want to announce now publicly, the next time Senator HOLLINGS brings that amendment up, I intend to support it. Despite my deep reservations about amending our Constitution, I will do almost anything to change the way we finance campaigns in this country, because I am absolutely convinced that this system is totally destructive to our democracy. I yield the floor, Mr. President.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise to announce my intention to join my colleague from Arizona, Senator MCCAIN, and vote for his motion to table the amendment offered by the distinguished majority leader to the McCain-Feingold campaign reform legislation.

This has not been an easy decision for me. I strongly support the underlying objective, if not the precise language of Senator LOTT's amendment. The principle that America's working men and women should not be required to contribute their hard-earned money to advance the campaign of candidates they do not support is a compelling one. The strong opposition of big labor to this reasonable proposal demonstrates their fear that many of the rank and file union members would not agree to the use of their dues for political purposes.

But in the final analysis, my decision on this matter must be determined by considerations other than the merits of Senator LOTT's amendment. The plain truth is that its adoption will kill campaign finance reform. That is not simply my judgment; it is the judgment of Senator MCCAIN and Senator FEINGOLD who have devoted so much time and energy to further the cause of reform.

When I ran for the U.S. Senate, I made a clear and unambiguous promise to the people of Maine. I promised that I would fight for campaign finance reform. The people of my State responded by entrusting me to represent them in this body, and whatever other loyalties that I might have, I owe my ultimate allegiance to them. I kept that promise when I cosponsored the McCain-Feingold bill, and I am keeping it now by pledging to vote against what I have concluded is, in fact, a killer amendment.

I do, however, want to say a few words to my Democratic colleagues. At the end of the day, we will not have campaign finance reform without sacrifices and courage on both sides of the aisle. If Senator LOTT's amendment is not defeated, the spotlight will shift to the Democrats. So far, they have had the easy road, able to proclaim their passion for reform, knowing that it faces an uphill battle and confident that they can blame the Republicans if it does not pass.

But if their response to the Lott amendment is simply to filibuster and not to offer a reasonable compromise on the union dues issue, an already skeptical public will reach the inevitable conclusion that Democrats are not serious about reforming the system. A number of Democrats have urged me to put principle over party, and to them I say, ''Your turn may come.''

Mr. President, a fair campaign finance system is essential to a healthy democracy. While not perfect, the McCain-Feingold bill would give us a fair system. Given the commitment of the people of Maine to fair play, I am confident that my position on this issue not only is right as a matter of principle, but also reflects the values of my home State.

I want to also take this opportunity to commend Senator MCCAIN and Senator FEINGOLD for their unceasing efforts in this very important fight.

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

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, let me take this opportunity to say what a Senator of courage the Senator from Maine is. This is a very difficult issue. The Senator from Maine, of course, is a loyal Republican, but for her to come out here and have the courage to stand up and join with us to say that this amendment would kill our bill is extremely important.

I have heard her admonition as well that this must continue to be bipartisan. But the fact that she would come out here at this key moment and say that she will stand with a bipartisan effort, as she has done in the past, is not a minor matter. It is the same thing the Senator from Maine did a few months ago when everyone kept saying, ''You don't have any cosponsors; you only have two Republican cosponsors.'' It was the Senator from Maine who actually had some ideas that were better than our ideas, and we added them to the bill and improved it.

Let me add both my personal and professional gratitude for the commitment of the Senator from Maine to reform. We in Wisconsin like to think that we are the greatest reform State, but Maine sure gives us a challenge.

Ms. COLLINS. Will the Senator yield?

Mr. FEINGOLD. I yield for a question.

Ms. COLLINS. I thank the Senator for his kind comments.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today to add my voice to the very important discussion that the Senate is having regarding campaign finance reform, and I commend the Senator from Kentucky, Senator MCCONNELL, for not only his leadership but for his tenacity in defending what he believes and so many of us believe is an assault on the first-amendment rights of all Americans.

I also thank Senator LOTT, our leader, for his leadership in scheduling this debate, and I commend my colleagues who thus far have added insight and value to our discussion.

Mr. President, if we are to have campaign finance reform, I believe we must achieve those changes necessary to ensure public trust in our institutions and our Government officials. Serious reform must take into consideration the significant number of Americans who are compelled to make mandatory political contributions at their workplace as a condition of employment. No citizen should be required to make involuntary contributions to any candidate, party, or political interest group. No corporation, no labor union, and no business entity should have the power to twist the arms of their employees or members. These practices are wrong and un-American, and I believe they must be ended as part of our overall effort to reform the financing of Federal elections.

Serious reform must also contain provisions that increase the frequency and specificity of mandated contribution disclosure. I support measures which bring about greater transparency, those that allow the American people to know the where, the when, how much, and from whom of campaign contributions.

The last election cycle was filled with numerous activities that violated existing campaign laws. As we proceed through this debate, we should be mindful of the fact that these new reforms do nothing to reach those past violations. We must ensure that illegal foreign contributions are kept from election campaigns, and I believe that we must ensure disclosure violations are uncovered and are punished. Thus, perhaps the most important so-called change we can now achieve is to ensure that the existing laws are routinely and are properly enforced.

However, in our zeal for change, we should not compromise the rights and freedoms of the same people we claim to protect. We must pay close attention, I believe, to the numerous Supreme Court decisions which clearly set forth that the regulation of many campaign-related activities directly implicates first-amendment rights.

In 1974, the Supreme Court reviewed the Federal Election Campaign Act in the case of Buckley and struck down the statutory restrictions on campaign expenditures. In its holding, the Court concluded that political discourse ''is at the core of our electoral process and of the first amendment freedoms.''

While the Court did allow a minimal level of restriction that we know about—caps on the direct contributions to candidates—and only for the purpose of preventing corruption or the appearance of corruption, it granted the full protection, Mr. President, of the first amendment to anyone spending money to communicate an idea, a belief, or a call to action.

In no uncertain terms, the Buckley decision makes clear that the first amendment forbids the Federal Government from restricting political speech and expression rights by way of campaign expenditure limits.

Mr. President, the Buckley decision does not stand in isolation. For the past 20 years, the Supreme Court of the United States has returned to this decision and consistently and unequivocally reaffirmed its soundness. The Court's subsequent decisions clearly demonstrate this, such as in FEC versus National Conservative Political Action Committee. The Court, tracking the Buckley decision, struck down restrictions on funds spent in support of publicly financed Presidential candidates in furtherance of their election. The Court held that such expenditures fell squarely, Mr. President, within the protections of the first amendment rights.

Also, in the FEC versus Massachusetts Citizens for Life, the Court ruled that the voter guide published by an incorporated entity was entitled, Mr. President, to first amendment protections and invalidated an enforcement action the FEC brought against this organization.

More recently, Mr. President, in Colorado Republican Federal Campaign Committee versus FEC, the Court again, following Buckley, held that first amendment protection covers someone communicating an idea, a belief, or a call to action. The Court found that political party expenditures made in support of party ideals and even party candidates were protected under the first amendment of the Constitution of the United States so long as the expenditures were not made, as we say, in coordination with candidates.

Mr. President, the Supreme Court rulings provide us two guideposts in our endeavor to reform campaign finance. We have the constitutionally proscribed power and thus the responsibility to prevent corruption and/or the appearance of corruption in Federal elections, but we can ''make no law * * * [that] abridges the freedom of speech * * *,'' quoting the Constitution.

Therefore, I believe that it is essential that any reform initiatives we pass do not further encroach on the basic rights protected under the first amendment. It is not the proper role of Government, I believe, to restrict the ability of the American people to participate in election campaigns. It would be absurd, I think, to allow the Government to control the manner in which Americans communicate. If reform crosses these lines, I think it commands too high a price, it goes too far.

Mr. President, in light of the Supreme Court holdings, I do not understand and cannot support the present legislative efforts that directly impinge on first amendment rights. I particularly object to the so-called reform in Senators MCCAIN and FEINGOLD's bill which restricts independent parties from communicating ''for the purpose of influencing a Federal election,'' regardless of whether the communication is expressed advocacy.

Just think about it. Time and again, in case after case, the Supreme Court of the United States has held that Congress can only legislate to restrict campaign-related activities where those activities comprise the express advocacy of a particular candidate. The Court even specified in a footnote in the Buckley case what it meant by express advocacy—communications such as ''vote for,'' ''elect,'' ''defeat'' and ''reject.'' So when Congress places restrictions on communications that do not fall within this tightly drawn class, it violates, according to the Court, the first amendment.

Mr. President, as we have consistently heard on the floor during this debate, the first amendment is not a loophole. It is beyond our constitutional authority to restrict the ability of independent groups to communicate their political views where they do not engage in express advocacy.

Mr. President, I am also greatly troubled, as are others, by a provision in Senators MCCAIN and FEINGOLD's bill which prohibits independent communications that merely mention the name of a candidate within 60 days of a Federal election. Not only does such a restriction strike at the heart of first amendment protections, it all but guarantees a free ride to the incumbent involved in the election.

Just think about it, Mr. President. If there is no commentary regarding a candidate's performance in office at the time when the electorate is most tuned into the campaign, no sitting Member would ever lose. Incumbents would be able to capitalize on the inherent advantages of being in office, while challengers would be forced to rely solely on their own and probably much less resources.

This provision is incumbent reelection insurance, not campaign finance

reform. Make no mistake about it. The electorate must be able to hear all the views about candidates in a timely manner. And candidates must be able to stomach the full range of opinions regarding their candidacy.

Mr. President, we must clean up the system but without compromising fundamental first amendment rights. I believe this task is difficult but not impossible. Without infringing upon any American's rights, we can ensure that the American people control the direction of their contributions, have an understanding of who gave what to whom, and are confident that our elections are free of foreign influence, which is so important.

Mr. President, the Senate, I believe, should work to enact these measures into law and not infringe on our first amendment rights.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. DOMENICI. I say to the Senator, I wonder if I might take 3 minutes as in morning business. I can go into morning business and do this, and then we can come back to this.

Mr. LEVIN. I ask unanimous consent that I be allowed to yield to Senator DOMENICI for up to 5 minutes and then have my rights to the floor restored.

The PRESIDING OFFICER. Is there objection? Hearing no objection, without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Senator very, very much. I will be perhaps even briefer than that.

PROVIDING TECHNICAL ASSISTANCE TO AID IN THE RESTORATION OF THE BASILICA OF ST. FRANCIS OF ASSISI

Mr. DOMENICI. Mr. President, on September 24 and 25, Umbria, Italy, that community, was hit by twin earthquakes. Extensive damage was inflicted upon the towns and villages across the region. Eleven people lost their lives and thousands of homes and buildings have been damaged.

The Basilica of St. Francis of Assisi was one of the buildings that was severely damaged. It isn't just a church or a great center of pilgrimage, or an artistic archive and yet it is all of those things.

It is one of those special places that you visit one day, but long to return to for a lifetime if you are fortunate enough to get to Italy and to set about to see some very, very historic buildings with culture and with religion that just wreaks from the walls.

That is why I was profoundly saddened to learn that the basilica was severely damaged by the earthquakes of September 24 and September 25, and again last week.

It seems so ironic that the basilica, built in honor of the patron Saint of Italy who cherished the natural world, was ravaged by an act of nature.

The basilica is one of the finest examples of Italian Gothic architecture, a building of ''unparalleled importance in the evolution of Italian art.'' It has been written, by those more knowledgeable about art and architecture than I am and will ever be, that ''a harmonious relationship exists between the architecture and its fresco decoration.'' ''The strong and simple forms are repeated throughout the building both to unify and to articulate the space with so powerful an effect that the architectural members are echoed in the painted framework to the frescos.''

The basilica is a living museum providing a home for the art of several great masters of the 13th and 14th centuries. These art treasures depict scenes from the Old and New Testaments.

The famous fresco artist, Cimabue, began his work in the basilica, believe it or not, in 1277. Cimabue's frescos include scenes from the life of the Virgin, popes, angels, and saints, as well as scenes of the Apocalypse and the Crucifixion.

Cimabue's pupil, Giotto, painted 28 famous, and beautiful frescos based on St. Bonaventure's version of St. Francis' life, and major accomplishments. These famous Giotto frescos painted on the sidewalls of the basilica were cracked by the earthquake but are miraculously somewhat in tact. These frescos are world treasurers. So that my colleagues understand, let me make this comparison. Giotto was to the basilica what Brumidi was to our own beautiful Capitol.

Mobilization of Italian artists and restorers has been swift. In addition, the National Museum in London and the Louvre have offered experts to help with the restoration.

The sense-of-the-Senate resolution calls upon the Smithsonian, the National Gallery of Art, and any of the other premier art museums in the United States that have the pertinent expertise to provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquake.

I want to indicate to the Senate I will send to the desk to be considered in wrapup a resolution—just by the Senate; we are not going to try to go to the House—just a sense-of-the-Senate resolution that states the facts regarding this disaster, and merely says that the Smithsonian Institution, the National Gallery of Art and any of the other premier art museums of the United States having pertinent expertise in restoration should provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquake. That is essentially what it is.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997

The Senate continued with consideration of the bill.

Mr. LEVIN. Mr. President, I am a cosponsor and strong supporter of the McCain-Feingold bill, and I want to explain this afternoon in some detail why I support a key section in the bill that is the subject of much debate. It is section 201, the provision that is intended to stop what we call issue ad abuse. By issue ad abuse I mean the mislabeling of candidate ads as issue ads in order to evade contribution limits and the disclosure requirements that now exist in Federal campaign law.

I want to emphasize this point because it has been overlooked, it seems to me, by so many of us during this debate. Current law restricts contributions and the Buckley case has upheld that restriction as being consistent with the first amendment. Section 201 is not only constitutional within Buckley but it is also critically important to campaign finance reform. I want to spend some time explaining why.

Now, Buckley—which I think has been cited by just about everybody who has spoken in this debate—is the touchstone for drafting constitutionally permissible Federal campaign finance laws. So I want to start with Buckley. In Buckley, the Supreme Court upheld a strict set of limits on campaign contributions to Federal candidates, despite impassioned argument, including by the ACLU, that such limits impermissibly restricted first amendment rights of free speech and free association.

This is what the Court said in Buckley, and I will be quoting at some length because it is critical in understanding the permissible limits of campaign finance law and limits:

> It is unnecessary to look beyond the Act's primary purpose—to limit the actuality and appearance of corruption resulting from large individual financial contributions—in order to find a constitutionally sufficient justification for the $1,000 contribution limitation. Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign. The increasing importance of the communications media and sophisticated mass mailing and polling operations to effective campaigning make the raising of large sums of money an ever more essential ingredient of an effective candidacy. To the extent that large contributions are given to secure political quid pro quo's from current and potential office holders, the integrity of our system of representative democracy is undermined. . . .
>
> Of almost equal concern is the danger of actual quid pro quo arrangements and the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. . . .

And the Court went on:

> Congress could legitimately conclude that the avoidance of the appearance of improper influence ''is also critical. . . if confidence in the system of representative government is not to be eroded to a disastrous extent.'' . . .

Congress was surely entitled to conclude that disclosure was only a partial measure, and that contribution ceilings were a necessary legislative concomitant to deal with the reality or appearance of corruption inherent in a system permitting unlimited financial contributions, even when the identities of the contributors and the amounts of their contributions are fully disclosed.

In other words, the Supreme Court explicitly held in Buckley that eliminating actual and apparent corruption of our electoral system—corruption which is ''inherent in a system permitting unlimited financial contributions''—was a compelling enough interest to justify Congress in imposing campaign contribution limits, although such limits collide with unfettered first amendment rights of free expression and free association.

The Supreme Court adopted a balancing test, looking at what was the restriction on the first amendment compared to the public interest in avoiding the appearance of corruption in elections where there are unlimited financial contributions.

Now, what did the Supreme Court do in the area of contributions? They upheld a $1,000 contribution limit on contributions that an individual may make to a Federal candidate. Despite the argument that that limit collided with pure free speech rights—an argument made by the ACLU in the Buckley case and not adopted by the Supreme Court in Buckley—quite the opposite. They approved the contribution limit. The Supreme Court not only said that the $1,000 limit on contributions to candidates was constitutional, but it also upheld an overall ceiling of $25,000 on the amount of money that a single individual could give to all Federal candidates in a single year.

Now, how does the Court explain that? If the $1,000 limit is constitutional, how, then, would it be constitutional to limit the number of $1,000 contributions in effect to 25 candidates? Why shouldn't people be allowed to give $1,000 to 50 candidates if they want?

The language of the Court is again very instructive as to the balancing test that they adopted relative to weighing limits on contributions and any impingement on first amendment rights. Here is what the Supreme Court said:

> The overall $25,000 ceiling does impose an ultimate restriction on the number of candidates and committees with which an individual may associate himself by means of financial support. But this quite modest restraint upon protected political activity serves to prevent evasion of the $1,000 contribution limitation by a person who might otherwise contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate or huge contributions to the candidate's political party.

The Supreme Court went on to say:

> The limited additional restriction on associational freedom imposed by the overall ceiling is thus no more than a corollary of the basic individual contribution limitation that we have found to be constitutionally valid.

So the Buckley Court not only upheld limits on contributions of $1,000 per candidate per election, they also upheld an overall limit of $25,000 in a test which weighed the restrictions on associational freedoms and first amendment freedoms against the need for clean elections, against the need to avoid the appearance of corruption, which in the Supreme Court's words, arises from unlimited financial contributions to candidates.

The Supreme Court said Congress may try to avoid the appearance of corruption that results from unlimited contribution to candidates by putting limits on the contributions to any one candidate and on the total number of contributions to all candidates combined. Why? In order to prevent ''evasion of the contribution limit'' by a person who might ''contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate or huge contributions to the candidate's political party.''

That is Buckley. Now, we haven't heard a lot about that part of Buckley in this debate yet, but that's Buckley. We have heard, and properly so, about that part of Buckley which put limits on expenditures and acts inconsistent with the first amendment. But what we have not heard enough of is those parts of Buckley which rule constitutional the limits on contributions to candidates. It is that part of Buckley that upholds the constitutionality of limits on contributions, which is at the core of McCain-Feingold. Because it is in order to avoid the evasion of existing law and its limits on contributions that the McCain-Feingold bill is designed as it is. That is why we believe that it is perfectly consistent with Buckley.

The Buckley opinion also upheld disclosure requirements. By sustaining these disclosure requirements, the Supreme Court effectively approved the prohibition of anonymous or secret contributions to any candidate or political committee. It also effectively approved the prohibition of direct campaign spending by anonymous or secret persons. Again, the Supreme Court adopted a balancing test even when it came to disclosure.

I know that the Presiding Officer has a particular interest in the need for disclosure—an interest that I think most Members of this body share. Many of us also want to put limits on soft money contributions. On that, there is a difference inside this body. But in terms of disclosure, I know that the Presiding Officer has had a very sincere and a very longstanding interest, one I think most of us would share.

Here is what the Court said relative to the first amendment's application to disclosure requirements:

> Compelled disclosure has the potential for substantially infringing on the exercise of first amendment rights. But we have acknowledged that there are governmental interests sufficiently important to outweigh the possibility of infringement, particularly when the free functioning of our national institutions is involved. The governmental interests sought to be vindicated by the disclosure requirements are of this magnitude.

So, again, it is a weighing test. The Supreme Court said explicitly that compelled disclosure—which I think probably all of us in this body support in one fashion or another—has the potential for substantially infringing on the exercise of first amendment rights. But then the Court went on to weigh the value of disclosure against the infringement and said that we have a legitimate public interest in coming down on the side of disclosure. The Court listed three compelling interests in requiring disclosure.

Later Supreme Court decisions built upon the base provided in Buckley. One key case was Austin versus Michigan State Chamber of Commerce in 1990. The Supreme Court in Austin upheld a Michigan State law which prohibited corporations from making independent expenditures, except through a political action committee which is subject to contribution limits and disclosure requirements. Despite the corporation's argument that its first amendment rights were being violated, the Supreme Court specifically held that Michigan could bar the corporation from placing an ad endorsing a specific candidate.

In other words, a corporation was told by the Supreme Court that Michigan has a right to prevent you from putting on an ad that endorses a candidate. It quoted extensively from the Massachusetts Citizens For Life case, a 1986 case.

Here is what the Supreme Court said in the Michigan case, again quoting an earlier case significantly but having additional language of its own:

> ''The resources in the treasury of a business corporation . . . are not an indication of popular support for the corporation's political ideas. They reflect instead the economically motivated decisions of investors and customers. The availability of these resources may make a corporation a formidable political presence, even though the power of the corporation may be no reflection of the power of its ideas.'' We therefore have recognized—

Here again, we get into a weighing test

> that ''the compelling governmental interest in preventing corruption support[s] the restriction of the influence of political war chests funneled through the corporate form.''. . . Regardless of whether this danger of ''financial quid pro quo'' corruption may be sufficient to justify a restriction on independent expenditures, Michigan's regulation aims at a different type of corruption in the political arena: the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas.

So we have contribution limits approved by the Supreme Court. We have

disclosure requirements approved by the Supreme Court. We have a ban on corporate independent expenditures except through a PAC approved by the Supreme Court.

Each of these campaign finance restrictions has been upheld by the Court in the face of arguments that these restrictions were inconsistent with the first amendment. In each of those cases, the Supreme Court acknowledged that there was some impingement on pure first amendment rights but weighed that against the public interest in clean campaigns.

TWENTY YEARS AFTER BUCKLEY

Now, the campaign contribution limits that are in existing law—the $1,000 an election and $25,000 overall—are strict limits. No corporate or union campaign spending, except through political action committees. Presidential campaigns are supposed to be funded with public funds.

Those laws, as I said, are on the books today. But candidates and parties in the 20 years since Buckley have found many ways around these tough laws. Contribution limits have been rendered all but meaningless by the soft money loophole. We have all heard the story of Roger Tamraz's $300,000 contribution to the Democrats, and the tobacco industry's donating millions of dollars to Republicans. Disclosure requirements and the ban on corporate independent expenditures have also been rendered toothless, not only by the soft money loophole, but also by the use of so-called ''issue ads.''

In my opinion, the most vicious combination in the 1996 election season, outside of our control and the control of the campaign finance laws, was the use of huge contributions from individuals or entities, corporations included, funding candidate attack ads mislabeled as issue ads. This vicious combination encapsulates for me more than any other single image the collapse of our campaign finance system and the rock-bottom need for reform. Documenting issue ad abuse and the role that these so-called issue ads now play in American elections is vital to support legislative reforms that touch upon first amendment concerns. That record is being built right here on the Senate floor. That record is being built in campaign finance hearings before the Senate Governmental Affairs Committee, of which I am a member. It is a record that is filled with examples of so-called issue ads that are indistinguishable from candidate ads, as well as testimony that we have elicited from experienced candidates, officeholders, and others about the growing use of so-called issue ads as a tactic in Federal campaigns to evade the legal limits on contributions and disclosure requirements.

Mr. President, I ask unanimous consent at this point that following my remarks there be printed in the RECORD the transcripts of six so called ''issue ads'' that aired on television during the course of the 1996 campaign.

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

(See exhibit 1.)

Mr. LEVIN. Mr. President, this list, compiled by Public Citizen, illustrates in the words of the group, ''. . . the use of the 'issue ad' loophole to engage in flat-out electioneering.''

I want to just use one of these ads as an example. This is a 1996 ad, paid for by the League of Conservation Voters. It refers to a House Member, GREG GANSKE, a Republican Congressman from Iowa. The transcript of the ad reads as follows:

It's our land; our water. America's environment must be protected. But in just 18 months, Congressman Ganske has voted 12 out of 12 times to weaken environmental protections. Congressman Ganske even voted to let corporations continue releasing cancer-causing pollutants into our air. Congressman Ganske voted for the big corporations who lobbied these bills and gave him thousands of dollars in contributions.

The next line is:

Call Congressman Ganske. Tell him to protect America's environment. For our families. For our future.

This ad is treated by its sponsors as an issue ad which can be paid for out of unlimited, undisclosed funds. But if one word is changed—just one word—instead of saying ''call'' Congressman GANSKE, the ad says ''defeat'' Congressman GANSKE—which the ad says in every single other way but doesn't use the word ''defeat.'' If they had explicitly use the word ''defeat,'' then that ad would have to be paid for out of funds which are restricted by law, because the word ''defeat'' is one of those magic seven words.

In the real world is there any difference between those two ads? In the real political world, would any viewer of that ad get any message other than to defeat Congressman GANSKE? Would any reasonable person reach any other conclusion as to the purpose and intent of that ad? Is that ad not unmistakably aimed at the defeat of a candidate in the middle of an election when that ad runs? Is that ad not equivalent to an ad that is calling for the defeat of a candidate?

I think most of us in this Chamber who have been living in the real political world, as well as most of our constituents, wouldn't even notice the difference—whether the word ''defeat'' or ''call'' were in that ad. That is how similar they are.

Then the question is: Just as we are permitted by the Supreme Court to protect our contribution limit of $1,000 by having an overall limit of $25,000, will we be allowed to protect our law requiring that ads calling for the defeat or the election of a candidate come from contributions which are limited by law? Can we not protect that law also in the way we have done in McCain-Feingold, by adding another word to the seven magic words —for instance, the eighth word—the name of the candidate?

Seven words are listed in a footnote in Buckley—the so-called ''seven magic words.'' If you use the words ''vote for'' or ''defeat'' or ''elect'' or ''support'' or ''vote against'' or ''reject,'' that is unequivocally considered an ad calling for the election or defeat of a candidate. And the Supreme Court says that our restriction on contributions is constitutional if one of those ads is used. It doesn't say one of those words has to be used. It uses that as an example in a footnote.

So we are coming along now in the real world 20 years later and saying, ''Here is an ad that didn't use one of those magic seven words.'' But is that ad functionally any different? Is that ad in the real world any different from an ad which contains the word ''defeat,'' or does that ad unmistakably call for the defeat of that Congressman just as much if it had used the ''vote against''?

That is a question which the Federal Election Commission has ruled on. They have adopted a test from a case called Furgatch that comes out of the ninth circuit. In the Furgatch case, the ninth circuit approved the test which is now the regulation of the Federal Election Commission which says that, if an ad unmistakably calls for the defeat or election of a candidate, that ad is within the meaning of our law that restricts contributions to $1,000 where the advocacy of a candidate's defeat or election is express.

We had 30 days after the Federal Election Commission adopted that regulation based on the Furgatch case, as approved by the ninth circuit—to reject the Federal Election Commission regulation that was adopted a few years ago.

The courts are divided. We have the ninth circuit saying that the test in the Furgatch case is constitutional. We have the first circuit ruling the other way. We have the Supreme Court deciding not to accept certiorari in either of the appeals. In fact, just today they did not accept an appeal of the first circuit decision.

So we have the ninth circuit a number of years ago approving the unmistakable test in Furgatch which is in the Federal Election Commission regulation, and we have the ninth circuit going the other way, and one other circuit I believe going the other way.

So we have a division in our circuits as to whether or not the unmistakable test that the Federal Election Commission has adopted by regulation—and that we have not rejected when we had an opportunity—as to whether or not that Furgatch test is in fact constitutional. But surely when you have one circuit ruling that it is constitutional, and when you have the Supreme Court declining to rule on an appeal from either circuit approving it or disapproving it, what we have now is the situation where we have divided circuits. We have the Supreme Court that hasn't ruled on the subject.

I would have like to have seen the Supreme Court adopt certiorari today, but they didn't. They left us with law

in a state of limbo where you have one circuit saying the Federal Election Commission is right—it properly adopts the unmistakable test, and you have another court of appeals saying no—they can't do it consistent with the Supreme Court decision in Buckley.

That is where we sit. That is where we are going to sit until one of two things happen. Either the Supreme Court decides to rule on an appeal from one of these circuits, or we adopt a test ourselves and then presumably have that test ruled upon by the Supreme Court.

Mr. SESSIONS. Mr. President, will the Senator from Michigan yield for a question?

Mr. LEVIN. I would be happy to.

Mr. SESSIONS. With regard to that, I was, I could say, a victim. That is the way I saw it with that very type of ad late in the campaign asking people to call JEFF SESSIONS and say you are opposed to A, B, C, or D—to things he had done while in office.

I think we can take two approaches to it. It fundamentally troubles me that the League of Conservation Voters do not feel free to run an ad and say vote against this guy just like the people who ran ads against me. Why shouldn't we just let them do it? They should have to put their name on it and say who is funding it.

Mr. LEVIN. Is the Senator proposing we repeal the current law?

Mr. SESSIONS. I think we have to consider the problem of trying to contain free speech in America. I really am troubled by it. I was a victim of it. I got angry at the time. Now I wonder why I should feel obliged to tell those trial lawyers and plaintiff lawyers who opposed some of my filed suits that they can't run an ad and say my ideas are wrong and I shouldn't be elected.

As a matter of fact, I am troubled by that.

Mr. LEVIN. Of course the Senator knows they can run ads saying you ought to be defeated. They can run all of those ads they want. But under the law that we have passed, they must use contributions which comply with the limits which we have adopted. So they are free to run those kind of ads. But they must comply with law when they run those ads.

The question is whether they should have unlimited, undisclosed funds to run ads which effectively say to defeat or elect somebody but do not comply with the limit. That is what we are facing.

So, unless the Senator is suggesting that we repeal the existing law, which puts restrictions on contributions for ads which advocate the election or defeat of a candidate—that is the existing law—unless the Senator is proposing that, then it seems to me we should make that law effective and not put form over substance. And when you have two ads which are functionally the same and equivalent, treat one as though it is different from the other.

That is the issue which we are now facing on the floor, as to whether we want to enforce existing law to eliminate what we call a loophole, which clearly is the avoidance of a magic word in an ad which functionally is the same and which any reasonable person would say unmistakably is calling for the defeat of Congressman GANSKE, as an ad which uses the word ''defeat'' itself.

But, again, unless the Senator is calling for the repeal of existing law, it seems to me we are then in the situation where we are either going to make those limits work, those contribution limits work, which have been approved by the Supreme Court in Buckley, or else we are going to continue the current system where those limits are evaded and where you have all this soft money which comes into these campaigns, which I don't think was the intent of our law when we adopted the reform that we did after Watergate.

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

Mr. LEVIN. Sure.

Mr. McCONNELL. Is the Senator talking about the Furgatch case?

Mr. LEVIN. I have made a number of references to Furgatch.

Mr. McCONNELL. I am sorry; I was not on the floor, and the Senator was making the point that he thought the Furgatch case did what? Indicated that the restrictions on express advocacy in the McCain-Feingold bill would be constitutional?

Mr. LEVIN. I think the language of the Furgatch case is such that it is much more than the magic words which determine whether or not an advertisement effectively supports the election or defeat of a candidate. Just to read some of the language from Furgatch, what Furgatch does, of course, is look at that famous —as my good friend from Kentucky knows—footnote in the Buckley case, footnote 52, which uses seven magic words. The question is, are those the only words which determine whether or not an ad advocates expressly the election or defeat of a candidate?

Here is the Furgatch test. Here is what the Furgatch case says:

> We begin with the proposition that ''express advocacy'' is not limited to communications using certain key phrases. The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate. A test requiring the magic words ''elect,'' ''support'' or their nearly perfect synonyms for a finding of express advocacy would preserve the first amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act. Independent campaign spenders working on behalf of candidates could remain just beyond the reach of the act by avoiding certain key words while conveying a message that is unmistakably directed to the election or defeat of a named candidate.

So they then provided an alternative test. We are now talking about the ninth circuit in Furgatch, which says that the term ''express advocacy'' means a communication that advocates the election or defeat of a candidate by expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events such as proximity to an election.

Now, that test was basically adopted by the Federal Election Commission in its current regulation. So we have a current regulation which basically adopts the unmistakable test. Under the law, as I understand it, Congress had about 30 days within which to review that regulation. We did not overturn that regulation of the Federal Election Commission. It has to date, in a case which the Supreme Court refused to review, been left in limbo in the case.

The Supreme Court, by the way, it has been said in the Chamber here, struck down Furgatch, or more accurately——

Mr. McCONNELL. I didn't hear anyone say that.

Mr. LEVIN. I was just getting the exact wording.

I think today it was said in the Chamber that the Federal Election Commission test has been stricken by the Supreme Court's decision today, and that is simply not accurate.

What the Supreme Court decided today was not to review a case, not to review a case from a court of appeals in which the Court said that the Federal Election Commission regulation was not constitutional. But we have another court of appeals in the Furgatch case adopting language which is the basis of the Federal Election Commission regulation, and the Supreme Court didn't review the ninth circuit's decision. So we have two decisions unreviewed by the Supreme Court, the ninth circuit decision with Furgatch language and a first circuit decision with the FEC language which is based on Furgatch——

Mr. McCONNELL. Will my colleague yield for a question?

Mr. LEVIN. In which a key question was raised, in fact was thrown out as unconstitutional.

Mr. McCONNELL. Is my colleague from Michigan familiar with the Federal Election Commission versus Christian Action Network, which was decided April 7 of this year? The language in that decision on page 7, I directly quote for my friend from Michigan:

> Seven years later and less than a month following the Court's decision in MCFL, the ninth circuit in FEC v. Furgatch could not have been clearer that it, too, shared this understanding of the Court's decision in Buckley. Although the Court declined to strictly limit express advocacy to the magic words of Buckley's footnote 52 because that footnote list ''does not exhaust the capacity of the English language to expressly advocate election or defeat of a candidate,'' the entire premise of the Court's analysis was that words of advocacy such as those recited in footnote 52 were provided to support Commission jurisdiction over a given corporate expenditure.

I think what the Supreme Court was saying, or what the fourth circuit was saying is that there might be another way beyond the precise words of the footnote to expressly advocate the election or defeat, but that that was basically it. There might be another way to say the same thing beyond words actually chosen in footnote 52. But you are not permitted to wander further. Is that not the——

Mr. LEVIN. I think there is a split in the circuits, and the fourth circuit basically is close to where the first circuit is, and that is, as I understand it, also subject to appeal to the Supreme Court.

The ninth circuit has adopted the Furgatch test, which was then adopted by the Federal Election Commission. So we have a situation where we have circuits split. We have the ninth circuit adopting the Furgatch test, saying if something unmistakably calls for election or defeat of a candidate, that amounts to the express advocacy which is prohibited—not prohibited but which is subject to limits and regulations of existing law. You have the fourth circuit and the first circuit that have reached a different conclusion on that. So you have a split in the circuits, and today the Supreme Court as of this moment decided to leave that split where it is, to leave that issue in limbo.

Mr. MCCONNELL. I am not sure how in limbo my friend from Michigan would find denial of cert in a first circuit case which pretty clearly laid out that language, much of which is in the underlying bill the Senator from Michigan supports, is unconstitutional. Does the Senator from Michigan find that vague?

Mr. LEVIN. Find what? Find it vague?

Mr. MCCONNELL. Vague.

Mr. LEVIN. No; I find it very clear in the fourth and first circuits. But I also find in the ninth circuit, a very clear opinion which reads, in part, as follows:

> We begin with the proposition that ''express advocacy'' is not strictly limited to communications using certain key phrases. The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate. A test requiring the magic words ''elect,'' ''support,'' et cetera or their nearly perfect synonyms for a finding of express advocacy, would preserve the first amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act.

I find those words to be very clear as well, to answer my friend from Kentucky, but the Supreme Court did not accept cert in that case either. So we have the Supreme Court not accepting appeals from circuits which have reached different conclusions. The answer to the question of my friend is I find the words of the fourth circuit clear, I find the words of the first circuit clear, and I find the words of the ninth circuit clear. Very clear.

What could be clearer than a finding of the circuit court in the ninth circuit that says, ''The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate''?

It is a very clear statement.

The Supreme Court is going to have additional opportunities to address this issue, because there are additional cases which will be coming to the Supreme Court. Hopefully, they will see fit to resolve the dispute between the circuits on this issue.

Just to briefly continue with the Furgatch court, the Furgatch court went on to say the following:

> First amendment doctrine has long recognized that words take part of their meaning and effect from the environment in which they are spoken. . . . However, context cannot supply a meaning that is incompatible with or simply unrelated to the clear import of the words. With these principles in mind, we propose a standard for ''express advocacy'' that will preserve the efficacy of the Act without treading upon the freedom of political expression.

And here is the conclusion of the Furgatch court, again, left where it was by a Supreme Court about 10 years ago. So this is the law in the ninth circuit. The Furgatch court said:

> We conclude that speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate. . . . [S]peech is ''express'' for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning.

That test, which I think most of us would agree is a real-world test, that test was adopted by the Federal Election Commission by a vote of 4 to 2. It was adopted after extensive public debate. It was presented to the Congress in 1995 under a mandatory 30-day period of review. It encountered no opposition here, and it encountered no opposition that I know of in the House of Representatives. But, this issue has not been ruled on by the Supreme Court. And the Supreme Court, again, as we all know, announced today that it declined to review a case out of the first circuit which went the other way from Furgatch, leaving a split in the circuits between those who do and those who don't approve of using the Furgatch test to distinguish between candidate and issue ads.

60-DAY RULE

One final comment, and that relates to the so-called 60-day rule that is in section 201 of the McCain-Feingold bill, because this is a third way of distinguishing candidate ads from issue ads. The key provision reads as follows:

> The term ''express advocacy'' means a communication that advocates the election or defeat of a candidate by . . . referring to one or more clearly identified candidates in a paid advertisement that is broadcast within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring. . . .

We have seven magic words in a footnote which, if used at any time during an election, will result in an ad being required to be paid for from regulated, limited funds. If any of those magic words, so-called, are used, the Supreme Court has said, that is evidence, indeed compelling evidence, that the ad is an express advocacy ad for election or defeat of a candidate.

Now, what we do is add an eighth word, in addition to words like ''defeat'' and ''elect'' and ''vote against'' and ''vote for.'' For 60 days prior to an election we add a eighth word, the name of the candidate.

It is pretty logical in an election. That is what a candidate ad is usually all about. When a candidate is named—in this ad, we have Congressman GANSKE, Congressman GANSKE, Congressman GANSKE, Congressman GANSKE. The Supreme Court has said, if you use any of the words in the footnote, that does it, that is express advocacy anytime during an election. And if it is express advocacy for the election or defeat of a candidate, you have to use the limited, regulated contributions. It has to be paid for according to the law which Congress has adopted, because we wanted contributions which go to advocate the defeat or the election of a candidate for Federal office to be governed by contribution limits.

In order to avoid the appearance of corruption—in the Supreme Court's words that exists when you have unlimited funds going into these elections—adding a eighth word to ''vote for, vote against, defeat, elect,'' when that eighth word is the candidate's name in the 60 days before an election, is fully consistent with what the Court decided in Buckley. It is inside the spirit of it, and it implements the purpose of our law which is on the books, and it is intended to comply with what the Supreme Court said in Buckley is the legitimate purpose, public purpose of the Federal elections law.

They said we can restrict and limit contributions. They have said why it is good public policy to do so. They have said all of that. They affirmed our limit on contributions, despite the ACLU's opposition to a limit on contributions.

The ACLU's name has been invoked here a number of times. The ACLU was wrong in Buckley. The ACLU, in Buckley, argued that the first amendment did not permit restrictions on contributions. The Supreme Court did not follow the ACLU in Buckley. They adopted a weighing test, and they have since in a number of other cases.

So, what we are doing is saying, ''Here is another bright-line test. Add to those seven words in that footnote, a eighth word, for 60 days on licensed media, and reflect the real world.'' Because we really have two choices, it seems to me. One is to repeal the law which puts limits on contributions. And many in this body, I think, favor the repeal of the law that puts limits

on contributions. The other thing that we can do is to implement the law, to fully implement its purpose by closing a massive loophole which has now been created, a loophole which allows for those contributions to be made in nonregulated funds to attack or support the election of candidates to the same degree in any real world sense as does an ad which uses one of the magic words in that footnote.

The 60-day rule is a good-faith effort in McCain-Feingold to comply with the Buckley decision. It is an honest effort to comply with the words in the first amendment in the spirit of the first amendment. I don't think any of us differ in terms of our love of this Constitution. I think everybody in this body would pass that test with flying colors as to whether we love our Constitution. I think all of us would also say we want clean and fair elections; we want to avoid the appearance of corruption.

Where we differ is in the process, as to whether or not we want to restrict contributions or whether or not we want them unlimited. For those of us who feel that unlimited contributions contribute to the appearance of corruption—and the Supreme Court has said that there is a legitimate public purpose in restricting unlimited contributions—for those of us who feel that unlimited contributions lead to the kind of spending and attack ads that we saw in the 1996 election, we want to fill that loophole, we want to close that loophole which has been now opened so wide that it basically has destroyed the effectiveness of the limit.

So the effort in McCain-Feingold is consistent with the first amendment. We hope that this body will have an opportunity to adopt, or at least to vote on, McCain-Feingold. What we have done, in summary, is to adopt some bright-line rules which we feel carry out the Buckley decision and close the issue ad loophole without infringing on the first amendment.

It is not an easy task, but these rules that we have added we believe do it. The 60-day rule provides criteria that are clear and uncomplicated but narrowly tailored to the essentials of electioneering.

Mr. President, we are facing a historic moment, and that moment is whether or not we are going to restore limits to a system which was intended to have $1,000 per candidate per election. That is supposed to be the law of the land. It has been evaded. It has been evaded with the soft-money loophole, and we are going to, within the next 24 hours, cast the first vote determining whether or not we want to restore limits, effective limits, on campaign contributions as the Supreme Court in Buckley said that we can do.

I hope that we rise to this occasion. I think the American public has had its fill of the unlimited variety. The status quo has no limits. Every day the status quo is losing more and more of the public's confidence, and it will, hopefully, be our lot to restore some of that public confidence by effectively restoring the limits that were intended to be in this law all along but which have been evaded by the soft-money loophole and the issue ads, as they are now called.

We've talked about some specific issue ads that have raised concerns. A broader analysis of issue ads is provided by a recently released study from the Annenberg Public Policy Center, an executive summary of which I've already included in the RECORD. This study takes a concentrated look at so-called issue ads aired during the most recent election cycle. It estimates that, in addition to the $400 million spent by candidates and political committees to broadcast candidate ads, between $135 and $150 million was spent by parties and outside groups to broadcast issue ads never reported to the FEC as independent expenditures. The study notes that the total spent on these issue ads is approximately one-third of the total spent on broadcast ads by all candidates for Federal office in 1995 and 1996.

The study catalogs over 100 specific so-called issue ads, a list which it states is incomplete. It then analyzes these ads, finding among other things that almost 90 percent mention a candidate by name, half the ads favor Democrats while the other half favors Republicans, and, compared to other types of political advertising, issue ads as a group were the highest in pure attack.

The study makes the following comments about the role of issue ads in the 1996 elections:

> This report catalogs one of the most intriguing and thorny new practices to come onto the political scene in many years—the heavy use of so-called 'issue advocacy' advertising by political parties, labor unions, trade associations and business, ideological and single-issue groups during the last campaign. . . . This is unprecedented, and represents an important change in the culture of campaigns. . . . To the naked eye, these issue advocacy ads are often indistinguishable from ads run by candidates. But in a number of key respects, they are different. Unlike candidates, issue advocacy groups face no contribution limits or disclosure requirements. Nor can they be held accountable by the voters on election day. . . . [A] sharp imbalance has evolved over the past two decades in the laws governing campaigns. One part of the electoral system—the part that pertains to candidates—remains regulated, while another part—one that pertains to advocacy groups and political parties—is barely regulated or not regulated at all. If you were a wealthy donor interested in affecting the outcome of a campaign, but not interested in leaving any fingerprints, it is pretty clear where you would put your money.

I have quoted from the Annenberg study, because it is a study performed by a nonpartisan group with long experience in tracking broadcast ads during election campaigns. The conclusions drawn by this expert, nonpartisan group, based upon a broad-ranging study of specific issue ads in the last election cycle, confirms what every Senator knows from personal experience. Issue ads have become a powerful, frequently used tool in Federal elections—an election tool that has nevertheless been able to evade compliance with campaign finance contribution limits and disclosure requirements.

The bottom line is that the actual experience of Congress during the 20 years since Buckley is that issue ad abuse has spiraled out of control and is now undermining not only the campaign finance system set up to deter corruption and educate the electorate, but also public confidence in the integrity of that system. The abuse has reached crisis proportions. The system is broken, and it is time to fix it.

MCCAIN-FEINGOLD PROVISIONS ON ISSUE ADS

So what to do? How are we to stop issue ad abuse, plug the issue ad loophole that is swallowing the rules on candidate ads, and do so in a way consistent with our respect for the first amendment?

The McCain-Feingold bill offers two answers. First, it seeks to curtail the soft money loophole that currently provides the bulk of funding for so-called issue ads.

The second solution that the McCain-Feingold bill offers to the problem of issue ad abuse is section 201 which takes on the knotty problem of fairly distinguishing between true candidate ads that ought to comply with campaign finance laws and true issue ads that are not campaign activity and legitimately should escape campaign finance restrictions.

As we've discussed, section 201 tackles this problem by first codifying the basic test set out in Buckley for distinguishing between candidate and issue ads. It states that independent expenditures covered by the Federal Election Campaign Act are communications which expressly advocate the election or defeat of a clearly identified candidate.

This general principle, first set out 20 years ago in Buckley, provides the constitutional basis for laws that subject political speech about candidates to such tough legal requirements as contribution limits and disclosure requirements. Congress has not previously codified this principle in the primary Federal campaign law. McCain-Feingold would do so for the first time.

But codifying the general principle is not, of course, enough to stop issue ad abuse. The Supreme Court has already held that Congress can impose contribution limits and disclosure requirements on ads that expressly advocate the election or defeat of one or more clearly identified candidates. The problem is how to identify those ads—the ads that contain the express advocacy that the Supreme Court said must be present to justify campaign finance requirements.

Section 201 offers three alternative ways for determining whether an ad contains express advocacy. The first alternative would codify the so-called magic words test first articulated in

the Buckley decision. The magic words test, which we've all heard about, says that if certain enumerated words are present in an ad, the ad is express advocacy and must comply with Federal campaign laws. This part of section 201, which simply codifies Supreme Court case law, has not engendered controversy.

Section 201 then offers two other ways to determine if an ad contains express advocacy. Some critics argue that the McCain-Feingold bill violates the Constitution right there, because the Supreme Court has allegedly held that only one test of express advocacy is permissible—the magic words test—and nothing more is constitutionally permitted.

Those critics go too far. Buckley never says that the magic words test is the only permissible way to determine whether an ad expressly advocates the election or defeat of a candidate. In fact, Buckley barely discusses the magic words test. That magic words test, which some claim controls the fate of candidate and issue ads, is set out in one sentence in one footnote, footnote 52, which provides minimal guidance.

Here is footnote 52 and the magic words test in its entirety:

> Footnote 52. This construction would restrict the application of [Section] 608(e)(1) to communications containing express words of advocacy of election or defeat, such as ''vote for,'' ''elect,'' ''support,'' ''cast your ballot for,'' ''Smith for Congress,'' ''vote against,'' ''defeat,'' ''reject.''

That's it. That's the whole footnote. That's the whole discussion of the magic words test in all of Buckley. Critics who claim that the Supreme Court has held that this test is the only test that can be used to determine whether an ad contains express advocacy sufficient to justify campaign finance restrictions are going beyond the bounds of Buckley—the Supreme Court has simply not made that determination.

Many of us don't think the Supreme Court would go that far in elevating form over substance. Instead, we support the ninth circuit Furgatch test which I've quoted earlier and which is one of the three tests that section 201 of the McCain-Feingold bill seeks to codify. Section 201 words the Furgatch test as follows:

> The term ''express advocacy'' means a communications that advocates the election or defeat of a candidate by . . . expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole with limited reference to external events, such as proximity to an election.

If Federal campaign laws are to stop issue ad abuse, we have to be able to go after ads that unmistakably and unambiguously advocate the election or defeat of a clearly identified candidate—including ads that convey such information without once mentioning a magic word.

Finally, section 201 of the McCain-Feingold bill proposes using the so-called 60-day rule. Broken down to its essentials, this test requires three elements for an ad to qualify as express advocacy: a paid broadcast on television or radio, a reference to a clearly identified candidate, and a broadcast aired within 60 days of the candidate's election.

This 60-day rule is a more limited version of a proposal first made by Thomas Mann and Norman Ornstein. It is more limited in two ways. Where the Mann-Ornstein proposal would have applied to all forms of communications, including newspaper ads, mailings, billboards and more, the section 201 proposal is limited to ads broadcast on licensed airwaves. Where the Mann-Ornstein proposal suggested a 90-day timeframe, the section 201 is limited to 60 days.

The limitation to broadcast ads is a narrowly tailored solution to the problem of issue ad abuse.

The Senate Governmental Affairs Committee on which I sit has received evidence of serious issue ad abuse outside the broadcast arena. For example, the committee subpoenaed documents related to a 1996 million-dollar mailing and telephone effort by a group called Americans for Tax Reform. This group claimed to be engaged solely in issue advocacy, but a host of undisputed facts suggests otherwise, including the fact that the Republican National Committee [RNC] donated $4.5 million to the group in October 1996—the largest donation a political party has ever made to a private organization; the group used the money from the RNC to pay for the mailings and telephone calls; the mailings and calls were orchestrated by a known partisan corporation with campaign expertise; the mailings and calls targeted specific congressional districts; and the mailings and calls were timed to occur in the last few weeks before the 1996 elections. These facts raise the same concerns that exist with respect to broadcast issue ads—that people are gaming the system and mislabeling activities as issue advocacy simply to circumvent campaign laws meant to ensure clean election and an informed electorate.

Despite this evidence of issue ad abuse outside the broadcast field, the sponsors of the McCain-Feingold bill adopted the suggestion to limit the 60-day test to ads aired on television or radio. They agreed that this limitation would address the worst abuses involving so-called issue advocacy, while leaving untouched many other outlets for first amendment expression. They also agreed that Supreme Court precedent under the Red Lion series of cases, provide constitutional foundation for a campaign finance law that addresses paid advertisements broadcast on publicly licensed airwaves, but not other forms of political advertising.

Second, the sponsors of the McCain-Feingold bill limited the provision to a 60-day rather than 90-day period, again in an effort to narrowly tailor the test to address the worst issue ad abuse—those ads that are broadcast immediately before an election.

Third, the McCain-Feingold test is limited to ads that mention a clearly identified candidate. That means that anyone who wants to present an issue ad during the 60-day period can easily avoid the extending laws' contribution limits and disclosure requirements simply by excluding mention of a specific candidate. Issue ads could direct viewers to ''Call Congress,'' ''Call Your Member of Congress,'' ''Call the White House,'' or ''Call Washington''—none of which mentions a specific candidate.

Alternatively, an issued ad whose sponsor felt that mentioning a specific candidate was crucial to an effective communication would be free to mention that candidate—the ad would just have to comply with the same contribution limits and disclosure requirements that now apply to candidate advocacy. Those legal requirements have already passed conditional muster in the courts, and the $400 million spent on candidate ads in the last election cycle is incontrovertible proof that they do not stop speech.

Critics argue that, nothwitstanding our efforts to craft a narrowly tailored solution to issue ad abuse, the 60-day rule is overly broad. They contend that the rule would unavoidably restrict the broadcast of true issue advocacy during the 60-day time period.

My response to this argument is that it ignores the past 20 years of experience we have had with the ingenuity of those who want to use the public airwaves to communicate their message.

Any rule that Congress develops to stop issue ad abuse will best pass constitutional muster by providing bright line guidance in this area. To date, the Supreme Court has explicitly approved one bright-line rule to distinguish candidate and issue ads—the magic words test—though we believe the Court will approve other carefully crafted tests. Since Buckley, we have seen that the magic words test has suffered wholesale evasion due to the ingenuity of ad sponsors in designing ads that send clear messages about candidates without once using a magic word.

The McCain-Feingold 60-day rule doesn't want to repeat that mistake. Its goal is not to fight first amendment ingenuity, but to harness it. It does so by providing such simple, bright line guidance that it becomes easy for any person who wants to discuss issues to avoid triggering it. All they have to do is avoid mention of a candidate or avoid the 60-day period. That's not very difficult to do. At the same time, the rule intentionally makes it very difficult for anyone who wants to support or oppose a candidate to evade the campaign finance law, since it is pretty hard to advocate the election or defeat of a candidate without mentioning the person at issue immediately before the election.

The Supreme Court has already held that it is constitutionally acceptable

for seven magic words like ''elect'' or ''defeat'' in an advertisement to trigger contribution limits and disclosure requirements. The 60-day rule proposes adding an eighth magic word in ads broadcast during the last 60 days before an election—a candidate's name.

The Supreme Court has already said that clean elections is so compelling a state interest that it justifies contribution limits and disclosure requirements. That is the law today. But the law is being evaded. Constantly. With hundreds of millions of dollars of TV ads. Evading the magic words test is not a hypothetical or theoretical problem. It is an actual problem documented in the Annenberg study and in the personal campaign experiences that many of us have had.

If we want to stop issue ad abuse—to stop allowing candidate ads to masquerade as issue ads in order to evade the law—we need to design bright line rules intended to work with rather than against ingenuity, and the endless possibilities of effective broadcast communication. We need bright line rules that close the issue ad loophole without infringing on the first amendment. It's not an easy task, but we think McCain-Feingold does it. We think it does so in a constitutionally permissible manner, because it provides criteria that are clear and uncomplicated yet so narrowly tailored to the essentials of electioneering, that those who wish to engage in issue advocacy can do so with minimal effort, while those who wish to engage in candidate advocacy will be hard pressed to evade Federal contribution limits and disclosure requirements.

Some will argue that Congress has no right to close the issue ad loophole. But those of us who believe stopping issue ad abuse is critical to restoring effective campaign finance laws believe we have crafted a minimally intrusive means to achieve the compelling public interest of detering actual and perceived corruption which the Supreme Court has said is ''inherent in a system permitting unlimited financial contributions.''

One of the most important provisions in the McCain-Feingold bill is the ban on soft money contributions to the political parties. But if Congress shuts down soft money to the political parties without also effectively stopping issue ad abuse, our campaign system might actually end up worse off than now. How? Because the hundreds of millions of dollars of unregulated, unlimited and undisclosed money that now flows to parties could be redirected to broadcasting issue ads that are candidate ads in everything but name.

I have heard opponents of the bill claim that McCain-Feingold's express advocacy provisions would shut down the use of educational voting guides that simply report candidates' voting records. In fact, the bill creates an explicit safe harbor for exactly that type of communication. Section 201(b) explicitly includes a subsection entitled, ''Voting Record and Voting Guide Exception.'' It states that, so long as none of the 7 magic words in the Buckley footnote are used in the material, educational voting guides will not be deemed express advocacy subject to campaign contribution limits and disclosure requirements.

I and other authors of section 201 in the McCain-Feingold bill are well aware of the difficulty of putting into statute an effective yet easily understood means of distinguishing candidate ads from issue ads. We've worked hard to create constitutionally acceptable language. We think the tests proposed in the McCain-Feingold bill are a significant improvement over the status quo. It is a status quo that every day is losing more of the public's confidence due to ongoing, wholesale evasion of the contribution limits and disclosure requirements that are supposed to be safeguarding our electoral process.

Stopping issue ad abuse requires more than magic words. I urge my colleagues to give the McCain-Feingold approach an opportunity to do better.

I thank the Chair and thank my colleagues for this long period of time that I have taken.

EXHIBIT 1

PHONY ''ISSUE ADS'' FROM THE 1996 CAMPAIGN

Here are a few television advertisements, each aired during the 1996 campaign, that illustrate the use of the ''issue ad'' loophole to engage in flat-out electioneering:[1]

Republican National Committee: ''Clinton: I will not raise taxes on the middle class. Announcer: We heard this a lot. Clinton: We gotta give middle class tax relief. Announcer: Six months later, he gave us the largest tax increase in history. Higher income taxes, income taxes on social security benefits, more payroll taxes. Under Clinton, the typical American family now pays over $1,500 more in federal taxes. A big price to pay for his broken promise. Tell President Clinton: You can't afford higher taxes for more wasteful spending.''

Democratic National Committee: ''Announcer: Protect families. For millions of working families, President Clinton cut taxes. The Dole/Gingrich budget tried to raise taxes on eight million. The Dole/Gingrich budget would've slashed Medicare $270 billion, cut college scholarships. The President defended our values, protected Medicare. And now a tax cut of $1,500 a year for the first two years of college, most community colleges free. Help adults go back to school. The President's plan protects our values.''

Citizens Flag Alliance: ''Announcer: Some things are wrong. They've always been wrong. And no matter how many politicians say they're right, they're still hateful and wrong. Stand up for the right values. Call Representative Richard Durbin today. Ask him why he voted against the Flag Protection Amendment. Against the values we hold dear. The Constitutional Amendment to safeguard our flags, because America's values are worth protecting.''

Citizen Action: ''Announcer: They've worked hard all their lives. They're our neighbors, our friends, our parents. They earned Social Security and Medicare. But Congressman Creamens voted five times to cut their Medicare. Even their nursing home care. To pay for a $16,892 tax break he voted to give to the wealthy. Congressman Creamens, it's not your money to give away. Don't cut their Medicare. They earned it.''

The League of Conservation Voters: ''Announcer: It's our land; our water. America's environment must be protected. But in just 18 months, Congressman Ganske has voted 12 out of 12 times to weaken environmental protections. Congressman Ganske even voted to let corporations continue releasing cancer-causing pollutants into our air. Congressman Ganske voted for the big corporation who lobbied these bills and give him thousands of dollars in contributions. Call Congressman Ganske. Tell him to protect America's environment. For our families. For our future.''

Citizens for the Republic Education Fund: ''Announcer: Senate candidate Winston Bryant's budget as Attorney General increased 71%. Bryant has taken taxpayer funded junkets to the Virgin Islands. And spent about $100,000 on new furniture. Unfortunately as the state's top law enforcement official, he's never opposed the parole of any convicted criminal, even rapists and murderers. And almost 4,000 Arkansas prisoners have been sent back to prison for crimes committed while they were on parole. Winston Bryant: government waste, political junkets, soft on crime. Call Winston Bryant and tell him to give the money back.''

[1] Transcripts originally published in *''Issue Advocacy Advertising During the 1996 Campaign: A Catalog.''* The Annenberg Policy Center, September 16, 1997.

Mr. CRAIG. Mr. President, the debate over campaign finance reform is what I like to call the ''News of the Day''. The media has been on a feeding frenzy looking for angles to show that this issue had divided members of Congress. That it had divided the members of the same party. There there is a cry of outrage across America as people stand by ready to storm the Capitol in protest.

But despite the massive media hype, the public really doesn't care about the campaign finance reform issue. In the most recent ABC News/Washington Post poll—where people were asked about the most important problems facing the country—campaign finance reform did not even appear as one of the top 10 items on the list. In fact, it didn't appear at all. The same stands true for the latest CBS News poll, the latest CNN/Gallup Poll, and even last month's L-A Times poll. After extensive research of all the major polls, campaign finance has not showed up as a concern among American at all.

What is important to the American people are issues like crime, the economy, health care, education, social security, and the moral decline of the country. What people really care about is whether their children will get safely back and forth from school—and whether they'll get a good education in the public schools. They care about keeping their jobs and trying to make ends meet while they watch a good portion of their hard earned money going to Washington to support a wasteful and inefficient Federal Government bureaucracy. They care about their future—whether they can save enough money to retire some day—and acquire affordable health care. These are real concerns of Americans today.

Now let's just support for a minute that people actually did care about campaign finance reform. That they sat around the dinner table at night and said ''How was your day at the office, oh, and by the way, we really need more campaign finance laws.

What Americans really need to know are the details about the campaign finance laws that are currently on the books. And then they need to know about the appalling campaign finance practices that were part of President Clinton's reelection effort—and how the campaign finance issues is being used to divert attention away from these scandals.

And they need to know what Congress wants to do to reform the campaign finance laws and level the paying field so neither political party has an unfair advantage over another.

They need to know what we've going to do to make all political contributions voluntary—so that no person—union or nonunion worker—is forced to pony up their money for political purposes without their expressed permission.

And, they need to know what we're going to do to give them complete and immediate access to campaign contribution records about who gave how much to whom.

This prompt and full disclosure of so-called soft money campaign donations will make the name of the donors public, aid allow the voters to decide if the candidate is looking after their best interest. Under the McCain-Feingold plan, there would be an across-the-board ban on soft money for any Federal election activity.

Let me first recognize my colleagues who have worked on this issue at great length and in good faith. I have nothing but the deepest respect for both Senators MCCAIN and FEINGOLD in their tenacity and diligence to bring this issue to the attention of the public. I agree with some of their points of disagree with others—and I will continue to do so during the course of this debate.

As for the ban on soft money, I have several major reservations on how this measure would ultimately impact the current campaign finance system.

Not improving it, but creating such a hardship on the country's State and local political parties that it would force them to concentrate on raising money in order to exist.

Under the McCain-Feingold proposal to ban soft money, State and local party committees would be prohibited from spending soft money for any Federal election activity.

Right now, State and local political parties receive so-called soft money from the national political parties. Here in Washington, both the Republican National Committee and the Democratic National Committee receive money from donors.

Some of that money is then distributed to the respective political parties in counties and localities all over the country. There are thousands of State, county, and local party offices that receive this financial aid. Then—under certain conditions—the money is used for activities such as purchasing buttons, bumper stickers, posters, and yard signs on behalf of a candidate. The money is also used for voter registration activities on behalf of the party's Presidential and Vice Presidential nominees. The money is also used for multicandidate brochures and even sample ballots.

Let's say it's election day. You go down to your local polling site—whether it's a school, a church or the American Legion hall. Sometimes there's a person there who will hand you what's called a sample ballot—listing all the candidates running for office who are in your party. Like most voters, you are more likely to choose the candidates of your party.

But under the McCain-Feingold proposal, it will be against the law to use soft money to pay for a sample ballot with the name of any candidate who's running for Congress on the same sample ballot with State and local candidates of the same party.

Under McCain-Feingold, it will be against the law to use soft money to pay for buttons, posters, yard signs, or brochures that include the name or picture of a candidate for Federal office on the same item that has the name or picture of State and local candidates.

Under McCain-Feingold, it will be against the law to use soft money to conduct a local voter registration drive 120-days before a Federal election.

Because of these new laws in the McCain-Feingold plan, State and local party officials will have to use hard money instead of soft money for these activities.

Let's look at the reality of this situation. Because of these new restrictions, local party officials—say like the Republican Party chairman in Caldwell, ID—will be forced to seek out hard money donations from local businesses and individuals to fund these political activities.

In a town of just 2,000 people, this party official—who is a volunteer—now has to spend more of his or her time fundraising, not to mention the fact that those with more money stand a better chance of winning an election. Party affiliation will become insignificant. In other words, raising hard money will become a bigger concern for these State and local officials than ever before. And, whomever raises the most money can then fund more political activities.

Mr. President, what kind of campaign finance reform is this? We have just added more laws to a system that's already heavily regulated, increased the burden on thousands of State and local party officials forcing them to go out and raise money, and created more confusion for the voters. If the point of the McCain-Feingold plan is to reform the campaign finance system, the last thing you want to do is ban soft money.

Instead, full and immediate public disclosure of campaign donations would be a much more logical approach. With the help of the latest technology, we could post this information on the Internet within 24 hours. Let's open up the records for everyone to see.

Anyone interested in researching the integrity of a campaign, or in finding out the identity of the donors, or in looking for signs of undue influence or corruption would only have to have access to a computer. They could track a campaign—dollar for dollar—to see first hand where the money is coming from.

But Mr. President, what bothers me the most about the McCain-Feingold proposal is not what's in the bill, but what has been left out. it is, what the majority leader called the other day, ''the great scandal in American politics * * * and worst campaign abuse of all.'' That is the forced collection and expenditure of union dues for political purposes.

Mr. President, this is nothing short of extortion.

Let me make myself clear, I fully support the right of unions and union workers to participate in the political process. they should be encouraged to become involved and active in the electoral process. it's not only their right but their civic responsibility.

Back in my home State of Idaho, I meet with union workers in union halls, on the streets, and in their homes. And I hear their complaints, their anger and their outrage over how their dues are being spent and mishandled by national union officers.

They say to me ''Senator CRAIG (LARRY), every month I am forced to pay dues that are used for political purposes I don't agree with. But what can I do? If I speak out, they'll call me a troublemaker * * *''

During the 1996 elections alone, union bosses tacked on an extra surcharge on dues to their members in order to raise $35 million to defeat Republican candidates around the country. It's likely they used much more of the worker's money than they reported, but I'm sure we'll never find out the truth.

But under the Paycheck Protection Act, offered by Senators LOTT and NICKLES, union workers will have new and expanded rights and the final say on how their money is being spent. The legislation not only protects the rights of union workers, but also makes it clear that corporations adhere to the same measure.

Unions and corporations would have to get the permission in writing from each employee prior to using any portion of dues or fees to support political activities. And, workers will have the right to revoke their authorization at any time.

Finally, employees would be guaranteed the protection that if their money was used for purposes against their will, it would be a violation of federal

campaign law. Mr. President, this is commonsense legislation and it's the right thing to do.

Mr. FORD. Mr. President, once again, I rise to discuss an issue that in the recent past has generated lots of talk and not much action—campaign finance reform. But thanks to the hard work of my colleagues—on both sides of the aisle—we may finally be on the brink of actually doing something to address the many problems we have with our system for financing election campaigns.

Thanks to the tireless efforts of our colleagues, Senators MCCAIN and FEINGOLD, we now know that the question is not whether a bill will come to the floor, but whether we will pass the bill that they have brought us. Keeping that in mind, I want to speak a bit today on why I will support the measure currently before us.

As an original cosponsor of McCain-Feingold, I agree that what is necessary is a comprehensive overhaul of the way we conduct our campaign business. If we have learned anything from our experiences in the last few elections, it is that money has become too important in our campaigns. Mr. President, in the last election Federal candidates and their allies spent over $2 billion—$2 billion—in support of their campaigns. The McCain-Feingold bill currently before us, I believe, is the sort of sweeping reform that we must pass if we are to restore public trust and return a measure of sanity to the way we finance elections.

Now each of us has his or her own perspective on what's wrong with the system. For me, Mr. President, it's the explosive cost of campaigning. When I announced in March that I would not seek reelection, I said: Democracy as we know it will be lost if we continue to allow Government to become one bought by the highest bidder, for the highest bidder. Candidates will simply become bit players and pawns in a campaign managed and manipulated by paid consultants and hired guns. The problem becomes clearer when you look at specifics. In my case, when I first was elected to the Senate, I spent less than $450,000—actually, $437,482—on my campaign. Back them, I thought that was a lot of money. If only I'd known. Mr. President, if I hadn't decided to retire, for next year's election I would have had to raise $4.5 million. Now, I know all about inflation but that's not inflation—that's madness. What's worse, I understand that if we continue on this path, by the year 2025 it will cost $145 million to run for a single Senate seat. Can any of us imagine what our country will look like when the only people who can afford public service are people who have—or can raise—tens of millions of dollars for their campaigns? I can't imagine such a future, Mr. President—and the time is now to make sure things never get that bad. McCain-Feingold won't cure everything that ails the current system, but I support it because it represents a real, meaningful first step toward restoring a sense of balance in our campaigns by ensuring that people and ideas—not money—are what matters. Specifically, I support McCain-Feingold because it deals with a series of disturbing issues that have grown in importance in recent years.

I also agree that a primary problem with the current system is the flood of soft money. But when I speak of soft money, Mr. President, I want to make it clear that we are talking about more than just the fundraising of the national parties. True—in 1996, the parties raised over a quarter billion dollars in soft money, which they then used in various ways to support their candidates at every level of the ballot. That's a lot of money, but it's only a small part of the total so-called soft money picture. That's because soft money, is any money that is not regulated by the Federal Election Campaign Act. That includes national party money, of course, but it also includes the millions of dollars raised and spent by corporations, unions, interest groups, and tax-exempt organizations. Our recent experience shows that these organizations are established, operated, and financed by parties and candidates themselves—and their finances are totally unregulated. Therefore, McCain-Feingold is meaningful reform because it recognizes that the problem is not just soft money, it is unregulated money.

The McCain-Feingold bill currently before us is also valuable because it recognizes that closing the party soft money loophole is not enough. The bill also addresses the problem of so-called issue advoacy advertising. These so-called issue ads have developed as a new—and sometimes devious—way that unregulated money is used to affect elections. Lawyers might call it issue advocacy, but I'm not a lawyer so I call it what it really is, handoff funding. Handoff funding is where a candidate hands off spending, usually on hardhitting negative ads, to a supposedly neutral third party whose finances are completely unregulated and not disclosed. Now I know there are those who call these ads free speech. But this isn't free speech, it's paid speech. Of course we need to respect the Constitution, but we can't let people hide behind the Constitution for their own personal or partisan gain. McCain-Feingold draws this paid speech into the light where not the lawyers but the jury—the American people—can decide which issues and which candidates they will support.

Mr. President, I want to respond just a moment to the claim of many of my Republican colleagues that McCain-Feingold's issue advocacy reform somehow limits free speech. That simply is not true. When this bill passes, not one ad that ran in the last election—not one, not even the worst attack ad—will be illegal. What McCain-Feingold would do is say to those candidates and groups who have been using handoff funding to puff themselves up or tear down their opponents—all the while claiming that they were simply, quote, advocating issues—is that within 60 days of the election they must take credit for their work, dirty or otherwise. The only people whose speech will be prevented by this law are people who are afraid to step into the light and be seen for who they are. That, Mr. President, is what I call reform—and I think the American people would agree.

Another critical issue addressed in McCain-Feingold—and this is one area, I think, where we all are in nearly unanimous agreement—is the question of disclosure. Currently there is too much campaign activity—contributions and spending—that is not disclosed to the public on a regular, timely basis. We must commit ourselves, as does McCain-Feingold, to providing the American people with timely and full disclosure to information about political spending, and the means by which they can access that information. Like many colleagues, I believe that the Internet and electronic filing is the way to make this happen; but I hope we will make it clear that all campaign finances—including third-party issue advocacy—are to be disclosed before we get too worried about how such disclosure would take place.

Mr. President, all these reforms will be meaningless unless we are willing to do right by the Federal Election Commission. If the FEC really is the toothless tiger that many people say it is, we must take at least some of the blame for removing its teeth. Any bill that makes changes to the campaign finance laws without restoring the FEC's funding and improving its ability to publicize, investigate, and punish violations cannot truly claim the title of reform.

In conclusion, Mr. President, I know that we will not have an easy road to passage of campaign finance reform legislation. In this body there are a number of colleagues who are opposed to reform and aren't afraid to speak their minds about the quote, danger, of reform. Mr. President, I can't blame them. If I had the advantage of millions of dollars from wealthy folks and millions more from corporations and special interests, I would think reform was dangerous, too, and I would have to think twice before supporting a bill that took away that advantage. Their opposition—whether in the public interest or their self-interest—means that the debate on this issue will get more than a few of us into a real lather. I'll take that challenge, Mr. president. Just because campaign finance reform will be difficult, and might require each party to give up things it cares about or simply has gotten used to, is no reason not to pass McCain-Feingold, and soon.

All we need to do is to rollup our sleeves and remember the wisdom of that great Kentuckian Henry Clay, who called compromise ''mutual sacrifice.'' Our way is clear, if not easy,

but I have confidence that we will do what is right to restore public confidence in the way we fund our campaigns. I look forward to the continuing debate, and to demonstrate to the American people that we are serious about cleaning up the system by voting for comprehensive campaign finance reform.

Mr. ABRAHAM. Mr. President, I rise today to speak on the issue of campaign finance reform; an issue which has been before the Senate in recent days.

Like many members of this Chamber, I count myself on the side of those favoring reform. The question is: what type of reform will have the most positive impact on our electoral system.

As this debate has evolved, I have spent considerable time identifying priorities. I have divided these priorities into two separate categories. The first category is comprised of those standards or tests that any reform legislation must meet in order to receive my support. The second category constitutes a set of objectives which I believe should, as opposed to must, be included in any reform legislation.

Let me begin by listing the standards or tests that I believe must be met by any reform legislation.

First, we must act in a manner that is consistent with the first amendment of the Constitution of the United States. Mr. President I will not support a campaign finance reform bill that establishes any kind of prior restraint on political speech or empowers any federal bureaucracy to constrain first amendment rights. That is why earlier this year I opposed the constitutional amendment presented to the Senate which would have allowed Congress and its agents, including the Federal Election Commission, to place constraints on first amendment rights.

Mr. President, The first amendment to the Constitution and its guarantees of political speech are fundamental. We must not allow any Federal legislation to circumvent them, or attempt to circumvent them.

My second priority with respect to campaign finance legislation is that it must not impede or intrude on the prerogatives of the States and local units of government with respect to how they conduct political campaigns. To that end, Mr. President, I will scrutinize any legislative proposal very carefully to determine not only whether it explicitly encroaches on State and/or local election law, but also whether it sets in motion a process which ultimately could require such intrusion in the future.

Any campaign finance reform legislation must also, in my judgement, maintain a proper balance between the first amendment rights of the actual candidates and the political parties they represent and the rights of those who are not directly in the arena. Mr. President, I have watched with interest in recent years as special interest groups and others who exist to promote particular issue positions and ideologies have become increasingly active in the electoral process. Through so-called advocacy advertising and independent expenditures these groups have become dominant in many Federal elections. And, as they have grown in dominance, they have diminished the roles of the candidates and political parties.

Of course, our first amendment permits this. It is perfectly appropriate for anyone, either individually or in collaboration with others, to advocate their views on issues and campaigns. Moreover, the Supreme Court has ruled that if this is done independently of Federal candidates and the political parties, such individuals or groups may spend vast amounts of resources—well beyond donation limits permitted under Federal law—in furtherance of their causes and candidates.

What this has led to, of course, is an environment in which political campaigns are now increasingly a function of the efforts of special interests groups, rather than of the candidates and political parties. Accordingly, we must be very careful, as we enact any campaign financing reforms, to make certain that we do not totally tilt the balance away from the candidates and parties. Otherwise, Mr. President we will end up with a system in which the candidates themselves are more bystanders than participants and in which the various interest groups on all sides of all the issues are doing all of the talking. In my judgement, this would completely undermine the concept of representative democracy and I will not support legislation that enhances the prospects of such an environment.

In addition to these requirements, any campaign reform legislation we pass must be balanced. It can not be one-sided in favor of any particular political party or cause. Frankly, Mr. President, one of our parties likes the bill before us too much for my taste. I don't blame them, but it clearly focuses more on constraining sources which fund Republicans than Democrats.

To their credit, I think the sponsors of the legislation have endeavored to move in a more balanced direction. That's why the legislation before us has been modified from its original version. But in my judgment it isn't there yet.

Finally Mr. President, to have my support, any new campaign finance legislation must address what I find in my State to be the most disturbing aspect of the way American Federal elections are funded: namely, the increasing extent to which the campaigns of candidates for the House and Senate are financially supported by people who are not even constituents of the candidates themselves.

When I travel around my State and conduct town meetings, and the issue of campaign finance reform is raised, I ask people what disturbs them the most. Almost every time I hear the same answer—that individuals, political action committees, and special interest groups who don't even live in Michigan are bank-rolling the campaigns of Michigan's Members of Congress.

Mr. President, I have not conducted a thorough study of this issue but I do know that a large percentage of the money flowing into almost every campaign comes from individuals who are not the constituents of our elected officials. In fact, in many instances, Members of the House and Senate actually receive a majority of their campaign funds from people they don't even represent.

In my view this, more than anything else, is what has undermined public confidence in our system. Sure, people are upset because of large personal or corporate or labor contributions to the national parties. But I think what galls them even more is the fact that their own representatives in Washington are being financed by people from other States or even other countries. Thus, to have my support, a campaign finance reform bill must seek to address this glaring problem.

Obviously, the first amendment places certain constraints on how this can be accomplished. In fact, some argue that requiring a certain percentage of funds to come from the candidate's State would not meet a constitutional test. I think that's actually a close call and that such a reform would be constitutional. By the same token, though, I believe we can achieve the same general objective, and not raise a constitutional challenge, by simply adjusting the donor limits, based on whether or not the donors are contributing to someone who represents them.

Whether this is accomplished by increasing the personal contribution limit for constituents, decreasing the limits for non-constituents, or a combination of both is a question we can look into. But I think such a change would move us in the right direction. It would mean that more time would be spent raising money from constituents, and it would mean that the people we represent would produce a far greater percentage of the resources involved in our campaigns. These results would greatly increase our constituents' confidence that we are here to serve them.

These, then, are the five tests or standards by which I will measure any election reform effort. For my vote, any piece of legislation must meet all of these tests. Also, I would note Mr. President, that I have separately introduced a campaign reform bill which I believe accomplishes these objectives. At the same time, there are several other issues which I think should be addressed in a campaign finance reform bill. While not indispensable to the legislation from the standpoint of my support, I consider them to be very important matters that must be focused on either at this time or in some future context.

First, I believe we must put an end to any explicit or implicit involvement of foreign money in political campaigns. As the Thompson hearings have gone forward, and the investigations of the financing of the 1996 campaign reported, I have been increasingly disturbed at the prospect that a foreign government would endeavor to influence American foreign policy through campaign donations. We need real teeth in our federal statutes to prevent this from ever happening.

In addition, a campaign finance reform bill should include fuller disclosure than that which is presently required. I believe campaigns which reach a certain level of activity ought to be reporting, on-line, their contributions in a much more timely fashion. I also believe that independent committees should be required to make the same type of total disclosure. The increasing role that advocacy advertising and independent expenditures are playing in our campaigns demand that the funding sources for such activities be disclosed and made available as part of the campaign debate.

Third, I believe there should be more democracy with respect to the activities of political action committees. Whether it's labor PAC's, trade association PAC's, issue advocacy PAC's or corporate PAC's, the leaders of our political action committees too often act in a fashion inconsistent with the wishes of the very people whose money they are spending. I think this is wrong. I think our campaign finance reform bill should create a mechanism by which donors to PAC's are able to easily indicate at least the political parties, if not the specific candidates, they want their fund to benefit. Such a reform in my view would much more effectively justify the existence of political committees in the future.

Finally, with respect to my list of things that should be included in a campaign finance reform bill is the subject of fundraising in government buildings. Evidently, the question of what can and can not be done within Federal buildings and on Federal property is in need of clarification. I suggest that we eliminate any uncertainty that might currently exist and expressly prohibit such practices once again.

Mr. President, this then constitutes the context in which I believe campaign finance reform must be addressed. As we move forward with amendments and develop a bill, I will be monitoring our progress to determine whether the priorities I've established here today are satisfactorily addressed. Legislation which does so will receive my backing. Legislation which fails to accomplish these objectives will not.

In closing, Mr. President, I would also make several additional points. Contrary to the innuendoes contained in much of the media coverage of campaign financing I believe the Members of this body conduct their official business in a fully honorable and respectable fashion. While the way we finance elections sometimes gives rise to the appearance of impropriety, the truth is that the Members of the Senate are motivated by and act on the basis of long established personal philosophies and not campaign donations.

I would say without question that the proponents of the legislation before us are fine examples of people whose integrity is unquestioned. If tomorrow Senator MCCAIN found himself with Senator FEINGOLD's contributors and vice-versa, I do not believe either would cast one vote or take one action differently than is their current pattern, and I feel that way about the other Members of this body as well.

Mr. President, I think it is important that we say these things and that we not allow the innuendos and criticisms to go totally uncontested.

At the same time, though, as we struggle to find consensus legislation, I think all of us have an obligation to take personal action—regardless of what the election financing laws might be at a particular point in time—to reassure our constituents that we are acting in an appropriate fashion.

Frankly, Mr. President, I'm tired of hearing political figures on the one hand condemn the way we finance elections and then on the other hand engage in all of the conduct they purportedly abhor, based on the rationale that they will not unilaterally disarm themselves.

Instead of exclusively focusing our energies on passing legislation in an effort to, in theory, save us from ourselves, I think each of us should undertake those actions we determine to be most appropriate to address the perception problems which exist regarding campaigns. I think we should set these examples regardless of what the campaign finance laws might permit.

If we think it's wrong to receive a disproportionate amount of our campaign contributions from out of our States, then we should stop taking a disproportionate amount of contributions from out of our States. Similarly, if we think independent committees operating on our behalf or in support of our efforts are acting in an inappropriate fashion, we should say so clearly, publicly and definitively.

Instead of simply debating campaign finance reform while conducting business as usual, I think every Member of this Chamber who feels strongly about these issues should take some action, independent of anything that might happen legislatively, to make the system better. I intend to do so, Mr. President, regardless of what the outcome might be of these campaign finance reform efforts. If that means I am disadvantaged in my campaign should I decide to seek re-election, so be it. In fact, Mr. President, during my campaign in 1994 I unilaterally acted to limit the flow of PAC and out-of-state dollars to my candidacy.

Instead of simply waiting around for Congress to act, I will move ahead on my own. I hope other Members will do the same and that we might lead by example.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

CAMPAIGN REFORM

Mr. BURNS. Mr. President, on the issue of campaign reform, the words I speak here might not climb to the intellectual level of constitutional dialog as others who are more versed in the subject. I don't think it has to go that high. I think the simpler we keep it, the easier it will be for the American people to understand what we are trying to do.

I want to premise this by saying that I believe, and strongly believe, in four basic principles:

We should abide by current law.

We should have full and timely disclosure.

All contributions to campaigns must be voluntary contributions.

And, yes, we have to abide by the first amendment of the Constitution of the United States.

Through this debate, a debate, I might add, whose time has come, a lot will be said of the good and not so good points of the pending legislation, which, basically, right now is the new McCain-Feingold legislation. It does address some of the concerns that I have had from the beginning. However, I am still bewildered by one basic question in this whole process that we have been through since Christmas a year ago: Why is it, no matter what law we have, that it has become common practice to ignore the law?

I suggest to my colleagues, after all is said and done—and maybe more will be said than done—but to change our existing campaign finance law, one important question remains to be answered: Why do we reform or rewrite? Why don't we just abide by current law?

It is only logical to me that the best campaign reform is to enforce current law. If one or a series of campaign laws have been broken, it is clear to me that the enforcement of such laws should take center stage in every case. Indicting the breakers of the law, the alleged violators, would do more to reform campaign finance practices than any proposed legislation that we could ever pass through this body.

Think about that a little bit. Indicting the alleged violators of present law

to make them stand for their practices would do more than any reform we could do for campaign practices that is before us today. It is very simple.

Volume 18, United States Code, section 607 clearly prohibits soliciting and receiving contributions in a Federal building. I quote:

> It shall be unlawful for any person to solicit or receive any contribution in any room or building occupied in the discharge of official duties.

No one has ever been prosecuted under this statute.

To reiterate what many others have stated as a matter of fact, in the 1996 election cycle, that law was allegedly broken. In fact, Mr. President, it was clearly established during Senator THOMPSON's hearings in the Governmental Affairs Committee that that was the case. The offending parties have not been brought to the altar of justice. Yet, the alleged violators contend that they have sent millions of dollars back to their original donors after the election.

What does that say? What does that tell us? How is it that we, as a nation, became a nation where we do not enforce the law? It seems that a patrolman in Montana today was in town enforcing the law. What is the difference?

It plainly states—and I quote—''any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.''

Now, if it has been broken, it should be enforced. If we would enforce the law, if we would indict the alleged violators, arrest, present them to a judge and a jury, I think that would do more than anything we can do in changing the law before us.

You know, Mr. President, I spent a long time refereeing football. We are in football season. It catches everybody's imagination—the Super Bowl, everything. I am wondering why that game can hold the order that it does.

Let me tell you, I thought about that a long time. In order to capture the imagination of the American people, there has to be some order to it, it has to be competitive, it has to be fair.

So the first thing that happens is there is only one rule book. The rules for high school or college or professional football is the same in Kentucky as it is in California as it is in Colorado—one federation.

And why is it on Saturday afternoon or Sunday afternoon four old men in striped shirts can go down on a field of 22 of the most mobile, hostile, heavily armored people intent on doing each other in and they have very few problems? No. 1, the rules are enforced on both sides of the ball. And, No. 2, that old man in a striped shirt is the arresting officer, he is the judge and the jury, he is the penal officer, and he does it all in 30 seconds.

A young man can haul off and slug his opponent. The referee sees it, throws the flag. That is the arrest. The judge and jury—you are guilty. ''So, 15 yards against your team and, you, young man, are out of the football game.'' He can say, ''I come from a broken family.'' It doesn't say anything in that rule book about that. The rule book says, ''Thou shalt not hit thy opponent with the open hand. If thou doest, your team will be penalized 15 yards and you will get to watch the rest of the football game.'' It does not make any difference who you are, what you are; you are out of there.

So everybody understands the rules, everybody understands the penalties. It is all done in 30 seconds. And they are enforced immediately. And after an hour of play on the field, we have very few problems.

What are we missing in real life when we start talking about that? No doubt that the White House made phone calls from the White House. They claim the law doesn't apply to them. It has never been tested in court. Somebody has to file charges.

Here in the Senate there is one simple rule, one simple rule here in the U.S. Senate: Do not make fundraising calls from your office. It is not acceptable in any form, not by phone, not in person, not in letters, and not by hosting events. And basically common sense would tell you, do not put the taxpayers' property at the disposal of your campaign.

We keep hearing about that we need to change the laws. What I am saying here basically is, just obey the laws we have now. We cannot turn a blind eye to the fact that 938 people stayed overnight in the White House between 1992 and 1996 and they raised over $10 million, and that 103 coffees raised $26 million over 18 months. All of these activities are clearly established by the hearings. The law is very clear. To misunderstand or to refer to loopholes, I think, is just absurd.

To comment on the newly revised McCain-Feingold legislation, I am pleased to see that some of those steps have been made in the right direction on this piece of legislation. The authors certainly have improved it from its original version. Unfortunately, however, it is not in a comprehensive form.

That is why I commend the leader for what he has done because a major tenet to campaign finance reform should be that all Montanans, all Americans, who desire to give money or to participate in any way in a political campaign, do it voluntary. That is all we are asking. I do not want anybody to tell me where I have to give my money. If you do not want to contribute, you should not have to.

No one should be forced to do that, no political party, nobody, whatever, no organization should have the power to collect dues or any other form of payment for political uses without receiving consent.

The McCain-Feingold bill contains the Beck language, but that leaves a lot to be desired. And in some cases it is not as fair as it could be or should be. It allows union members to receive a refund upon request. But that union member must give up his union privileges at that moment. You are not allowed both. You cannot choose whether or not to make political contributions and still be a member of the organization.

So the Paycheck Protection Act is not a poison pill. It is a right. It is a basic right. It is a basic right for every man and woman and child in this country, whether to give funds or your services or your labors for a candidate, for a political party, or a ballot issue. It makes no difference. You should do it voluntarily. It is just a basic American freedom.

So this provision, the Paycheck Protection Act, I think we can all agree on that, that all contributions should be voluntary. That is the reason that is important, for no one person, no one group, no association should be able to spend your hard-earned dollars without your consent.

There are troubling provisions. They still remain in this legislation. Clearly, as it exists today, it runs afoul of the first amendment. That has been already taken to a plain that I am sorry I cannot attain.

Political spending is equated with speech. The courts are clear and consistent on that point. We cannot say, on the one hand, we are protecting speech and, on the other hand, restrict the means by which that speech is carried out.

Under the revised bill, corporations and other organizations would be prohibited year-round from issuing communications to the public that fall under the bill's much broader definition of ''express advocacy,'' which includes ''words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates'' or ''expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.''

With respect to that restriction, it is my belief it would not withstand constitutional scrutiny. The Supreme Court in Buckley versus Valeo—that is all going to be talked about—in striking down the $1,000 limit on independent expenditures enacted by Congress in 1974 as a violation of the first amendment, noted that such limitation ''would appear to exclude all citizens and groups except candidates, political parties, and institutional press from any significant use of the most effective modes of communication.'' In other words, we don't want to take away the power of the people and place it in the hands of politicians, the Government and the press.

So I suggest to my colleagues there is an answer and it is a better answer. It is simple, it is understandable, easily complied with, even easier to monitor—full and timely disclosure. Full and timely disclosure should be the

core, the core of all finance practices. We always thought we need to enhance public disclosure measures that will allow the voters to know where every single penny comes from and where every single penny is spent, no matter what the organization.

You want to do something about soft money? I will tell you how to do away with soft money, just report it. This would give a full picture of the situation and allow the Sun to shine in the dark corners of the current campaign practices.

Mr. President, let me end by saying we are getting closer to the reform package. Some of the changes, visions, are true steps in the right direction. I support Senator LOTT's amendment. It is a good and necessary addition to this legislation. We should take a look at soft money and where it goes and how it is raised. The only way you do away with soft money is that everybody files, everybody reports, because you have to remember it didn't start just last week. I think there was a little failure to disclose in October of 1996, and before this discussion is all over, I am going to give this Senate an opportunity to vote on a little amendment that may put some teeth in that. They are not going to like the teeth. But I guarantee you they will file. They will file their FEC report, and that is what has to happen.

We all look at ourselves here as being part of this reform package. There are other things and other people that are also involved that will be affected by this. So before it is all over, we will see how far they really want to go in campaign finance reform, on what is right and wrong.

I yield the floor.

Mr. McCONNELL. Let me say briefly to my friend from Montana, thank you very much for a very important contribution to this debate. I listened with great interest to the contributions of my colleague from Montana. He made also some very constructive suggestions.

PRIVILEGE OF THE FLOOR

Mr. McCONNELL. Mr. President, I ask unanimous consent that Shannon Bishop be permitted privileges of the floor when we are debating this issue.

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

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, in our debate today we have talked about a number of things. Again, you might think from the discussion that there was only one provision of our bill, the McCain-Feingold bill, and that provision had to do with the issue of express advocacy.

Of course, that is a very important aspect of the bill. Not only are we confident of the constitutionality of those provisions, but we know it is one of the very important issues that has to be resolved if we are going to deal with the problem of big money in politics.

If you listen to the opponents of this bill you can swear that is all McCain-Feingold is. But there are 25 other provisions that our opponents choose to ignore, because not only are they essentially noncontroversial provisions, they are the very provisions that, for example, the Senator from Montana was just talking about.

A number of Senators today said on the floor, why don't we do full disclosure? What I want to say to my colleagues, Mr. President, if you kill the McCain-Feingold bill, you will be eliminating a number of very key new provisions that will provide exactly the full disclosure that Members of the other side have been calling for. In other words, our bill does disclosure and more. So, why all this talk about why don't we do full disclosure of campaign contributions?

The bill greatly enhances disclosure. Instead of simply saying that contributions over $200 per person be reported, the McCain-Feingold bill as modified requires all contributions over $50 to be reported. The McCain-Feingold bill provides the most immediate disclosure possible by requiring that candidates file electronically with the FEC. It is no longer sufficient to just file a big stack of papers every 6 months and make people go through them. This will require computer reporting and immediate public access to this information on a daily or weekly basis so the connection between contributions and votes can be plainly seen. That is real disclosure. I can't imagine a fuller disclosure than that, unless we went to absolute zero which I would be happy to do in terms of contributions.

The bill also requires—you don't hear about this from the other side; they want to pretend somehow the bill is just about issue ads—the bill requires groups and parties running independent expenditures against candidates to disclose these expenditures to the FEC.

So, more information, more disclosure, more transparency, with regard to independent expenditures. The bill requires that the Federal Elections Commission make campaign finance records available on the Internet within 24 hours of filing. The bill requires the campaign to collect and disclose all required contributor information. Right now, under the current law you can do something apparently that is called making your best effort to figure out who is the person that made the contribution and what their profession is. Our bill, the McCain-Feingold bill, requires all such information be obtained upfront.

The bill also bars campaigns from depositing campaign contributions over $200 into their campaign accounts until that information has been disclosed. This is the disclosure that Senator after Senator who is against our bill has called for. What they have never mentioned is that it is in the bill. If you kill McCain-Feingold, you are killing all of these disclosure provisions.

And there is another one that my constituents in Wisconsin have called for, and that is to simply require political advertisements to carry a disclaimer identifying who is responsible for the content of a campaign ad. Time and again, I have heard my constituents say they are sick and tired of all the negative campaigning, and they find it particularly irritating that the people who run the ads aren't even required to say who they are, who is doing the ad. This is disclosure. This is what it is all about when it comes to letting the American people have the information they need and deserve to evaluate what is happening with money in politics.

Yet if you listen to the debate by our colleagues on the other side of this issue, you could swear there is no disclosure. I have not heard a single idea regarding disclosure that goes beyond this. This is full disclosure, Mr. President. Kill McCain-Feingold, you kill these disclosure provisions.

The same thing goes for stronger provisions with regard to enforcing our laws. All afternoon, Senators came to the floor and said ''We don't need new laws. We need to enforce our current laws.'' I happen to agree that we should more carefully and clearly enforce our current laws. I don't think that does it by itself, but what it does do is indicate a seriousness about any violations that have occurred. I agree. But it has become clear in the middle of the scandals and the allegations that some of the provisions in our statutes need some shoring up so that enforcement can improve.

What do we do about enforcement? What does McCain-Feingold do about enforcement of the law that would be eliminated if the filibuster succeeds? If McCain-Feingold is defeated, not only would our efforts to deal with phony issue ads and that are really express advocacy ads be defeated but all of these strengthening provisions would also go down. One provision prohibits foreign nationals from making any sort of contribution or donation to candidates or parties. After all the talk on both sides of the aisle about foreign contributions distorting our political process—a concern which I share—do we want to kill campaign finance reform, and with it eliminate a provision that would prohibit foreign nationals from making any sort of contribution or donation to candidates or parties? We need to strengthen that law. The filibuster would kill it.

Mr. President, this bill some would like to kill strengthens current law, making it absolutely clear that it is unlawful to raise or solicit campaign contributions from Federal property, including the White House and the U.S. Congress. Mr. President, there has been a great deal of talk by Senators today about the need to deal with that problem. This bill makes sure there are no excuses for those who would pretend whether they are in the White House or in an office of a Congressman or Senator, that somehow there is a way to get around it and actually raise money

from your office. Our bill takes care of that. Killing it destroys it.

The bill increases the penalty for knowingly and willfully violating Federal election law. The bill permits the Federal Election Commission, for the first time, to conduct random audits at the end of a campaign to ensure compliance with Federal election law. The bill bars Federal candidates from converting campaign funds for personal use such as for a mortgage payment or country club membership. Yes, it bars minors, those under 18, from contributing so that we don't have 3-year-olds giving $1,000 contributions anymore which is perfectly legal under current law. Those who would defeat and filibuster McCain-Feingold would wipe out all of these new enforcement provisions and leave nothing.

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

Mr. FEINGOLD. I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FEINGOLD. Senators on both sides have been very generous with the time today. I will try to keep it brief. Beyond the disclosure and enforcement, we also do something about the fact that we all know that incumbents have an advantage under the current system. Our system says that if people agreed to limit their personal spending to $50,000, they would be able to continue to receive help from their parties in the form of coordinated expenditures; otherwise, not. That could be a deterrent to an advantage for an incumbent or perhaps a very wealthy individual who is trying to obtain a Senate seat through spending a great deal of money.

Our bill simply bans Members of Congress from sending out taxpayer-financed mass mailings under the franking privilege during the calendar year of their election. This is a major advantage that incumbents have over challengers. Again, if you wipe out the bill, you wipe out McCain-Feingold, you haven't just addressed the one or two matters the other side identified as a problem, you have wiped out these reforms as well.

Finally, Mr. President, with regard to the issues of soft money and what I like to call ''phony issue ads,'' I have noticed that throughout this debate Senators on the other side have focused their attention primarily on trying to claim that our provisions with regard to express advocacy are somehow going to be struck down by the Supreme Court. Of course, in that regard, what I say is, in the worst-case scenario if our provisions are unconstitutional, the Supreme Court will strike it down and it won't go into play. But what I have noticed is that at the same time that this constitutional argument has been advanced we hear virtually nothing anymore about the fact that our bill bans soft money.

Where has the argument gone that banning soft money is unconstitutional? It appears to be gone. There is no challenge to our claim and our ability to demonstrate that 126 constitutional scholars believe this is not only constitutional but essential.

With that, Mr. President, I remind my colleagues that there is a great deal to this bill that would be destroyed if we do not avoid this filibuster. In that regard, I want to say that I listened with great interest earlier to my colleague as he discussed the decision this morning of the Supreme Court to deny certiorari with regard to the FEC. The fact is, Mr. President, the claim of the Senator from Kentucky that the Supreme Court struck down some kind of decision is just not true. The Supreme Court simply chose not to take up that case, just as it chose in the past not to take up the ninth circuit case that makes almost the opposite decision.

There is a conflict between the courts. The Supreme Court, at some point, may have to resolve this. Maybe they will have to resolve it when acting on the McCain-Feingold bill. But what is clear is it was neither striking down of a provision, nor was it a huge moment. It was nothing but the Supreme Court saying we are not going to take this up right now. I recognize the pressure that is behind the effort to kill this bill. I recognize the temptation to try to make something of a decision that is simply not there. But to suggest that this is a major decision or a precedent that has something to do with what the law of the land is is simply not true. The Court didn't even offer an opinion. They just said: we are not going to take up this first circuit case.

Mr. President, I listened with great interest earlier today to my colleague as he discussed the decision this morning, of the Supreme Court to deny cert—without opinion—in the case of Maine Right to Life versus the FEC.

I think it is essential to put this silent decision into its proper perspective, lest it be given weight it simply does not deserve.

Mr. President, there are any number of reasons, ranging from the facts of the case to the simple fact that they can only hear so many cases in a given year, which might lead to the Supreme Court denying certiorari in any case.

The Supreme Court's unwillingness to consider the appeal of this case is no more dispositive on the issue of express advocacy than was a similar decision to deny cert some 10 years ago in FEC versus Furgatch.

In Furgatch, the Court of Appeals for the Ninth Circuit held that context is relevant to determining what constitutes express advocacy. In Furgatch, the court found that there was no doubt that the ad in question asked people to vote against President Jimmy Carter.

The court also gave weight to the timing of the ad, noting that it occurred within 1 week of the election. Further, they were not issues based, but attacked the candidate directly—for personal qualities.

On October 5, 1987, the U.S. Supreme Court denied a petition for cert filed by Mr. Furgatch.

Mr. President, today we have heard that a similar decision of the Supreme Court—without comment, leaving in place a first circuit decision that held the FEC's regulations regarding voting records and voting guides were invalid, should be construed as to signal the end of the debate on campaign finance reform.

Now we can debate the merits of the Maine case and the Furgatch case and we may or may not reach a mutual opinion of what those cases mean. However, what is not in dispute—in regard to either case—is that the silent decision of the Court is not necessarily a substantive affirmation of the lower courts.

Such a conclusion is simply not appropriate. There may be any number of reasons—the exact reason we will likely never know—why the Supreme Court passed upon the Furgatch case and on the Maine case this morning.

If we start inferring substantive approval to every lower court case the Supreme Court refuses to hear, we will be left with a patchwork of rulings and laws which defy any thread of continuity or precedential value.

Mr. President, before we impute too much importance to the denial of cert this morning in order to avoid comprehensive reform, I think we in this body should take a long hard look at our role in this process.

We have an opportunity to address the very issues of Furgatch and Maine Right to Life and rather than hide behind the silence of the Supreme Court we should accept our responsibility and do just that. My colleague, from Kentucky argues that McCain-Feingold is unconstitutional despite the fact that legal scholars find otherwise.

The rejection of cert today means that the decision of the first circuit remains in effect in that circuit, just as Furgatch remains controlling in the ninth.

The two are in conflict and yet, the Supreme Court has elected to pass on both. If the decision today, as my colleague from Kentucky argues, means they support the first circuit, what does that mean in the ninth circuit—that it is no longer good law?

Of course that is not what it means. What it means is that we have a conflict which will remain unresolved unless either the Supreme Court moves to resolve the conflict, or we, the legislative body make the law clear.

We have no control over the Supreme Court—although I would note that many in the Congress have been attempting to exert some control over the courts in the past months—but we do have, in this body, an opportunity to resolve this impasse ourselves.

This issue before this body remains the same as it has from the outset—will we reform the campaign finance

system of this Nation. Nothing the Supreme Court said—or didn't say—this morning changes that fundamental fact.

We should debate the constitutionality of this legislation and I welcome that debate. We should not, however, hide behind the silence of the Supreme Court as an affirmation of either position in this debate.

Mr. President, I thank my colleagues. It has been an interesting debate. I appreciate the courtesy of the Senator from New Mexico.

I yield the floor.

Mr. DOMENICI. Mr. President, I apologize to the Chair that this is the last speech of the evening. If I don't speak tonight, I probably won't be heard on this issue. I have been trying this afternoon, but it has been a fair assignment of speaking rights down here and I have waited my turn.

Mr. President, before I deliver my prepared remarks, I want to comment on a few things I heard on the floor. I tried at one point to ask a question of the distinguished Senator from Arkansas, Senator BUMPERS, who made a lot about lack of participation in the American democracy and especially with reference to campaign contributions. If I read him right, he said because the big money is so influential and powerful, if you will, other people don't think they ought to be giving, as if other people weren't giving.

The truth of the matter is that in every campaign, including the last time, more individuals gave small contributions and medium-size contributions than in the history of the Republic. At the pace they are on now, it looks like they are going to do that again. Now, how much is enough? I don't know. But to say that because there are big contributions, people aren't participating, you can go over and ask the Republican Party where most of its contributions come from for the regular activities of the parties, they will tell you from small contributions, and they are there by the hundreds of thousands.

Second, a big thing was made by Senator BUMPERS to the people listening that the democracy was not participatory in America because only 50 percent of the people voted, and perhaps in the State of Colorado it was 53, or in New Mexico it was 52. You know, people are really using that fact for a lot of inferences, and I am not sure many of the inferences are right. But I surely don't believe that whatever that participatory failure is—and in a moment I will say 50 percent isn't a failure—it is surely not because of contributions that we are trying to control here on the floor. There are so many reasons that Americans don't participate in politics, not the least of which is that Americans are just darn independent. They sometimes don't want to be bothered about anything. As a matter of fact, they are very busy. As a consequence, many of them just don't take time out. But I submit that for a democracy as vintage as ours to have 50 percent of the voters participating heavily and 50 percent or more, even though slightly voting, that is a pretty good track record. I submit that if the 50 percent turned into 75, we would probably get the same results. I don't want to cast any aspersions on the validity of individual votes, but our participation is sufficient to deliver the will of the people. I believe that is what we are all looking for—that the people's will would be exercised at the ballot box and get the kind of Government they want.

I rise today to offer to those colleagues who want to listen, and a few of the American people who might be listening, some thoughts that I have on this issue before the Senate now. Should Congress alter the laws governing the way we conduct political campaigns in this country in the manner recommended in the legislation before us, the so-called McCain-Feingold reform? It seems to me that we ought to have a sense of perspective about this.

I want to make one general statement before I talk a little bit about history.

The risk and danger of changing the laws right now in the manner recommended in this bill is that if that change causes one major group of Americans to lose their freedom of speech because they cannot use their money and causes another group of Americans to have an increased influence on campaigns because they can use their money, then I believe we ought to be very careful about that imbalance.

What I think might happen if these amendments are adopted to the code that we now have is that there will be a lot more opportunity for the labor unions in America, who might have nothing against it but are protected under the Constitution for their rights and freedoms of speech, but I am fearful that the balance which is there, since the unions are almost a Democratic arm today, and I don't see any reason why they will change for a while, it would seem to me we don't want to get things out of balance and then look back and say, ''Oh. We also let the electorate get influenced in an unbalanced way.''

So when I look at this democracy of ourselves, I see a very stable democracy. I see something very, very special. In other parts of the world when countries change their leaders, they often change the entire nature of their government. In the last several years governments have changed in Burma, Rwanda, Somalia and too many countries to mention. Many of these changes involved bloodshed and all kinds of revolution and riot. Obviously, for those who happen to be on the losing side, when some governments changed hands, that meant torture, imprisonment and all kinds of violations of civility and civil rights.

In the United States we ought to be very thankful that we have the first amendment to the Constitution. It is the bedrock of this democracy. To me the Constitution and the first amendment are what set the United States apart as a mature democracy from the rest of the world. The first amendment allows us to have free and open political campaigns, and the Constitution provides for a smooth transition of that power between the competing political parties once the election has been completed.

In the name of reform, the bill before us fundamentally alters our unique democratic electoral process just because many are dissatisfied with the way our campaigns are financed and operated. Some are disgusted by the ads. Others lament the fact that candidates no longer control their campaigns. Many believe we need to abolish soft money. Others contend if we pass this bill the public cynicism of elected leaders will somehow evaporate.

The fact is, fellow Senators, that the debate over campaign spending is as old as this democracy itself. George Washington was roundly criticized in the early days of our country for spending three or four times the cost of a house on his first election to the House of Burgesses. Abraham Lincoln's supporters accused the Democratic opponent of bowing to ''plantation and bank paper aristocracy'' which could raise five times what Lincoln raised for his campaign. That is kind of reminiscent of the discussions of today.

Let there be no doubt, the constitutionality of this legislation is dubious. I heard some of the arguments today. I just do not believe they are right.

In my mind, you can be for McCain-Feingold, or you can be for the first amendment. I choose the first amendment.

The modified McCain-Feingold bill creates a so-called ''bright line.'' That is a test 60 days out from election.

Mr. President, am I operating under a time restraint?

The PRESIDING OFFICER. We are in morning business. The time has expired.

Mr. DOMENICI. I ask unanimous consent that I be able to speak for 7 more minutes.

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

Mr. DOMENICI. Let me go back.

This bill before us, McCain-Feingold—and I notice Senator FEINGOLD's presence here, and I commend him for the way he has conducted himself. He feels as strongly about this as I do about my views.

But this bill creates a so-called bright-line test 60 days out from election. In effect, the bright line attempts to get through the back door what the Supreme Court in Buckley versus Valeo said you couldn't get through in the front door. In Buckley, the Supreme Court said, ''The concept that government may restrict speech of some elements of our society in order to enhance the relative voices of others

is wholly foreign to the first amendment.''

With respect to independent expenditures, the Buckley decision means that individuals and groups may spend unlimited amounts on direct communication with voters to support or oppose Federal candidates as long as there is no coordination or consultation with any candidate.

At its heart the McCain-Feingold bill does two things:

First, it eliminates soft money.

Second, it reduces independent expenditures, express advocacy, and creates the 60-day bright-line rule. Under the bright-line rule, any independent expenditure that falls within 60 days of an election could not use a candidate's name or likeness.

Mr. President, this is where the authors of the reform bill seek to get through the back door what the Supreme Court has already ruled we may not get through the front door.

By redefining independent expenditures and express advocacy, the McCain-Feingold bill limits political speech which the Supreme Court in Buckley said was unconstitutional. I believe they will do that again when you try to tell those protected organizations already indicated as being protected that you are protected, but for the last 60 days you are not. If they are protected by free speech to involve themselves in politics, is it more important to our constitutional democracy that they be permitted to do that 2 years before an election or 58 days before an election? I would assume they would all opt who want to use their constitutional rights to say, ''I don't care about doing it 2 years before; what I care about is doing it when the people are paying attention.'' I don't believe sitting members of this Supreme Court are going to find that you can do that unless they decide to throw out Buckley versus Valeo in its basic concept and principal thrust.

So I want to move on to one other subject. Currently groups like the AFL–CIO, the Christian Coalition, the Sierra Club, the National Rifle Association may run unlimited political advertisements using soft money, in some cases in support of the opposition to a particular issue. We have all heard on the floor how many of these ads contain the likeness of a candidate. The Supreme Court in Buckley said that any attempt to limit the expenditures of these groups for these purposes was unconstitutional. McCain-Feingold would attempt to do precisely what the Supreme Court has said is unconstitutional.

I ask fellow Senators, isn't it interesting? In this bill there is also a provision that says, even if the Court strikes down one part, the rest may be valid. I ask you, what will you have in America if they strike down the 60-day prohibition and leave the soft money and the soft money prohibition is constitutional? You will essentially have decided to turn the campaign over to issue-oriented advertising with no soft money available for party building for those who would seek to refute it. I believe it is an untenable provision.

I have examined these provisions very carefully, and, even on the slightest chance that the Supreme Court would find these provisions constitutional, I ask my fellow Senators if this is good policy. The reason I ask this question is that in my view when you muzzle political speech of individual groups whose voices will carry the day—and I ask that question in our zeal on both sides of the aisle to address the role of certain entities in our election—you need to ask yourself what the consequence will be of restricting the free speech of unions, groups, corporations, and wealthy individuals to engage in campaigns, related speech, and activities. In my mind, by restricting freedom of speech for these groups, we will make the media an even more powerful player in the political process.

During the 60 days prior to the election, when the so-called bright-line rule is in effect, the only one who will be able to speak directly about candidates will be through the news media. We all know around Washington that you should not pick a fight with someone who buys paper by the ton and ink by the barrel, because it enjoys the full protection of the first amendment and it enjoys the total discretion of those who write the news and edit the news. We call the media the fourth estate, or the unofficial fourth branch of government. The media are the big opinion makers. They write the editorials, they present the news, and they decide which issues deserve the attention of the American people on a daily basis.

We also know that members of the media are only human, and by that I mean they are not always factual and they even pride themselves as being opinionated. Their opinion tends to lean in favor of Democrats and in particular of the liberal agenda in America. That is their privilege. That is their right. Recent surveys have shown that close to 90 percent of the media votes for liberal Democratic candidates, and to me it is clear that the media coverage of politics mimics the voting record of the media, at least in many areas. What of their independence? What about their role in the election of public officials?

Thomas Jefferson once wrote:

> There are rights which it is useless to surrender to the Government, but which rights governments always have sought to invade. Among those are the rights of speaking and publishing our thoughts.

This bill is a giant step toward Congress invading the rights of many to engage in political discourse.

In a recent column, George Will noted that this debate is one of the most important in American history. He also noted that the media have failed to address the first amendment problems created by McCain-Feingold. In Will's words:

> One reason the media are complacent about such restrictions on others' political speech is that these restrictions enhance the power of the media as the filters of political speech and unregulated participants in a shrunken national debate.

I submit to the Senate that this is precisely the result we need to avoid. When in doubt, I believe we should err on the side of more, not less, political speech. That is the essence of democracy.

In my mind, there is at least one other issue which needs to be addressed before we decide whether to adopt the so-called reforms. We need to get to the bottom of the scandals and violations of the law which occurred in the 1996 election. How can we talk about reform when during the 1996 election individuals and party committees blatantly and repeatedly violated the letter and the spirit of clear laws we currently have on the books? How will so-called reform prevent this from happening again in the future? We should not allow the call for reform to shield those who have violated the law from being held responsible for their acts. To do that makes a mockery of the Senate and of our laws.

I participated in the Senate Governmental Affairs Committee hearings the past several months. When the hearings began, I spoke of three statutes that I believed were pretty clear. Section 441 of the Federal Election Campaign Act makes it unlawful for foreign nationals to make contributions to elections. After 2 months of the hearings, I heard evidence of multiple violations of statutes by the Democratic National Committee and its agents. I do not think I need to recite for the American people all the examples of foreign money solicited by John Huang, Pauline Kanchanalak, and Maria Hsia and others associated with the DNC and the White House. The point is clear: The law prohibits foreign money. But there is a clear pattern of ignoring the laws during the last election.

Section 441(f) of the Federal Election Campaign Act prohibits making a contribution to a Federal election in the name of another person. Plain and simple, this law prohibits money laundering. We have seen the past election replete with those, and yet we have seen nobody punished, nobody penalized.

The final area of law implicated by the committee's investigation is section 607 of the Federal Criminal Code. It makes it a crime to solicit or receive campaign contributions on Government property. There has been much debate in the media and among members of the committee about whether the law covers the President and Vice President, whether it extends to soft money, and what Congress' original intent was when we passed this law more than a century ago.

To me, the law means what it says. Politicians, including those in the White House, cannot use Federal facilities paid for by the taxpayer to raise

money for their campaigns for national political office. That is how I always understood the law. That is the way I have conducted fundraising activities, in strict accordance with that interpretation, yet the committee's record is full of evidence that fundraising calls were made from the White House.

There are other issues of illegal activity which the committee has yet to fully explore. Recently, the U.S. attorney for the Southern District of New York obtained guilty pleas from three individuals involved in the last Teamsters election. These individuals apparently will testify that the Democratic National Committee and the AFL-CIO were used in efforts to launder money from the union's treasury into the reelection of Ron Carey, the Teamsters' president. I am not here alleging that he knew of it or that he was a party to it. I am merely reciting what I know from the reports from the guilty pleas and other things occurring in that court.

The Democratic National Committee apparently entered into an agreement with the Teamsters to launder money in exchange for contributions to the party from members of the union.

We have heard a lot about the union's role in the last election, and I share the concern expressed by my colleagues. But it seems to me that we need to get to the bottom of the criminal allegations, not just change the law to deal with their political activity.

I would like to make one point about unions and their activities in the last election. We all know that unions spent at least $35 million on issue adds in 44 congressional districts during the 1996 campaign. Compared to the unions, Republican groups spent a pittance. Citizens for Reform, a group which was created to counter the unions, spent $2 million in 15 districts. The coalition, Americans Working for Real Change, spent $5 million. The unions spent $700,000 in 1 week for advertisements. This is their privilege. This is their right. I do not seek to limit them. I only seek to make sure that a balance is maintained between the exercise of that right and the exercise of rights by others. So the unions have decided, because the current law gives them an advantage, that they are able to take a portion of their money dues without consent and use these dues for political activities.

Some want to call the Lott amendment a poison pill. I believe the vote, if we do have one on that issue, is a vote for fairness and balance. I believe that all contributions and paid political speech ought to be voluntary.

According to some, the law related to fundraising on Federal property was designed to prevent Government officials from coercing political contributions from Federal employees. Should the same rule against political contributions being done without consent apply to everyone, businesses, unions, PAC's and all?

On both sides of this issue I have listened as attentively as I can. I think this has been a very civilized debate, worthy of the institution of the Senate. But I have yet to hear anything that convinces me that passing this bill, which will erode free speech rights of candidates, parties and groups, is necessary to enhance our electoral process.

Clearly, the bill takes us in the wrong direction, away from the first amendment and from our free, fair and open electoral system that is the envy of the world.

I would like to make one last point. Everyone here recognizes the many problems we are addressing today stem from the fact that the Supreme Court struck down various provisions in the post-Watergate reforms that were passed in 1974 and upheld others. I wish to caution Senators that the McCain-Feingold bill, although earnest in its attempt to correct the errors of the past, fails to take heed of the history of reforms of the past and is destined to lead us in the wrong direction and on a course to make many of the same mistakes.

This bill contains a severability clause that essentially means if certain provisions of this bill are held unconstitutional, the remainder of the act shall not be affected by the rest of the holding. Although I do not agree with the approach in this bill, I do believe that those who will vote for this bill believe that it will somehow level the playing field. If that is their interest, I ask them to very carefully examine the consequences of the title VI severability clause. If the Supreme Court holds that the bright-line rule created by this bill is unconstitutional, which I believe they will, we will not only have succeeded in increasing the inequities between the haves and the have-nots, but we will have also created a Pandora's box, full of new problems.

I thank the Senate for its attention.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business, Friday, October 3, 1997, the Federal debt stood at $5,411,881,420,892.37. (Five trillion, four hundred eleven billion, eight hundred eighty-one million, four hundred twenty thousand, eight hundred and ninety-two dollars and thirty-seven cents)

One year ago, October 3, 1996, the Federal debt stood at $5,222,192,000,000. (Five trillion, two hundred twenty-two billion, one hundred and ninety-two million)

Twenty-five years ago, October 3, 1972, the Federal debt stood at $434,091,000,000 (Four hundred thirty four billion, ninety-one million) which reflects a debt increase of nearly $5 trillion ($4,987,790,420,892.37) (Four trillion, nine hundred eighty seven billion, seven hundred ninety million, four hundred thousand, eight hundred ninety-two dollars and thirty seven cents) during the past 25 years.

A POETIC TRIBUTE TO TOBACCO GROWERS BY PEM PFISTERER CLARK

Mr. HELMS. Mr. President, criticism of and attacks on the tobacco industry—and, by implication, tobacco growers—has become a sort of one-upmanship cottage industry among politicians who, in earlier days, scrambled to pay their respects to those engaged in growing tobacco and manufacturing it. The name of the game is ''piling on'' and the political types are doing it with gusto.

Last month, Mr. President, Dot Helms and I attended a meeting of the Burley and Dark Leaf Tobacco Association at Williamsburg. The distinguished speaker at the dinner was Fred Barnes, one of today's most respected journalists.

Presiding at the dinner was an impressive young lady, Pem Pfisterer Clark, general manager of the Stemming District Tobacco Association in Henderson, KY.

During the program, Ms. Clark recited a touching poem she had written about tobacco farmers. To those of us whose States produce tobacco, so heatedly maligned by its turncoat one-time friends, Pem Clark's tribute to these farmers was something that needed saying—and she said it well.

Mr. President, I ask unanimous consent that Pem Clark's poem be printed in the RECORD at the conclusion of my remarks.

TRIBUTE TO GROWERS

Ladies . . . gentleman . . .
My mission now tonight
Is to share from my perspective
My thoughts on this ''Tobacco Fight''.

I represent a group of folk
Who dedicate their lives
To producing the very plant
On which this industry survives.

Here's a billion dollar business
That we hold to our hearts,
That's sprouting from God's smallest seed.
Now, that's a very humble start!

It's not by chance or accident
That from the well-worked earth,
A rich and leafy plant springs forth
That boasts of quality and worth.

A farmer can't put on his crop
By tossing out some seeds.
Even a ''city slicker'' knows
That all that guy will grow are weeds.

The work is toil, the labor long.
He plants and hoes and sprays.
And weary, he goes in at night
And sighs, and bows his head and prays.

At this point he's done all he can;
Now it's not up to him.
A lot of what will happen now
Depends on Mother Nature's whim.

The drought will come, pests and disease.
It's like a game of craps.
The sun, the wind, the rain, the hail . . .
But farmers, see, are used to that.

Relief! The crop is made. It's good.
The first fight fought he wins.
His crop stands healthy in the field,
But now the real hard work begins.

The harvest is back-breaking work.
Good help is hard to find.
The farmer says his prayers again . . .
''No mold, house burn. Good cure, this time''.

The curing season has been good
He takes it from the barn.
The second fight he also wins . . .
His crop emerges safe from harm.

Lovingly the leaves are handled.
He prepares for the sale.
These will serve to feed his family—
These leaves hand-tied or in a bale.

His legal crop goes to the floor
And now the prayer that's prayed,
''Oh God, please let demand be high,
A good price given by the trade.''

And so he wins fight number three.
He's paid for all he's done.
He did his best and it paid off.
He thinks this season's battles' won.

WRONG!!! Now enter fight number four:
His goose may well be cooked!
In talks of politics ans suits
The farmers' fate is overlooked!

That status doesn't last for long.
Parties soon see the light.
Leave out the guy who grows the plant?!?
That's just plain dumb! And far from right!

Now talks of settlement include
The man who has the chore
Of growing the tobacco plants,
And so he wins fight number four.

But he worries for his family.
It's how his family's fed.
The money from tobacco sales
Buys shelter, clothes and bread.

The plant the farmer nourishes . . .
He tries to keep alive . . .
There are those who want to kill it
Watch if wither up and die

Deep in his soul he wants to help
This industry survive.
And now he bows his head and pleads,
''God help us win fight number five.''—PEM PFISTERER CLARK, *Copyright pending.*

HONORING JEWEL AND RUDY RUSH ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Jewel and Rudy Rush of Rolla, MO, who on October 19, 1997, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Rushs' commitment to the principles and values of their marriage deserves to be saluted and recognized.

TRIBUTE TO LIFE CHOICES CRISIS PREGNANCY CENTER IN JOPLIN, MO

Mr. ASHCROFT. Mr. President, I rise today to salute a most deserving and life-affirming ministry, the Life Choices Crisis Pregnancy Center in Joplin, Missouri. This ministry began in 1990, and has provided a much-needed service to more than four thousand women and their families. Thanks to a strong commitment and dedication to life, they have saved at least 160 babies from abortion.

Many of the services are aimed specifically at young people. One example is a program that encourages abstinence and uses trained counselors who provide information and support for teens and their parents through the Center's 24-hour help line. Additionally, the Center provides free confidential counseling, basic medical services, and lifestyle assessments at its newly constructed facility.

America needs more organizations which, like Life Choices Crisis Pregnancy Center, encourage communities to help their own, rather than rely on government-funded programs for assistance. I ask that you join with me today in recognizing not only the achievements of this center, but also the compassionate individuals who give of themselves so selflessly, helping others in their time of need.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CANCELLATION OF DOLLAR AMOUNTS OF DISCRETIONARY BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 71

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to section 1025 of Public Law 93–344, to the Committee on Appropriations, and to the Committee on the Budget.

To the Congress of the United States:

In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the ''Military Construction Appropriations Act, 1998'' (Public Law 105–45; H.R. 2016). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1997.*

MESSAGES FROM THE HOUSE

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 167. Concurrent resolution to correct a technical error in the enrollment of H.R. 2160.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes.

At 7:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2267) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, and agrees to the conferences asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ROGERS, Mr. KOLBE, Mr. TAYLOR of North Carolina, Mr. REGULA, Mr. FORBES, Mr. LATHAM, Mr. LIVINGSTON, Mr. MOLLOHAN, Mr. SKAGGS, Mr. DIXON, and Mr. OBEY, as the managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3278. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of August 4, 1997, the following measure was discharged and placed on the calendar:

S. 261. A bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 587. A bill to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, Colorado (Rept. No. 105–96).

S. 588. A bill to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White

River National Forest, Colorado, to include land known as the State Creek Addition (Rept. No. 105–97).

S. 589. A bill to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys (Rept. No. 105–98).

S. 591. A bill to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado (Rept. No. 105–99).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COATS (for himself and Mr. HARKIN):

S. 1255. A bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. REID, Mr. COVERDELL, Mr. THURMOND, Mr. GRAMM, and Mr. BURNS):

S. 1256. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials, or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions in which no State law claim is alleged; to permit certification of unsettled State law questions that are essential to Federal claims arising under the Constitution; to allow for efficient adjudication of constitutional claims brought by injured parties in the United States district courts and the Court of Federal Claims; to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution; and for other purposes; to the Committee on the Judiciary.

By Mr. FAIRCLOTH:

S. 1257. A bill to prohibit the Secretary of the Interior from permitting oil and gas leasing, exploration, or development activity off the coast of North Carolina unless the Governor of the State notifies the Secretary that the State does not object to the activity; to the Committee on Energy and Natural Resources.

By Mr. BENNETT:

S. 1258. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself, Mr. HOLLINGS, and Mr. BREAUX):

S. 1259. A bill to authorize appropriations for fiscal years 1998 and 1999 for the United States Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

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

S. Res. 130. A resolution to authorize testimony by a Member and an employee of the Senate; considered and agreed to.

By Mr. DOMENICI (for himself, Mr. D'AMATO, Mr. COATS, Mr. MURKOWSKI, Mr. MACK, Mr. DEWINE, Mr. HELMS, and Mr. LEAHY):

S. Res. 131. A resolution to express the sense of the Senate regarding the provision of technical assistance in the restoration of the Basilica of St. Francis of Assisi; considered and agreed to.

By Mr. WARNER:

S. Res. 132. A resolution to authorize the printing of a collection of rules and authorities of special investigatory committees of the Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. REID, Mr. COVERDELL, Mr. THURMOND, Mr. GRAMM, and Mr. BURNS):

S. 1256. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal Agencies, or other Government officials or other Government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions in which no State law claim is alleged; to permit certification of unsettled State law questions that are essential to Federal claims arising under the Constitution; to allow for efficient adjudication of constitutional claims brought by injured parties in the U.S. district courts and the Court of Federal Claims; to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution; and for other purposes; to the Committee on the Judiciary.

THE CITIZENS ACCESS TO JUSTICE ACT OF 1997

Mr. HATCH. Mr. President, I am pleased today to introduce the Citizens Access to Justice Act of 1997. Many Members of the Senate have as a paramount concern the protection of individual rights protected by our Constitution.

One particular right—the right to own and use private property free from arbitrary governmental action—is increasingly under attack from the regulatory state. Indeed, despite the constitutional requirement for the protection of property rights, the America of the late 20th century has witnessed an explosion of Federal regulation that has jeopardized the private ownership of property with the consequent loss of individual liberty.

Under current Federal regulations, thousands of Americans have been denied the right to the quiet use and enjoyment of their private property. Arbitrary bureaucratic enforcement of Federal and State regulatory programs has prevented Americans from building homes and commercial buildings, plowing fields, repairing barns and fences, clearing brush and fire hazards, felling trees, and even removing refuse and pollutants, all on private property.

To make matters worse, many property owners often are unable to safeguard their rights because they effectively are denied access to Federal courts. In a society based upon the rule of law, the ability to protect property and other rights is of paramount importance. Indeed, it was Chief Justice John Marshall, who in the seminal 1803 cast of *Marbury versus Madison*, observed that the ''government of the United States has been emphatically termed a government of laws, and not of men. It will cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested right.'' Despite this core belief of John Marshall and other Founders, the ability of property owners to vindicate their rights in court today is being hampered by the overlapping and confusing jurisdiction of the Court of Federal Claims and the Federal district courts over fifth amendment property rights claims. It is also frustrated by localities which sometimes create labyrinths of administrative hurdles that property owners must jump through before being able to bring a claim in Federal court to vindicate their Federal constitutional rights. CAJA seeks to remedy these situations. Let me explain.

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 their 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 court 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* versus *United States*, 113 S.Ct. 2035, 2048 (1993), has called for its repeal or amendment. CAJA would resolve the jurisdictional muddle by both repealing section 1500 and by eliminating the

Tucker Act shuffle, thereby granting to both courts concurrent jurisdiction to fully adjudicate takings claims. To assure uniformity in property rights law, appeals from both courts would be heard by the Court of Appeals for the Federal Circuit.

Adding to this jurisdictional problem, is the misapplication by many courts of the finality doctrine. These courts have required claimants to jump through endless administrative, appellate and other hoops, sometimes created by agencies to retard the legitimate use and development of property, before these courts will adjudicate claims. This has resulted in increased costs to the taxpayers and has impeded innocent property owners from vindicating their constitutionally protected rights. Recently, the U.S. Supreme Court in *Suitum* versus *Tahoe Regional Planning Agency*—1997, struck as an impermissible burden on property rights such administrative and appellate schemes that make it overly difficult for property owners to protect their rights in court. CAJA would codify the *Suitum* case, thereby providing courts with guidance on the application of the finality doctrine.

Finally, I must emphasize that CAJA certainly does not create any substantive rights. The definition of property, as well as what constitutes a taking under the just compensation clause of the fifth amendment, is left to the courts to define. The bill would not change existing case law's ad hoc, case-by-case definition of regulatory takings. Instead, it would provide a procedural fix to the litigation muddle that delays and increases the cost of litigating a fifth amendment taking case. All CAJA does is to provide for fair procedures to allow property owners the means to safeguard their rights by having their day in court.

I ask for your support to allow just claimants their day in court.

By Ms. SNOWE (for herself, Mr. HOLLINGS, and Mr. BREAUX):

S. 1259. A bill to authorize appropriations for fiscal years 1998 and 1999 for the U.S. Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COAST GUARD AUTHORIZATION ACT FOR FISCAL YEARS 1998 AND 1999

Ms. SNOWE. Mr. President, today I am pleased to introduce the Coast Guard Authorization Act for fiscal years 1998 and 1999.

The Coast Guard is one of our Nation's truly essential agencies. It aids people in distress on our bays, oceans, and waterways, preventing injuries and loss of life on these waters.

It enforces all Federal laws and treaties related to the high seas and U.S. waters. It is the lead Federal agency for preventing and responding to major pollution incidents in the coastal zone. It makes our ports and shipping lanes safe for efficient marine transportation and commerce. And, as one of the five armed forces, it provides a critical component of the Nation's defense strategy.

A few statistics graphically illustrate the Coast Guard's importance to the Nation. Last year, it saved 4,750 lives, assisted more than 90,000 individuals in distress, and saved or protected nearly $6 billion in property.

As part of its law enforcement mission in 1996, the Coast Guard confiscated 29 tons of cocaine and marijuana that was destined for the United States. It intercepted over 9000 immigrants headed to our shores.

During the same year, the Coast Guard responded to more than 17,000 pollution incidents. And the maritime cargo activities that the Coast Guard monitors and protects are estimated to contribute $74 billion annually to our GDP.

Fortunately for the American people, the Coast Guard performs these and other essential missions with a high degree of professionalism.

Last year, Congress enacted the Coast Guard Authorization Act of 1996, which authorized the Coast Guard through fiscal year 1997. The bill we are introducing today reauthorizes the Coast Guard for the next 2 years—fiscal years 1998 and 1999.

It authorizes both appropriations and personnel levels for these 2 years. And it also contains various provisions that are designed to, among other things, provide greater flexibility to the Coast Guard on personnel administration, streamline the inventory management process, eliminate an unnecessary reporting requirement, and enhance the effectiveness of the Coast Guard Investigative Service. The bill also provides authority to transfer excess property to the Coast Guard Auxiliary, protects personal information from release to the public during marine casualty investigations, conforms the U.S. territorial sea definition in certain laws to the 1988 Presidential Proclamation extending it from 3 to 12 miles, provides for some noncontroversial property conveyances, and contains other provisions.

One provision that deserves particular mention relates to marine safety. Needless to say, we must have a zero tolerance policy when it comes to the use of alcohol and illegal drugs by anyone involved with the operation of a vessel. Unfortunately, some problems have arisen in recent years with the implementation of the Coast Guard's chemical testing requirements that apply in the aftermath of serious marine incidents like oil spills.

Last year, after the oil tanker *Julie N* hit a bridge in Portland, ME, and spilled 170,000 gallons of oil, it was revealed that the pilot of the vessel failed to complete a test for alcohol, as required by regulation. Consequently, we will never know whether he was under the influence of alcohol when he hit the bridge. And this is not the only case of such a lapse. The National Transportation Safety Board, with whom I consulted on this language, has identified approximately 20 cases in recent years in which chemical testing procedures have not been properly complied with after serious marine incidents.

This bill contains a provision designed to address the problem. Whereas current regulations only require the marine employer to ensure that alcohol tests are promptly conducted, the bill adds a provision that will require the Coast Guard to ensure that these tests are conducted, one way or another, within 2 hours of the accident being stabilized. The provision also increases the civil penalty for failure to comply with Coast Guard chemical testing procedures from $1,000 to $5,000. With these two changes, we will now have a clear chain of accountability in the testing process and a powerful incentive that should prevent testing lapses—and hopefully accidents related to intoxication—from occurring the in the future.

Mr. President, this is a good bill that enjoys bipartisan support on the Commerce Committee. I look forward to moving this bill to the Senate floor at the earliest opportunity.

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. 1259

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 ''Coast Guard Authorization Act for Fiscal Years 1998 and 1999''.

SEC. 2. TABLE OF SECTIONS.

The table of sections for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of sections.

TITLE I—APPROPRIATIONS; AUTHORIZED LEVELS

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.

TITLE II—COAST GUARD MANAGEMENT

Sec. 201. Severance pay.
Sec. 202. Use of appropriated funds for commercial vehicles at military funerals.
Sec. 203. Authority to reimburse Novato, California, Reuse Commission.
Sec. 204. Eliminate supply fund reimbursement requirement.
Sec. 205. Authority to implement and fund certain awards programs.
Sec. 206. Disposal of certain material to Coast Guard Auxiliary.

TITLE III—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

Sec. 301. Alcohol testing.
Sec. 302. Penalty for violation of International Safety Convention.
Sec. 303. Protect marine casualty investigations from mandatory release.
Sec. 304. Eliminate biennial research and development report.
Sec. 305. Extension of territorial sea for certain laws.
Sec. 306. Law enforcement authority for special agents of the Coast Guard Investigative Service.

TITLE IV—MISCELLANEOUS
Sec. 401. Vessel Identification System Amendments.
Sec. 402. Conveyance of communication station Boston Marshfield receiver site, Massachusetts.
Sec. 403. Conveyance of Nahant parcel, Essex County, Massachusetts.
Sec. 404. Conveyance of Eagle Harbor Light Station.
Sec. 405. Conveyance of Coast Guard station, Ocracoke, North Carolina.
Sec. 406. Conveyance of Coast Guard property to Jacksonville University, Florida.
Sec. 407. Coast Guard City, USA.
Sec. 408. Vessel documentation clarification.

TITLE I—APPROPRIATIONS; AUTHORIZED LEVELS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1998, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,740,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $379,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $645,696,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the bridge alteration program, $26,000,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities functions (other than parts and equipment associated with operations and maintenance), $21,000,000, to remain available until expended.

(b) Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1999, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,740,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $379,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $675,568,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the bridge alteration program, $26,000,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities functions (other than parts and equipment associated with operations and maintenance), $21,000,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) The Coast Guard is authorized an end-of-year strength for active duty personnel of 37,660 as of September 30, 1998.

(b) For fiscal year 1998, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,368 student years.

(2) For flight training, 98 student years.

(3) For professional training in military and civilian institutions, 283 student years.

(4) For officer acquisition, 797 student years.

(c) The Coast Guard is authorized an end-of-year strength for active duty personnel of such numbers as may be necessary as of September 30, 1999.

(d) For fiscal year 1999, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, such student years as may be necessary.

(2) For flight training, such student years as may be necessary.

(3) For professional training in military and civilian institutions, such student years as may be necessary.

(4) For officer acquisition, such student years as may be necessary.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. SEVERANCE PAY.

(a) WARRANT OFFICERS.—Section 286a(d) of title 14, United States Code, is amended by striking the last sentence.

(b) SEPARATED OFFICERS.—Section 286a of title 14, United States Code, is amended by striking the period at the end of subsection (b) and inserting ", unless the officer is separated with an other than Honorable Discharge and the Secretary of the Service in which the Coast Guard is operating determines that the conditions under which the officer is discharged or separated do not warrant payment of severance pay.".

(c) EXCEPTION.—Section 327 of title 14, United States Code, is amended by striking the period at the end of paragraph (b)(3) and inserting ", unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of severance pay.".

SEC. 202. USE OF APPROPRIATED FUNDS FOR COMMERCIAL VEHICLES AT MILITARY FUNERALS.

Section 93 of title 14, United States Code, as amended by Section 203 of this Act, is further amended—

(1) by striking "and" after the semicolon at the end of paragraph (v);

(2) by striking the period at the end of paragraph (w) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(x) rent or lease, under such terms and conditions as are deemed advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery.".

SEC. 203. AUTHORITY TO REIMBURSE NOVATO, CALIFORNIA, REUSE COMMISSION.

The Commandant may use up to $25,000 to provide economic adjustment assistance for the City of Novato, California, for the cost of revising the Hamilton Reuse Planning Authority's reuse plan as a result of the Coast Guard's request for housing at Hamilton Air Force Base. If the Department of Defense provides such economic adjustment assistance to the City of Novato on behalf of the Coast Guard, then the Coast Guard may use the amount authorized for use in the preceding sentence to reimburse the Department of Defense for the amount of economic adjustment assistance provided to the City of Novato by the Department of Defense.

SEC. 204. ELIMINATE SUPPLY FUND REIMBURSEMENT REQUIREMENT.

Subsection 650(a) of title 14, United States Code, is amended by striking "The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof." and inserting "In these regulations, whenever the fund is reduced to delete items stocked, the Secretary may reduce the existing capital of the fund by the value of the materials transferred to other Coast Guard accounts. Except for the materials so transferred, the fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof.".

SEC. 205. AUTHORITY TO IMPLEMENT AND FUND CERTAIN AWARDS PROGRAMS.

(a) Section 93 of title 14, United States Code, is amended—

(1) by striking "and" after the semicolon at the end of paragraph (w);

(2) by striking the period at the end of paragraph (x) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(y) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including but not limited to state and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation).".

SEC. 206. DISPOSAL OF CERTAIN MATERIAL TO COAST GUARD AUXILIARY.

(a) Section 641 of title 14, United States Code, is amended—

(1) by striking "to the Coast Guard Auxiliary, including any incorporated unit thereof," in subsection (a); and

(2) by adding at the end thereof the following:

"(f)(1) Notwithstanding any other law, the Commandant may directly transfer ownership of personal property of the Coast Guard to the Coast Guard Auxiliary (including any incorporated unit thereof), with or without charge, if the Commandant determines—

"(A) after consultation with the Administrator of General Services, that the personal

property is excess to the needs of the Coast Guard but is suitable for use by the Auxiliary in performing Coast Guard functions, powers, duties, roles, missions, or operations as authorized by law pursuant to section 822 of this title; and

''(B) that such excess property will be used solely by the Auxiliary for such purposes.

''(2) Upon transfer of personal property under paragraph (1), no appropriated funds shall be available for the operation, maintenance, repair, alteration, or replacement of such property, except as permitted by section 830 of this title.''.

TITLE III—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

SEC. 301. ALCOHOL TESTING.

(a) ADMINISTRATIVE PROCEDURE.—.Section 7702 of title 46, United States code, is amended—

(1) by striking ''(1)'' in subsection (c);

(2) by redesignating paragraph (2) of subsection (c) as subsection (d)(1) and by redesignating subsection (d) as subsection (e);

(3) by striking ''may'' in the second sentence of subsection (d)(1) as redesignated, and inserting ''shall''; and

(4) by adding at the end of subsection (d), as redesignated, the following:

''(2) The Secretary shall establish procedures to ensure that after a serious marine incident occurs, alcohol testing of crew members responsible for the operation or other safety-sensitive functions of the vessel or vessels involved in such incident is conducted no later than two hours after the incident is stabilized.''.

(b) INCREASE IN CIVIL PENALTY.—Section 2115 of title 46, United States Code, is amended by striking ''$1,000'' and inserting ''$5,000''.

(c) INCREASE IN NEGLIGENCE PENALTY.—Section 2302(c)(1) of title 46, United States Code, is amended by striking ''$1,000'' and inserting ''$5,000''.

SEC. 302. PENALTY FOR VIOLATION OF INTERNATIONAL SAFETY CONVENTION.

(a) IN GENERAL.—Section 2302 of title 46, United States Code, is amended by adding at the end following new subsection:

''(e)(1) A vessel may not be used to transport cargoes sponsored by the United States Government if the vessel has been detained by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention.

''(2) The prohibition in paragraph (1) expires for a vessel 1 year after the date of the detention on which the prohibition is based or upon the Secretary granting an appeal of the detention on which the prohibition is based.

''(3) The head of a Federal Agency may grant an exemption from the prohibition in paragraph (1) on a case by case basis if the owner of the vessel to be used for transport of the cargo sponsored by the United States Government can provide compelling evidence that the vessel is currently in compliance with applicable international safety conventions to which the United States is a party.

''(4) As used in this subsection, the term 'cargo sponsored by the United States Government' means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.''.

SEC. 303. PROTECT MARINE CASUALTY INVESTIGATIONS FROM MANDATORY RELEASE.

Section 6305(b) of title 46, United States Code, is amended by striking all after ''public'' and inserting a period and ''This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.''.

SEC. 304. ELIMINATE BIENNIAL RESEARCH AND DEVELOPMENT REPORT.

(a) Section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is amended by striking subsection (e) and by redesignating subsection (f) as subsection (e).

SEC. 305. EXTENSION OF TERRITORIAL SEA FOR CERTAIN LAWS.

(a) PORTS AND WATERWAYS SAFETY ACT.—Section 102 of the Ports and Waterways Safety Act (33 U.S.C. 1222) is amended by adding at the end the following:

''(5) 'Navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.''.

(b) SUBTITLE II OF TITLE 46.—

(1) Section 2101 of title 46, United States Code, is amended—

(A) by redesignating paragraph (17a) as paragraph (17b); and

(B) by inserting after paragraph (17) the following:

''(17a) 'navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.''.

(2) Section 2301 of that title is amended by inserting ''(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988,)'' after ''of the United States''.

(3) Section 4102(e) of that title is amended by striking ''on the high seas'' and inserting ''beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured''.

(4) Section 4301(a) of that title is amended by inserting ''(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)'' after ''of the United States''.

(5) Section 4502(a)(7) of that title is amended by striking ''on vessels that operate on the high seas'' and inserting ''beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured''.

(6) Section 4506(b) of that title is amended by striking paragraph (2) and inserting the following:

''(2) is operating—

''(A) in internal waters of the United States; or

''(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.''.

(7) Section 8502(a)(3) of that title is amended by striking ''not on the high seas'' and inserting: ''not beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured''.

(8) Section 8503(a)(2) of that title is amended by striking paragraph (2) and inserting the following:

''(2) is operating—

''(A) in internal waters of the United States; or

''(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.''.

SEC. 306. LAW ENFORCEMENT AUTHORITY FOR SPECIAL AGENTS OF THE COAST GUARD INVESTIGATIVE SERVICE.

(A) AUTHORITY.—Section 95 of title 14, United States Code, is amended to read as follows:

''§95. Special agents of the Coast Guard Investigative Service law enforcement authority

''(a)(1) A special agent of the Coast Guard Investigative Service designated under subsection (b) has the following authority:

''(A) To carry firearms.

''(B) To execute and serve any warrant or other process issued under the authority of the United States.

''(C) To make arrests without warrant for—

''(i) any offense against the United States committed in the agent's presence; or

''(ii) any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

''(2) The authorities provided in paragraph (1) shall be exercised only in the enforcement of statutes for which the Coast Guard has law enforcement authority, or in exigent circumstances.

''(b) The Commandant may designate to have the authority provided under subsection (a) any special agent of the Coast Guard Investigative Service whose duties include conducting, supervising, or coordinating investigation of criminal activity in programs and operations of the United States Coast Guard.

''(c) The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Secretary of transportation or the Attorney General.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by striking the item related to section 95 and inserting the following:

''95. Special agents of the Coast Guard Investigative Service; law enforcement authority.''.

TITLE IV—MISCELLANEOUS

SEC. 401. VESSEL IDENTIFICATION SYSTEM AMENDMENTS.

Title 46, United States Code, is amended—

(1) by striking ''or is not titled in a State'' in section 12102(a);

(2) by adding at the end of section 12301 the following:

''(c) A documented vessel shall not be titled by a State or required to display numbers under this chapter, and any certificate of title issued by a State for a documented vessel than be surrendered in accordance with regulations prescribed by the Secretary.

''(d) The Secretary may approve the surrender under subsection (a) of a certificate of title covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.'';

(3) by striking section 31322(b) and inserting the following:

''(b) Any indebtedness secured by a preferred mortgage that is filed or recorded under this chapter, or that is subject to a mortgage, security agreement, or instruments granting a security interest that is deemed to be a preferred mortgage under subsection (d) of this section, may have any rate of interest to which the parties agree.'';

(4) by striking ''mortgage or instrument'' each place it appears in section 31322(d)(1) and inserting ''mortgage, security agreement, or instrument'';

(5) by striking section 31322(d)(1)(3) and inserting the following:

''(3) A preferred mortgage under this subsection continues to be a preferred mortgage even if the vessel is no longer titled in the State where the mortgage, security agreement, or instrument granting a security interest became a preferred mortgage under this subsection'';

(6) by striking ''mortgages or instruments'' in subsection 31322(d)(2) and inserting ''mortgages, security agreements, or instruments'';

(7) by inserting '' a vessel titled in a State,'' in section 31325(b)91) after ''a vessel to be documented under chapter 121 of this title,'';

(8) by inserting ''a vessel titled in a State,'' in section 31325(b)(8) after ''a vessel for which an application for documentation is filed under chapter 121 of this title,''; and

(9) by inserting ''a vessel titled in a State,'' in section 31325(c) after ''a vessel to be documented under chapter 121 of this title,''.

SEC. 402. CONVEYANCE OF COMMUNICATION STATION BOSTON MARSHFIELD RECEIVER SITE, MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Coast Guard Communication Station Boston Marshfield Receiver Site, Massachusetts, to the Town of Marshfield, Massachusetts.

(2) LIMITATION.—The Secretary shall not convey under this section the land on which is situated the communications tower and the microwave building facility of that station.

(3) IDENTIFICATION OF PROPERTY.—

(A) The Secretary may identify, describe and determine the property to be conveyed to the Town under this section.

(B) The Secretary shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(b) TERMS AND CONDITIONS.—Any conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions;

(A) The Secretary may reserve utility, access, and any other appropriate easements on the property conveyed for the purpose of operating, maintaining, and protecting the communications tower and the microwave building facility.

(B) The Town and its successors and assigns shall, at their own cost and expense, maintain the property conveyed under this section in a proper, substantial, and workmanlike manner as necessary to ensure the operation, maintenance, and protection of the communications tower and the microwave building facility.

(C) Any other terms and conditions the Secretary considers appropriate to protect the interests of the United States.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect January 1, 1998.

SEC. 403. CONVEYANCE OF NAHANT PARCEL, ESSEX COUNTY, MASSACHUSETTS.

(a) IN GENERAL.—The Commandant, United States Coast Guard, may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the United States Coast Guard Recreation Facility Nahant, Massachusetts, to the Town of Nahant.

(b) IDENTIFICATION OF PROPERTY.—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(c) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to such terms and conditions as the Commandant may consider appropriate.

SEC. 404. CONVEYANCE OF EAGLE HARBOR LIGHT STATION.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Administrator of the General Services Administration shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Eagle Harbor Light Station, Michigan, to the Keweenaw County Historical Society.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3), (4), and (5) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property.

(A) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(B) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the person to which the property is conveyed may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The person to which the property is conveyed is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) REVERSION BASED ON USE.—The conveyance of the property described in subsection (a) is subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of maritime history.

(6) MAINTENANCE OF PROPERTY.—The person to which the property is conveyed shall maintain the property in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

SEC. 405. CONVEYANCE OF COAST GUARD STATION OCRACOKE, NORTH CAROLINA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant, United States Coast Guard, or his designee (the ''Commandant'') may convey, by an appropriate means of conveyance, all right, title, and interest of the United States of America (the ''United States'') in and, to the Coast Guard station Ocracoke, North Carolina, to the ferry division of the North Carolina Department of Transportation.

(2) IDENTIFICATION OF PROPERTY.—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—The conveyance of any property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions.'

(A) EASEMENTS.—The Commandant may reserve utility, access, and any other appropriate easements upon the property to be conveyed for the purpose of—

(i) use of the access road to the boat launching ramp;

(ii) use of the boat launching ramp; and

(iii) use of pier space for necessary search and rescue assets (including water and electrical power).

(B) MAINTENANCE.—The ferry division of North Carolina Department of Transportation, and its successors and assigns shall, at its own cost and expense, maintain the property conveyed under this section in a proper, substantial and workmanlike manner necessary for the use of any easements created under subparagraph (A).

(C) REVERSIONARY INTEREST.—All right, title, and interest in and to administered by the general services administration if the property, or any part thereof, ceases to be used by the Ferry Division of North Carolina Department of Transportation.

(D) OTHER.—Any other terms and conditions the Commandant may consider appropriate to protect the interests of the United States.

SEC. 406. CONVEYANCE OF COAST GUARD PROPERTY TO JACKSONVILLE UNIVERSITY, FLORIDA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey to the University of Jacksonville, Florida, without consideration, all right, title, and interests of the United States in and to the property comprising the Long Branch Rear Range Light, Jacksonville, Florida.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—Any conveyance of any property under this section shall be made—

(1) subject to the terms and conditions the Commandant may consider appropriate; and

(2) subject to the condition that all right, title, and interest in and to property conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by Jacksonville University, Florida.

SEC. 407. COAST GUARD CITY, USA.

The community of Grand Haven, Michigan, shall be recognized as ''Coast Guard City, USA''.

SEC. 408. VESSEL DOCUMENTATION CLARIFICATION.

Section 1201(a)(4) of title 49, United States Code, and section 2(a) of the Shipping Act, 1916 (46 U.S.C. App. 802(a)) are each amended by—

(1) striking ''president or other''; and

(2) inserting a comma and ''by whatever title,'' after ''chief executive officer''.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently

enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 535

At the request of Mr. MCCAIN, the names of the Senator from Delaware [Mr. ROTH], the Senator from Utah [Mr. HATCH], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 535, a bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease.

S. 852

At the request of Mr. LOTT, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1189

At the request of Mr. SMITH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1189, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 1194

At the request of Mr. KYL, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Minnesota [Mr. GRAMS], the Senator from Oklahoma [Mr. INHOFE], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Ohio [Mr. DEWINE], the Senator from Utah [Mr. BENNETT], the Senator from South Carolina [Mr. THURMOND], the Senator from Nebraska [Mr. HAGEL], the Senator from Arizona [Mr. MCCAIN], the Senator from Virginia [Mr. WARNER], the Senator from Oregon [Mr. SMITH], the Senator from Alabama [Mr. SESSIONS], the Senator from Wyoming [Mr. THOMAS], the Senator from Wyoming [Mr. ENZI], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Washington [Mr. GORTON], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Michigan [Mr. ABRAHAM], the Senator from Colorado [Mr. CAMPBELL], the Senator from Tennessee [Mr. THOMPSON], and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the medicare program.

S. 1215

At the request of Mr. ASHCROFT, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 1215, a bill to prohibit spending Federal education funds on national testing.

S. 1247

At the request of Mr. JEFFORDS, the names of the Senator from Maine [Ms. SNOWE], the Senator from Idaho [Mr. CRAIG], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 1247, a bill to amend title 38, United States Code, to limit the amount of recoupment from veterans' disability compensation that is required in the case of veterans who have received special separation benefits from the Department of Defense.

SENATE RESOLUTION 96

At the request of Mr. CRAIG, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Washington [Mr. GORTON], the Senator from Missouri [Mr. BOND], the Senator from Tennessee [Mr. THOMPSON], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 96, a resolution proclaiming the week of March 15 through March 21, 1998, as ''National Safe Place Week.''

SENATE RESOLUTION 124

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Resolution 124, a resolution to state the sense of the Senate that members of the Khmer Rouge who participated in the Cambodian genocide should be brought to justice before an international tribunal for crimes against humanity.

SENATE RESOLUTION 131—RELATIVE TO THE BASILICA OF ST. FRANCIS OF ASSISI

Mr. DOMENICI (for himself, Mr. D'AMATO, Mr. COATS, Mr. MURKOWSKI, Mr. MACK, Mr. DEWINE, Mr. HELMS, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

S. RES. 131

Whereas the Basilica of St. Francis of Assisi is one of the finest examples of Italian Gothic art and architecture;

Whereas the Basilica is a living museum providing a home for the art of several great masters of the 13th and 14th centuries, and these art treasures depict scenes from the Old Testament and New Testament;

Whereas the Basilica housed the most interesting and important pictorial cycle in Franciscan iconography;

Whereas the famous fresco artist, Cimabue, began his work in the Basilica in 1277, and the works of Cimabue are seen in the apse and the vault of the Basilica and include a lovely Madonna with Child;

Whereas Cimabue's pupil, Giotto painted frescos at the turn of the 14th century and completed 28 famous and beautiful scenes based on St. Bonaventure's account of St. Francis major accomplishments during his life. The frescos depict the life of St. Francis who had the special gift of understanding and being able to speak to animals;

Whereas other talented artists including Simone Martini and Pietro Lorenzetti left their artistic mark on the Basilica during the first half of the 14th century, frescoing the left side of the transept of the Lower Church;

Whereas the Basilica was severely damaged by twin earthquakes on September 24 and 25, 1997, the extent of which has been described as more devastating than the World War II bombings of Padue and Pisa in 1944;

Whereas the famous frescoes painted by Giotto on the side walls of the Basilica in the early 14th century and depicting scenes from St. Francis' life are cracked but mostly intact;

Whereas experts in Italy are already working to restore the Basilica, and

Whereas the National Gallery in London and the Louvre in Paris have offered experts free of charge to help in the restoration of the Basilica: Now, therefore, be it

Resolved, That the Smithsonian Institution, the National Gallery of Art and any of the other premier art museums in the United States having pertinent expertise in restoration should provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquakes.

SENATE RESOLUTION 130—TO AUTHORIZE TESTIMONY BY A MEMBER AND AN EMPLOYEE OF THE SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 130

Whereas, in the case of *United States* v. *Delyla D. Wilson,* Case No. 97–CR–82–BLG, pending in the United States District Court for the District of Montana, subpoenas have been issued for testimony by Dwight MacKay, an employee on the staff of Senator Conrad Burns;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Dwight MacKay is authorized to testify in the case of *United States* v. *Delyla D. Wilson,* except concerning matters for which a privilege should be asserted.

SEC. 2. The testimony of Senator Conrad Burns in related state proceedings is authorized.

SENATE RESOLUTION 132—TO AUTHORIZE THE PRINTING OF A COLLECTION OF RULES AND AUTHORITIES

Mr. WARNER submitted the following resolution; which was considered and agreed to:

S. RES. 132

Resolved, That a collection of rules and authorities of special investigatory committees of the Senate, be printed as a Senate document, and there be printed additional copies

of such document up to, but not exceeding, $1,200 for use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

THE BIPARTISAN CAMPAIGN REFORM ACT OF 1997

WELLSTONE AMENDMENT NO. 1277

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill (S. 25) to reform the financing of Federal elections; as follows:

[On page 10 of the bill, strike lines 5 through 8 [Sect. 102(b) Aggregate Contribution Limit for Individual.].

JOHNSON AMENDMENTS NOS. 1278–1279

(Ordered to lie on the table.)

Mr. JOHNSON submitted two amendments intended to be proposed by him to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1278

On page 30, lines 15 and 16, strike ''CONTRIBUTIONS'' and insert ''CONTRIBUTIONS AND EXPENDITURES''.

On page 30, line 17, strike ''Section'' and insert ''(a) CONTRIBUTIONS.—Section''.

On page 31, between lines 2 and 3, insert the following:

(b) EXPENDITURES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by striking ''$200'' and inserting ''$50''.

On page 37, between lines 9 and 10, insert the following:

SEC. 309. REPORTING REQUIREMENT FOR CERTAIN EXPENDITURES OF CANDIDATES.

(a) REPORTING REQUIREMENT OF COMMITTEE.—SECTION 304(B)(5) OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 (2 U.S.C. 434(B)(5)) IS AMENDED—

(1) in subparagraph (A), by inserting ''(including, in the case of an expenditure to reimburse candidates or campaign workers, a specific itemization of each reimbursed candidate or worker expenditure in excess of $50 and in the case of an expenditure for air travel, the dates of the trip, each point of departure and arrival, and the identity of the traveler)'' after ''purpose'';

(2) in subparagraph (D), by striking ''and'' at the end;

(3) in subparagraph (E), by inserting ''and'' at the end; and

(4) by adding at the end the following:

''(F) in the case of an expenditure described in subparagraph (A) that is made to a person providing personal or consulting services and is used by such person to make expenditures to other persons (not including employees) who provide goods or services to the candidate or the candidate's authorized committees, the other person, together with the date, amount, and purpose of such expenditure, shall be disclosed;''.

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

''(j) A person described in section 304(b)(5)(F) shall maintain records of and provide to a political committee the information necessary for the committee to report the information described in such section.''.

AMENDMENT NO. 1279

On page 11, after line 20, insert the following:

SEC. 104. TREATMENT AS CONTRIBUTION OF UNREIMBURSED COST OF CANDIDATE TRAVEL ON PRIVATE AIRCRAFT.

Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) (as amended by section 205(a)) is amended—

(1) in clause (ii), by striking ''; or'' at the end;

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

(3) by adding at the end the following:

''(iv) in the case of the use of a private aircraft by a candidate or a candidate's authorized committees (other than an aircraft owned by the candidate or the candidate's authorized committees), the unreimbursed cost of such use, determined as the greater of the value of—

''(I) a first-class ticket on a commercial airline for a comparable trip; or

''(II) the fair market value of the use of the private aircraft.''.

REED AMENDMENT NO. 1280

(Ordered to lie on the table.)

Mr. REED submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

On page 19, after line 23, add the following:

SEC. 204A. CONTRIBUTION LIMIT FOR POLITICAL PARTIES MAKING INDEPENDENT EXPENDITURES.

Section 315(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(1) in paragraph (1)(B), by striking ''which, in the aggregate, exceed $20,000'' and inserting ''that—

''(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $20,000; or

''(ii) in the case of a political committee that does not certify under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $5,000''; and

(2) in paragraph (2)(B), by striking ''which, in the aggregate, exceed $15,000'' and inserting ''that—

''(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $15,000; or

''(ii) in the case of a political committee that does not certify under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $5,000''.

MCCAIN (AND FEINGOLD) AMENDMENT NO. 1281

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by them to the bill, S. 25, supra; as follows:

On page 53, after line 16, insert the following:

TITLE VII—SENATE VOLUNTARY OPTION

SEC. 701. SENATE VOLUNTARY OPTION.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 is amended by adding at the end the following:

''TITLE V—VOLUNTARY OPTION FOR SENATE ELECTION CAMPAIGNS

''SEC. 501. DEFINITIONS.

''In this title:

''(1) ELIGIBLE SENATE CANDIDATE.—The term 'eligible Senate candidate' means a candidate who the Commission has certified under section 505 as an eligible primary election Senate candidate or as an eligible general election Senate candidate.

''(2) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMIT.—The term 'multicandidate political committee contribution limit' means, with respect to an eligible Senate candidate, the limit applicable to the candidate under section 502(f).

''(3) OUT-OF-STATE RESIDENT CONTRIBUTION LIMIT.—The term 'out-of-State resident contribution limit' means, with respect to an eligible Senate candidate, the limit applicable to the candidate under section 502(e).

''(4) PERSONAL FUNDS EXPENDITURE LIMIT.—The term 'personal funds expenditure limit' means, with respect to an eligible Senate candidate, the limit applicable to the candidate under section 503(a).

''(5) SMALL STATE.—The term 'small State' means a State with a voting age population not in excess of 1,500,000.

''SEC. 502. ELIGIBLE SENATE CANDIDATES.

''(a) IN GENERAL.—A candidate is—

''(1) an eligible primary election Senate candidate if the Commission certifies under section 505 that the candidate—

''(A) has met the primary election filing requirement of subsection (b); and

''(B) has met the threshold contribution requirement of subsection (d); and

''(2) an eligible general election Senate candidate if the Commission certifies under section 505 that the candidate—

''(A) has met the general election filing requirement of subsection (c); and

''(B) has been certified as an eligible primary election Senate candidate.

''(b) PRIMARY ELECTION FILING REQUIREMENT.—

''(1) IN GENERAL.—The requirement of this subsection is met if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees—

''(A) will not exceed the personal funds expenditure limit; and

''(B) will not accept contributions for the primary election, any runoff election, or the general election that would cause the candidate to exceed the out-of-State resident contribution limit or the multicandidate political committee contribution limit.

''(2) DEADLINE FOR FILING PRIMARY ELECTION DECLARATION.—The declaration under paragraph (1) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

''(c) GENERAL ELECTION FILING REQUIREMENT.—

''(1) IN GENERAL.—The requirement of this subsection is met if the candidate files with the Commission—

''(A) a declaration, with such supporting documentation as the Commission may require, that—

''(i) the candidate and the candidate's authorized committees—

''(I) did not exceed the personal funds expenditure limit; and

''(II) did not accept contributions for the primary election or any runoff election that caused the candidate to exceed the out-of-State resident contribution limit or the multicandidate political committee contribution limit; and

''(ii) the candidate has met the threshold contribution requirement of subsection (d), as demonstrated by documents accompanying the declaration under subsection (b) or the declaration under this subsection; and

''(B) a declaration that the candidate and the candidate's authorized committees—

''(i) will not make expenditures in excess of the personal funds expenditure limit; and

''(ii) will not accept any contribution for the general election to the extent that the contribution would cause the candidate to exceed the out-of-State resident contribution limit or the multicandidate political committee contribution limit.

''(2) DEADLINE FOR FILING GENERAL ELECTION DECLARATION.—The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

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

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

''(d) THRESHOLD CONTRIBUTION REQUIREMENT.—

''(1) IN GENERAL.—The requirement of this subsection is met—

''(A) if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount not less than—

''(i) $100,000 in the case of a candidate seeking election in a small State; or

''(ii) $250,000 in the case of any other candidate; and

''(B) the candidate files with the Commission a statement under penalty of perjury that the requirement of subparagraph (A) has been met, with supporting materials demonstrating that the requirement has been met.

''(2) DEFINITIONS.—In this subsection:

''(A) ALLOWABLE CONTRIBUTION.—

''(i) IN GENERAL.—The term 'allowable contribution' means a contribution that is made as a gift of money by an individual pursuant to a written instrument identifying the individual as the contributor.

''(ii) EXCLUSIONS.—The term 'allowable contribution' does not include a contribution from—

''(I) an individual residing outside the candidate's State to the extent that acceptance of the contribution would bring a candidate out of compliance with subsection (e);

''(II) a multicandidate political committee to the extent that acceptance of the contribution would bring the candidate out of compliance with subsection (f); or

''(III) a source described in section 503(a)(2).

''(B) APPLICABLE PERIOD.—The term 'applicable period' means—

''(i) the period beginning on January 1 of the calendar year preceding the calendar year of a general election and ending on the date on which the declaration under subsection (b) is filed by the candidate; or

''(ii) in the case of a special election for the office of United States Senator, the period beginning on the date on which the vacancy in the office occurs and ending on the date of the general election.

''(e) OUT-OF-STATE RESIDENT CONTRIBUTION LIMIT.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this subsection is met if more than 50 percent of the total amount of contributions accepted by the candidate and the candidate's authorized committees are from individuals who are legal residents of the candidate's State.

''(B) SPECIAL RULE FOR SMALL STATES.—In the case of a candidate seeking election in a small State, the requirement of this subsection is met if, at the option of the candidate—

''(i) more than 50 percent of the total amount of contributions accepted by the candidate and the candidate's authorized committees are from individuals who are legal residents of the candidate's State; or

''(ii) more than 50 percent of the number of individuals whose names are reported to the Commission as individuals from whom the candidate and the candidate's authorized committees accept contributions are legal residents of the candidate's State.

''(2) PERSONAL FUNDS.—For purposes of paragraph (1), amounts consisting of funds from sources described in section 503(a)(2) shall be treated as contributions from individuals residing outside the candidate's State.

''(3) TIME FOR MEETING REQUIREMENT.—The requirements of paragraph (1) must be met by an eligible Senate candidate as of the close of each reporting period under section 304.

''(4) REPORTING REQUIREMENTS.—In addition to information required to be reported under section 304, a candidate that elects to comply with the requirements of paragraph (1)(B)(ii) shall include in each report required to be filed under section 304 the name and address of and the amount of contributions made by each individual that, during the calendar year in which the reporting period occurs, makes contributions aggregating $20 or more.

''(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMIT.—The requirement of this subsection is met if the candidate and the candidate's authorized committees do not accept, for use in connection with a primary, runoff, or general election, a contribution from a multicandidate political committee, to the extent that the making or accepting of the contribution would cause the aggregate amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed 25 percent of the aggregate contributions received by such candidate and committees from all sources.

''SEC. 503. PERSONAL FUNDS EXPENDITURE LIMIT.

''(a) LIMIT.—

''(1) IN GENERAL.—The amount of expenditures that may be made by an eligible Senate candidate or the candidate's authorized committees in connection with a primary, runoff, or general election of the candidate from the source described in paragraph (2) shall not exceed, in aggregate for each such election—

''(A) in the case of an eligible Senate candidate seeking election in a small State, $25,000 per election; or

''(B) in the case of any other eligible Senate candidate, $50,000 per election.

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

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

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

''(b) NOTICE OF FAILURE TO COMPLY WITH REQUIREMENTS.—A candidate who filed a declaration under section 502 and subsequently acts in a manner that is inconsistent with any of the statements made in the declaration shall, not later than 24 hours after the first of the acts—

''(1) file with the Commission a notice describing those acts; and

''(2) notify all other candidates for the same office by sending a copy of the notice by certified mail, return receipt requested.

''SEC. 504. BENEFIT FOR ELIGIBLE CANDIDATES.

''An eligible Senate candidate shall be entitled to the broadcast media rates provided under section 315(b) of the Communications Act of 1934.

''SEC. 505. CERTIFICATION BY COMMISSION.

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

''(b) CERTIFICATION.—

''(1) PRIMARY ELECTION.—Not later than 7 business days after a candidate files a declaration under section 502(b), the Commission shall determine whether the candidate meets the eligibility requirements of section 502(b)(1) and, if so, certify that the candidate is an eligible primary election Senate candidate entitled to receive a benefit under this title.

''(2) GENERAL ELECTION.—Not later than 7 business days after a candidate files a declaration under section 502(c), the Commission shall determine whether the candidate meets the eligibility requirement of section 502(c)(1), and, if so, certify that the candidate is an eligible general election Senate candidate entitled to receive a benefit under this title.

''(c) REVOCATION.—

''(1) IN GENERAL.—The Commission shall revoke a certification under subsection (a), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate fails to continue to meet the requirements of this title.

''(2) NO FURTHER BENEFIT.—A candidate whose certification has been revoked shall be ineligible for any further benefit made available under this title for the duration of the election cycle.

''(d) DETERMINATIONS BY COMMISSION.—A determination (including a certification under subsection (a)) made by the Commission under this title shall be final, except to the extent that the determination is subject to examination and audit by the Commission under section 506 and to judicial review.

''SEC. 506. PENALTIES.

''(a) MISUSE OF BENEFITS.—If the Commission revokes the certification of an eligible Senate candidate, the Commission shall so notify the candidate, and the candidate shall pay to the provider of any benefit received by the candidate under this title an amount equal to the difference between the amount the candidate paid for such benefit and the amount the candidate would have paid for the benefit if the candidate were not an eligible Senate candidate.

''(b) CIVIL PENALTIES FOR EXCEEDING LIMITS.—Any eligible Senate candidate who makes expenditures in excess of the personal funds expenditure limit, or receives contributions in excess of the out-of-State resident contribution limit or the multicandidate political committee contribution limit, shall pay to the Commission as a civil penalty an amount equal to—

''(1) the amount of the excess if the excess does not exceed 5 percent of the limit,

''(2) 3 times the amount of the excess if the excess exceeds 5 percent but does not exceed 10 percent of the limit, and

''(3) if the excess exceeds 10 percent of the limit, the sum of 3 times the amount of the excess plus a civil penalty to be imposed pursuant to section 309.''

(b) EXPENDITURES MADE BEFORE EFFECTIVE DATE.—An expenditure shall not be counted as an expenditure for purposes of the expenditure limits contained in the amendment made by subsection (a) if the expenditure is made before the date that is 60 days after the date of enactment of this Act.

SEC. 702. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''(b) The charges'' and inserting the following:

''(b) BROADCAST MEDIA RATES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the charges'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(3) in paragraph (1)(A) (as redesignated by paragraph (2))—

(A) by striking ''forty-five'' and inserting ''30''; and

(B) by striking ''lowest unit charge of the station for the same class and amount of time for the same period'' and inserting ''lowest charge of the station for the same amount of time for the same period on the same date''; and

(4) by adding at the end the following:

''(2) SENATE CANDIDATES.—

''(A) ELIGIBLE SENATE CANDIDATES.—In the case of an eligible Senate candidate (as defined in section 501 of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the 30-day period and 60-day period referred to in paragraph (1)(A) shall not exceed 50 percent of the charge described in paragraph (1)(B).

''(B) NONELIGIBLE SENATE CANDIDATES.—In the case of a candidate for the United States Senate who is not an eligible Senate candidate, paragraph (1)(A) shall not apply.''.

(b) PREEMPTION; ACCESS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) PREEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1)(A), of a broadcasting station by an eligible Senate candidate who has purchased and paid for such use pursuant to subsection (b)(2).

''(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.''.

(c) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking ''or repeated'';

(2) by inserting ''or cable system'' after ''broadcasting station''; and

(3) by striking ''his candidacy'' and inserting ''the candidacy of the candidate, under the same terms, conditions, and business practices as apply to the most favored advertiser of the licensee''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 703. REPORTING REQUIREMENT FOR ELIGIBLE SENATE CANDIDATES.

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

(1) by striking ''and'' at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting ''; and''; and

(3) by adding at the end the following:

''(L) in the case of an eligible Senate candidate, the total amount of contributions from individuals who are residents of the State in which the candidate seeks office.''.

ASHCROFT AMENDMENT NO. 1282

(Ordered to lie on the table.)

Mr. ASHCROFT submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AMENDMENT TO THE CONSTITUTION ALLOWING STATES TO LIMIT THE PERIOD OF TIME UNITED STATES SENATORS AND REPRESENTATIVES MAY SERVE.

The following article is hereby proposed as an amendment to the Constitution of the United States:

''ARTICLE—

''SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

''SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

''SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.''.

JEFFORDS AMENDMENT NO. 1283

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

Beginning on page 17, strike line 7 and all that follows through page 19, line 8 and insert the following:

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

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

(2) by adding at the end the following:

''(4) TIME FOR REPORTING CERTAIN INDEPENDENT EXPENDITURES.—

''(A) IN GENERAL.—A person that makes or obligates to make an aggregate amount of independent expenditures equal to or greater than $5,000 shall file a statement with the Commission—

''(i) in the case of expenditures made within 90 days before the date of the general election of the candidate the expenditure is made in connection with, 14 days before the expenditure is made; and

''(ii) in the case of expenditures made during any other time, within 48 hours after the expenditure is made or obligated to be made.

''(B) ADDITIONAL STATEMENTS.—An additional statement shall be filed not later than 48 hours after each additional amount of expenditures is made or obligated to be made in an aggregate amount equal to or greater than $5,000.

''(C) CONTENTS.—A statement under this paragraph shall contain the information required under paragraph (2)(A).

''(D) PLACE OF FILING; TRANSMISSION.—

''(i) PLACE OF FILING.—A statement under this paragraph shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, and the Secretary of the State of the State involved, as appropriate.

''(ii) TRANSMISSION.—Not later than 24 hours after receipt of a statement, the Secretary of the Senate or Clerk of the House of Representatives shall transmit the statement to the Commission and the Commission shall, not later than 48 hours after the receipt of the statement, transmit the statement to the candidate involved.

''(E) DETERMINATION.—

''(i) IN GENERAL.—The Commission may make a determination whether independent expenditures described in subparagraph (A) have been made or obligated to be made.

''(ii) NOTIFICATION OF CANDIDATES.—Not later than 24 hours after a determination is made under clause (i), the Commission shall notify the candidate involved in the expenditure of such determination.''.

SANTORUM AMENDMENT NO. 1284

(Ordered to lie on the table.)

Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SENSE OF THE CONGRESS.

It is the sense of the Congress that because legal permanent residents of the United States are protected by the Constitution, the residents have the right under the First Amendment to legally express themselves through expenditures and contributions that affect the political and electoral process.

SEC. 2. VOTER EMPOWERMENT BY INCREASE AND INDEXING OF CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL CONTRIBUTION LIMITS.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

''(A)(i) to a local candidate (as defined in paragraph (9)) and the candidate's authorized committees with respect to any election for Federal office that, in the aggregate, exceed $4,000; and

''(ii) to a non-local candidate and the candidate's authorized committees with respect to any election for Federal office that, in the aggregate, exceed $1,000;'';

(B) in subparagraph (B), by striking ''$20,000'' and inserting ''$60,000''; and

(C) in subparagraph (C), by striking ''$5,000'' and inserting ''$15,000''; and

(2) in paragraph (3)—

(A) by striking ''$25,000'' and inserting ''$75,000''; and

(B) by striking the second sentence.

(b) DECREASE IN PAC CONTRIBUTION LIMIT.—Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by striking ''$5,000'' and inserting ''$4,000''.

(c) DEFINITION OF LOCAL CANDIDATE.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''(9) LOCAL CANDIDATE.—In subsection (a), the term 'local candidate' means a candidate seeking nomination for election to, or election to, the Senate or the House of Representatives for the State in which the principal residence (as this term is used in section 121 the Internal Revenue Code of 1986) of the contributor is located.''.

(d) INDEXING LIMITS.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1), by striking ''subsection (b) and subsection (d)'' and inserting ''subsections (a), (b), and (d)''; and

(2) in paragraph (2)(B), by striking ''means the calendar year 1974.'' and inserting ''means—

''(i) for purposes of subsections (b) and (d), calendar year 1974; and

''(ii) for purposes of subsection (a), calendar year 1997.''.

SEC. 3. POLITICAL COMMITTEE EXPENDITURE REFORM.

(a) POLITICAL PARTY COMMITTEE EXPENDITURES.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by striking subsection (d) and inserting the following:

''(d) POLITICAL PARTIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office.

''(2) TREATMENT OF EXPENDITURES.—An expenditure made under paragraph (1) shall not be treated as a contribution to or expenditure made by the candidate in connection with whom the expenditure is made for any purpose.''.

(b) INCREASE IN PAC CONTRIBUTION LIMITS.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (B), by striking ''$15,000'' and inserting ''$45,000''; and

(2) in subparagraph (C), by striking ''$5,000'' and inserting ''$15,000''.

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

(1) by striking paragraph (17) and inserting the following:

''(17) INDEPENDENT EXPENDITURE.—

''(A) IN GENERAL.—The term 'independent expenditure' means an expenditure that—

''(i) contains express advocacy; and

''(ii) is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and that is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.''; and

(2) by adding at the end the following:

''(20) EXPRESS ADVOCACY.—The term 'express advocacy' includes a communication that conveys a message that advocates the election or defeat of a clearly identified candidate by using an expression such as 'vote for,' 'elect,' 'support,' 'vote against,' 'defeat,' 'reject,' '(name of candidate) for Congress,' 'vote pro-life,' or 'vote pro-choice,' accompanied by a listing or picture of a clearly identified candidate described as 'pro-life' or 'pro-choice,' 'reject the incumbent,' or a similar expression.''.

SEC. 4. INCREASED DISCLOSURE.

(a) CLARIFICATION OF DEFINITION OF COOPERATION OR CONSULTATION.—Section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) (as amended by section 3(c)) is amended by adding at the end the following:

''(B) COOPERATION OR CONSULTATION.—The term 'cooperation or consultation' does not include a consultation solely for the purpose of determining the factual accuracy of information about the candidate to be used in connection with a voter guide or information about a voting record (as those terms are defined in regulation by the Commission).''.

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

(1) in the matter preceding subparagraph (A), by striking ''Senate'' and inserting ''Senate or political committee of a national party'';

(2) in subparagraph (A) by striking ''the following reports:'' and all that follows and inserting ''a monthly report, that shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; and''; and

(3) in subparagraph (B)—

(A) by striking ''(i)'' and inserting ''(i)(I) in the case of a principal campaign committee of a candidate,'';

(B) by redesignating clause (ii) as subclause (II);

(C) in clause (i)(II), as redesignated by clause (ii), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(ii) in the case of a political committee of a national party, reports shall be filed under paragraph (4)(A)(iv).''.

SEC. 5. FEDERAL ELECTION COMMISSION REFORM.

(a) INCREASE IN PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.—Section 309(a)(5)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended by striking ''the greater of $10,000 or an amount equal to 200 percent'' and inserting ''the greater of $15,000 or an amount equal to 300 percent''.

(b) ATTORNEY'S FEES.—Section 309(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 4437g(a)(8)) is amended by adding at the end the following:

''(D) In any proceeding under this paragraph in which the defendant substantially prevails on substantive grounds, the court may, in addition to any judgment awarded to the defendant, allow reasonable attorney's fees and other costs of the civil action.''.

SEC. 6. RIGHTS OF EMPLOYEES RELATING TO THE PAYMENT AND USE OF LABOR ORGANIZATION DUES.

(a) PAYMENT OF DUES.—

(1) RIGHTS OF EMPLOYEES.—Section 7 of the National Labor Relations Act (29 U.S.C. 157) is amended by striking ''membership'' and all that follows and inserting the following: ''the payment to a labor organization of dues or fees related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation as a condition of employment as authorized in section 8(a)(3).''.

(2) UNFAIR LABOR PRACTICES.—Section 8(a)(3) of the National Labor Relations Act (29 U.S.C. 158(a)(3)) is amended by striking ''membership therein'' and inserting ''the payment to such labor organization of dues or fees related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation''.

(b) REQUIREMENTS FOR USE OF DUES FOR CERTAIN PURPOSES.—

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

''(h)(1) An employee subject to an agreement between an employer and a labor organization requiring the payment of dues or fees to such organization as authorized in subsection (a)(3) may not be required to pay to such organization, nor may such organization accept payment of, any dues or fees not related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation unless the employee has agreed to pay such dues or fees in a signed written agreement that shall be renewed between the first day of September and the first day of October of each year.

''(2) Such signed written agreement shall include a ratio, certified by an independent auditor, of the dues or fees related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation and the dues or fees related to other purposes.''.

(2) WRITTEN ASSIGNMENT.—Section 302(c)(4) of the Labor Management Relations Act, 1947 (29 U.S.C. 186) is amended by inserting before the semicolon the following: '': *Provided further,* That no amount may be deducted for dues unrelated to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation unless a written assignment authorizes such a deduction''.

(c) NOTICE TO EMPLOYEES RELATING TO THE PAYMENT AND USE OF DUES.—Section 8 of the National Labor Relations Act (29 U.S.C. 158) (as amended by subsection (b)(1)) is amended by adding at the end the following:

''(i)(1) An employer shall post a notice that informs the employees of their rights under section 7 of this Act and clarifies to such employees that an agreement requiring the payment of dues or fees to a labor organization as a condition of employment as authorized in subsection (a)(3) may only require that employees pay to such organization any dues or fees related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation. A copy of such notice shall be provided to each employee not later than 10 days after the first day of employment.

''(2) The notice described in paragraph (1) shall be of such size and in such form as the Board shall prescribe and shall be posted in conspicuous places in and about the plants and offices of such employer, including all places where notices to employees are customarily posted.''.

(d) EMPLOYEE PARTICIPATION IN THE AFFAIRS OF A LABOR ORGANIZATION.—Section 8(b)(1) of the National Labor Relations Act (29 U.S.C. 158(b)(1)) is amended by striking ''therein;'' and inserting the following: ''therein, except that, an employee who is subject to an agreement between an employer and a labor organization requiring as a condition of employment the payment of dues or fees to such organization as authorized in subsection (a)(3) and who pays such dues or fees shall have the same right to participate in the affairs of the organization related to collective bargaining, contract administration, or grievance adjustment as any member of the organization;''.

(e) DISCLOSURE TO EMPLOYEES.—

(1) EXPENSES REPORTING.—Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(b)) is amended by adding at the end the following: ''Every labor organization shall be required to attribute and report expenses by function classification in such detail as necessary to allow the members of such organization or the employees required to pay any dues or fees to such organization to determine whether such expenses were related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation or were related to other purposes.''.

(2) REPORT INFORMATION.—Section 201(c) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(c)) is amended—

(A) by inserting ''and employees required to pay any dues or fees to such organization'' after ''members'';

(B) by striking ''suit of any member of such organization'' and inserting ''suit of any member of such organization or employee required to pay any dues or fees to such organization''; and

(C) by striking ''such member'' and inserting ''such member or employee''.

(3) REGULATIONS.—The Secretary of Labor shall promulgate a regulation as necessary to carry out the amendments made by this subsection not later than 120 days after the date of enactment of this Act.

(f) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act, except that the requirements contained in the amendments made by subsections (b) and (c) shall take effect 60 days after the date of enactment of this Act.

SEC. 7. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

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

(1) in subsection (a), by inserting ''or donation of money or anything else of value made by any person to a national committee of a political party'' after ''Act of 1971''; and

(2) in subsection (b)—

(A) by inserting ''or donations'' after ''contributions'' each place it appears;

(B) by inserting ''or donation'' after ''contribution''; and

(C) by inserting ''donator'' after ''contributor''.

SEC. 8. LIMIT ON USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''Congress may not'' and inserting ''the House of Representatives may not''; and

(B) in clause (i), by striking ''60 days (or, in the case of a Member of the House, fewer than 90 days)'' and inserting ''90 days''; and

(2) by striking subparagraph (C) and inserting the following:

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

''(ii) A Member of the Senate shall not mail any mass mailing as franked mail if the mass mailing is postmarked fewer than 60 days before the date of any primary election or general election (whether regular, special, or runoff) for any national, State, or local office in which the Member is a candidate for election.''.

SEC. 9. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall apply to elections occurring and filing periods beginning after December 31, 1998.

SNOWE AMENDMENT NO. 1285

(Ordered to lie on the table.)

Ms. SNOWE submitted an amendment intended to be proposed by her to amendment No. 1258 proposed by Mr. LOTT to the bill, S. 25, supra; as follows:

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

___. REQUIREMENTS TO ENSURE EXPENDITURES OF CORPORATIONS AND EXEMPT ORGANIZATIONS FOR POLITICAL PURPOSES ARE VOLUNTARY.

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

''(c) RESTRICTIONS ON THE REVENUES OF NATIONAL BANKS AND CORPORATIONS AND DUES OF EXEMPT ORGANIZATIONS USED FOR POLITICAL ACTIVITIES.—

''(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful—

''(A) for any national bank or corporation described in this section to use for political activities any portion of any revenues or amounts received from any shareholder or employee; or

''(B) for any organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) to use for political activities any portion of any dues, initiation fee, or other payment collected or assessed from any member or nonmember of such organization.

''(2) REQUIREMENTS.—

''(A) NOTICE.—Each bank, corporation, or organization described in paragraph (1) which seeks to make any disbursements for any political activities from dues, initiation fees, or other payments shall—

''(i) provide to each individual a statement of such dues, fee, or other payment before the period to which such dues, fee, or payment applies, and

''(ii) include with each such statement a written notice which includes—

''(I) a reasonable estimate of the budget for such political activities,

''(II) a detailed itemization of all amounts disbursed for political activities in the 2 previous years,

''(III) a reasonable estimate of the dollar amount of the dues, fee, or payment which is to used for such political activities, and

''(IV) a space for the individual to check off that the individual does or does not consent to the expenditure of any portion of such dues, fee, or payment for political activities.

The period covered by any statement shall not exceed 12 months.

''(B) LIMITATION ON AMOUNT.—

''(i) IN GENERAL.—An organization required to provide notice under subparagraph (A) shall not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of individuals consenting to such disbursements under subparagraph (A)(ii)(IV) bears to the total number of individuals making payment of such dues, fees, or other payments.

''(ii) SPECIAL RULE.—If such consent is not provided, no portion of such dues, fees, or payments shall be used for political activities.

''(C) AVAILABILITY OF RECORDS.—An organization required to provide notice under subparagraph (A) shall make available to any affected members and nonmembers of the organization at the organization's main office any records on which the information required under subparagraph (A) is based.

''(d) CORPORATE SHAREHOLDERS MUST CONSENT TO DISBURSEMENTS FOR POLITICAL ACTIVITIES FROM FUNDS.—

''(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful for a corporation to which this section applies to make a disbursement to fund political activities.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Any corporation described in paragraph (1) which seeks to make disbursements for political activities during any 12-month period shall, in advance of such period, transmit to each of its shareholders a written notice which includes—

''(i) a reasonable estimate of the budget for such political activities,

''(ii) a detailed itemization of all amounts disbursed for political activities for the previous 2 years,

''(iii) the method by which a shareholder may vote (at its annual meeting or by proxy in connection with the meeting) to approve or disapprove of such disbursements.

''(B) LIMITATION ON AMOUNT.—

''(i) IN GENERAL.—A corporation required to provide notice under subparagraph (A) shall not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of shares voted at an annual meeting to approve such disbursements bears to the total number of shares voted with respect to such issue.

''(ii) SPECIAL RULE.—If a shareholder votes by proxy with respect to 1 or more issues to be considered at an annual meeting but does not vote by proxy with respect to the issue of disbursement of funds for political activities, the shareholder shall be treated as having voted to disapprove such disbursements.

''(e) POLITICAL ACTIVITIES.—For purposes of subsections (c) and (d), the term 'political activities' means communications or other activities which involve donations to, or participation or intervention in, any political campaign or political party, including—

''(1) any activity described in subparagraph (A), (B), or (C) of subsection (b)(2), and

''(2) any communication that attempts to influence legislation or public policy.''

(b) DISCLOSURE OF CERTAIN EXPENDITURES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended—

(1) in section 301(9)(B)(iii), by striking ''Federal office, except'' and all that follows through the semicolon and inserting ''Federal office;''; and

(2) in section 316(b)(2), by inserting at the end the following flush sentence:

''Disbursements made for activities described in subparagraphs (A), (B), and (C) shall be reported to the Commission in accordance with clauses (i) and (ii) of section 304(a)(4)(A).''.

(c) EFFECTIVE DATE.—This section shall take effect upon enactment of this Act.

DODD AMENDMENT NO. 1286

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the Federal Election Commission (referred to in this section as the ''Commission'') was created in the wake of the Watergate scandal to ensure the integrity of Federal elections by overseeing Federal election disclosure and enforcing Federal election law;

(2) maintaining and improving the strength and effectiveness of the Commission is essential to the integrity of the Federal election system;

(3) the growing volume of financial activity in election campaigns and the sharply increasing number of cases regarding potential violations of Federal election law make it increasingly difficult for the Commission to fulfill its watchdog role;

(4) between 1994 and November, 1996, the Commission's caseload rose 36 percent in the six months leading up to the elections, and because complaints relating to the 1996 Federal elections are still being filed, the Commission expects the caseload to ultimately rise by 52 percent;

(5) As of August 30, 1997, the Commission has been only able to actually work on 88 complaints of the total 262 cases pending;

(6) with this great increase in its workload the Commission's budget has not increased by an amount necessary to allow it to hire staff to fulfill its duties;

(7) the proposed appropriations for the Commission for the next fiscal year will not allow the Commission to hire additional investigative or enforcement staff; and

(8) the combination of a decreasing budget and an increasing workload have severely impaired the Commission's ability to fulfill its role.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should provide the Federal Election Commission with sufficient resources and authority to allow it to

fulfill its duties in a timely and effective manner.

JEFFORDS AMENDMENT NO. 1287

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to an amendment proposed by Mr. LOTT to the bill, S. 25, supra; as follows:

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

. REQUIREMENTS TO ENSURE EXPENDITURES OF CORPORATIONS AND EXEMPT ORGANIZATIONS FOR POLITICAL PURPOSES ARE VOLUNTARY.

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

''(c) RESTRICTIONS ON THE REVENUES OF NATIONAL BANKS AND CORPORATIONS AND DUES OF EXEMPT ORGANIZATIONS USED FOR POLITICAL ACTIVITIES.—

''(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful—

''(A) for any national bank or corporation described in this section to use for political activities any portion of any revenues or amounts received from any shareholder or employee; or

''(B) for any organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) to use for political activities any portion of any dues, initiation fee, or other payment collected or assessed from any member or nonmember of such organization.

''(2) REQUIREMENTS.—

''(A) NOTICE.—Each bank, corporation, or organization described in paragraph (1) which seeks to make any disbursements for any political activities from dues, initiation fees, or other payments shall—

''(i) provide to each individual a statement of such dues, fee, or other payment before the period to which such dues, fee, or payment applies, and

''(ii) include with each such statement a written notice which includes—

''(I) a reasonable estimate of the budget for such political activities,

''(II) a detailed itemization of all amounts disbursed for political activities in the 2 previous years,

''(III) a reasonable estimate of the dollar amount of the dues, fee, or payment which is to be used for such political activities, and

''(IV) a space for the individual to check off that the individual does or does not consent to the expenditure of any portion of such dues, fee, or payment for political activities.

The period covered by any statement shall not exceed 12 months.

''(B) LIMITATION ON AMOUNT—

''(i) IN GENERAL.—An organization required to provide notice under subparagraph (A) shall—(i) not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of individuals consenting to such disbursements under subparagraph (A)(ii)(IV) bears to the total number of individuals making payment of such dues, fees, or other payments, and

''(ii) with respect to each individual who does not consent to such disbursements under subparagraph (A)(ii)(IV), either—

''(I) not collect from the individual the dollar amount of the dues, fee, or other payment which was used for such disbursement, or

''(II) refund to the individual an amount equal to such dollar amount.

''(iii) SPECIAL RULE.—If such consent is not provided, no portion of such dues, fees, or payments shall be used for political activities.

''(C) AVAILABILITY OF RECORDS.—An organization required to provide notice under subparagraph (A) shall make available to any affected members and nonmembers of the organization at the organization's main office any records on which the information required under subparagraph (A) is based.

''(d) CORPORATE SHAREHOLDERS MUST CONSENT TO DISBURSEMENTS FOR POLITICAL ACTIVITIES FROM FUNDS.—

''(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful for a corporation to which this section applies to make a disbursement to fund political activities.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Any corporation described in paragraph (1) which seeks to make disbursements for political activities during any 12-month period shall, in advance of such period, transmit to each of its shareholders a written notice which includes—

''(i) a reasonable estimate of the budget for such political activities,

''(ii) a detailed itemization of all amounts disbursed for political activities for the previous 2 years,

''(iii) the method by which a shareholder may vote (at its annual meeting or by proxy in connection with the meeting) to approve or disapprove of such disbursements.

''(B) LIMITATION ON AMOUNT.—

''(i) IN GENERAL.—A corporation required to provide notice under subparagraph (A) shall not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of shares voted at an annual meeting to approve such disbursements bears to the total number of shares voted with respect to such issue.

''(ii) SPECIAL RULE.—If a shareholder votes by proxy with respect to 1 or more issues to be considered at an annual meeting but does not vote by proxy with respect to the issue of disbursement of funds for political activities, the shareholder shall be treated as having voted to disapprove such disbursements.

''(e) POLITICAL ACTIVITIES.—For purposes of subsections (c) and (d), the term 'political activities' means communications or other activities which involve donations to, or participation or intervention in, any political campaign or political party, including—

''(1) any activity described in subparagraph (A), (B), or (C) of subsection (b)(2), and

''(2) any communication that attempts to influence legislation or public policy.''

(b) DISCLOSURE OF CERTAIN EXPENDITURES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended—

(1) in section 301(9)(B)(iii), by striking ''Federal office, except'' and all that follows through the semicolon and inserting ''Federal office;''; and

(2) in section 316(b)(2), by inserting at the end the following flush sentence:

''Disbursements made for activities described in subparagraphs (A), (B), and (C) shall be reported to the Commission in accordance with clauses (i) and (ii) of section 304(a)(4)(A).''.

(c) EFFECTIVE DATE.—This section shall take effect upon enactment of this Act.

CHAFEE AMENDMENTS NOS. 1288–1289

(Ordered to lie on the table.)

Mr. CHAFEE submitted two amendments intended to be proposed by him to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1288

Beginning on page 11, strike line 4 and all that follows through page 25, line 12 and insert the following:

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. TREATMENT OF CERTAIN DISBURSEMENTS AS INDEPENDENT EXPENDITURES.

(a) TREATMENT OF CERTAIN DISBURSEMENTS AS INDEPENDENT EXPENDITURES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 507) is amended by adding at the end the following:

''SEC. 327. TREATMENT OF CERTAIN DISBURSEMENTS AS INDEPENDENT EXPENDITURES

''(a) FINDINGS.—Congress finds that—

''(1) a broadcast, advertisement, pamphlet, or other communication that identifies a candidate, and that is made during the 24-month period preceding the date of a general election, will almost inevitably influence the outcome of the election for the office sought by the candidate;

(2) likewise, a communication that identifies a political party, and that is made during that period, will almost inevitably influence the outcome of elections for all candidates of that party; and

(3) the United States has an important interest in protecting the integrity of the political and electoral process and ensuring adequate disclosure from all persons that influence the outcome of Federal elections.

''(b) IN GENERAL.—A disbursement that is made by any person to pay for a communication to the general public, or by a national bank, corporation, or labor organization to pay for a communication to its officers, employees, or members, shall be treated as an independent expenditure for purposes of section 304 if the communication—

''(1) is made during the 24-month period before the date of a general election for Federal office;

''(2)(A) contains the image or likeness of, mentions the name of, or otherwise expressly or by fair implication refers to a candidate for Federal office in that election; or

''(B) contains the name or symbol of, mentions the name of, or otherwise expressly or by fair implication refers to a political party of which any person is a candidate for Federal office in that election; and

''(3) is paid for and made without coordination with a candidate or a candidate's authorized committees.''.

''(b) CONFORMING AMENDMENT.—Section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) is amended by striking ''The term'' and inserting ''Subject to section 327, the term''.

AMENDMENT NO. 1289

Beginning on page 45, strike line 8 and all that follows through page 46, line 9.

Beginning on page 49, strike line 9 and all that follows through page 50, line 13.

MOSELEY-BRAUN AMENDMENTS NOS. 1290–1293

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted four amendments intended to be proposed by her to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1290

At the appropriate place, insert the following:

SEC. . LIMITATION ON USE OF CANDIDATE'S PERSONAL FUNDS IN CONNECTION WITH CANDIDATE'S ELECTION.

(a) FINDINGS.—Congress finds that—

(1) a broad range of support through financial participation in the election process is

an important component of the democratic process;

(2) candidates are often forced to spend a large amount of funds on their election campaign because other candidates in the same election spend a large amount of funds;

(3) excess expenditures in an election campaign is wasteful and potentially destructive to the democratic process; and

(4) the limitation of contributions by candidates using personal funds can help reduce the level of spending in connection with a Federal election.

(b) LIMITATION ON USE OF CANDIDATE'S PERSONAL FUNDS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. . LIMITATION ON USE OF CANDIDATE'S PERSONAL FUNDS.

''A candidate shall not make an aggregate amount of contributions to the candidate's authorized committees or expenditures using personal funds with respect to an election in an amount in excess of 25 percent of the aggregate amount of expenditures made by the candidate and the candidate's committees with respect to an election.''

AMENDMENT NO. 1291

At the appropriate place, insert the following:

SEC. . REQUIRED DISCLOSURE FOR CANDIDATE'S AUTHORIZED COMMITTEES.

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

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) for an authorized committee, the source of any funds contributed to the committee or expended by the candidate using personal funds in an aggregate amount in excess of the amount of the limit under section 315(a)(1)(A) during the reporting period.''

AMENDMENT NO. 1292

At the appropriate place, insert the following:

SEC. . REQUIRED DISCLOSURE IN CERTAIN COMMUNICATIONS OF THE PERSON WHO PAYS FOR THE COMMUNICATION.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended by adding at the end the following:

''(c) ISSUE COMMUNICATIONS.—

''(1) IN GENERAL.—Whenever a person makes a disbursement for the purpose of financing an issue communication (not including an expenditure described in subsection (a)), the communication shall clearly state the name of the person who made the disbursement to finance the communication.

''(2) DEFINITION.—The term 'issue communication' means a communication that—

''(A)(i) contains the image or likeness of, mentions the name of, or otherwise expressly or by fair implication refers to a candidate for Federal office; or

''(ii) contains the name or symbol of, mentions the name of, or otherwise expressly or by fair implication refers to a political party of which any person is a candidate for Federal office in that election; and

''(B) is disseminated within 90 days of the election for the office that the candidate whom the communication is in connection with is seeking.

''(3) EXCEPTION.—This subsection shall not apply to a communication that clearly has a primary purpose other than that of influencing the outcome of an election for Federal office or elections for Federal office.''.

AMENDMENT NO. 1293

At the appropriate place, insert the following:

SEC. . LIMITATION ON USE OF CONTRIBUTIONS TO REPAY LOANS OF CANDIDATES.

(a) FINDINGS.—Congress finds that—

(1) a broad range of support through financial participation in the election process is an important component of the democratic process;

(2) candidates are often forced to spend a large amount of funds on their election campaign because other candidates in the same election spend a large amount of funds;

(3) excess expenditures in an election campaign is wasteful and potentially destructive to the democratic process; and

(4) the limitation of contributions from candidates using personal funds can help reduce the level of spending in connection with a Federal election.

(b) LIMITATION OF USE OF CONTRIBUTIONS TO REPAY PERSONAL DEBT OF CANDIDATE.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended—

(1) by inserting ''(a)'' before ''Amounts''; and

(2) by adding at the end the following:

''(b) LIMITATION OF USE OF CONTRIBUTIONS TO REPAY PERSONAL DEBT.—

''(1) IN GENERAL.—A candidate's authorized committees shall not make expenditures to repay—

''(A) a debt or obligation incurred by the candidate in connection with the election campaign of the candidate; or

''(B) a loan made to the committee from the candidate in connection with the election campaign of the candidate;

to the extent that the aggregate amount of such expenditures exceed 15 percent of the aggregate expenditures made by the candidate and the candidate's committees in the election campaign.

''(2) CANDIDATE.—A candidate shall not accept from the candidates authorized committees any amount that is used to repay, or that constitutes a repayment of, any loan described in paragraph (1) to the extent that the aggregate amount received by the candidate exceeds the limitation under paragraph (1), reduced by expenditures described in such paragraph to persons other than the candidate.''.

CLELAND AMENDMENTS NOS. 1294–1299

(Ordered to lie on the table.)

Mr. CLELAND submitted six amendments intended to be proposed by him to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1294

On page 52, between lines 12 and 13, insert the following:

SEC. 510. REQUIRED CONTRIBUTOR CERTIFICATION.

Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and'' the first place it appears; and

(B) by inserting '', and an affirmation that the individual is an individual who is not prohibited by sections 319 and 320 from making the contribution'' after ''employer''; and

(2) in subparagraph (B) by inserting ''and an affirmation that the person is a person that is not prohibited by sections 319 and 320 from making a contribution'' after ''such person''.

AMENDMENT NO. 1295

On page 52, between lines 12 and 13, insert the following:

SEC. 510. RESTRUCTURING OF THE FEDERAL ELECTION COMMISSION.

(a) IN GENERAL.—So much of section 306(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)) as precedes paragraph (2) is amended to read as follows:

(1) by striking ''(a)(1) There'' and inserting the following:

''(a) COMPOSITION OF COMMISSION.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—There is established a commission to be known as the Federal Election Commission.

''(B) APPOINTMENT OF MEMBERS.—The Commission shall be composed of 7 members appointed by the President, by and with the advice and consent of the Senate, of which 1 member shall be appointed by the President from nominees recommended under subparagraph (C).

''(C) NOMINATIONS.—

''(i) IN GENERAL.—The Supreme Court shall recommend 10 nominees from which the President shall appoint a member of the Commission.

''(ii) QUALIFICATIONS.—The nominees recommended under clause (i) shall be individuals who have not, during the time period beginning on the date that is 5 years prior to the date of the nomination and ending on the date of the nomination—

''(I) held elective office as a member of the Democratic or Republican political party;

''(II) received any wages from the Democratic or Republican political party; or

''(III) provided substantial volunteer services or made any substantial contribution to the Democratic or Republican political party or to a public officeholder or candidate for public office who is associated with the Democratic or Republican political party.

''(D) LIMIT ON PARTY AFFILIATION.—Of the 6 members not appointed pursuant to subparagraph (C), no more than 3 members may be affiliated with the same political party.''; and (3) by striking paragraph (5) and inserting the following:

''(5) CHAIR; VICE CHAIR.—

''(A) IN GENERAL.—A member appointed under paragraph (1)(C) shall serve as chair of the Commission and the Commission shall elect a vice chair from among the Commission's members.

''(B) AFFILIATION.—The chair and the vice chair shall not be affiliated with the same political party.

''(C) VACANCY.—The vice chair shall act as chair in the absence or disability of the chair or in the event of a vacancy of the chair.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The term of the seventh member of the Federal Election Commission appointed under section 306(a)(1)(C) of the Federal Election Campaign Act of 1971 shall begin on May 1, 1999.

(2) CURRENT MEMBERS.—Any member of the Federal Election Commission serving a term on the date of enactment (or any successor of such term) shall continue to serve until the expiration of the term.

AMENDMENT NO. 1296

On page 52, between lines 12 and 13, insert the following:

SEC. 510. FILING FEES.

(a) SCHEDULE.—The Federal Election Commission shall establish by regulation a schedule of filing fees that apply to persons required to file a report under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(b) REQUIREMENTS.—A filing fee schedule established under subsection (a) shall—

(1) be printed in the Federal Register not less than 30 days before a fiscal year begins;

(2) contain sufficient fees to meet the estimated operating costs of the Federal Election Commission for the next fiscal year; and

(3) provide a waiver of fees for persons required to file a report with the Federal Election Commission if such fee would be a substantial hardship to such person.

(a) APPROPRIATIONS.—Any fees collected pursuant to this section are hereby appropriated for use by the Federal Election Commission in carrying out its duties under the Federal Election Campaign Act of 1971 and shall remain available without fiscal year limitation.

(d) EFFECTIVE DATE.—This section shall apply to fiscal years beginning after the date that is 2 years after the date of enactment of this Act.

AMENDMENT NO. 1297

On page 52, between lines 12 and 13, insert the following:

SEC. 510. INDEPENDENT LITIGATION AUTHORITY.

Section 306(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by striking paragraph (4) and inserting the following:

''(4) INDEPENDENT LITIGATING AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding paragraph (2) or any other provision of law, the Commission is authorized to appear on the Commission's behalf in any action related to the exercise of the Commission's statutory duties or powers in any court as either a party or as amicus curiae, either—

''(i) by attorneys employed in its office, or

''(ii) by counsel whom the Commission may appoint, on a temporary basis as may be necessary for such purpose, 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, and whose compensation shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission.

''(B) SUPREME COURT.—The authority granted under subparagraph (A) includes the power to appeal from, and petition the Supreme Court for certiorari from, and petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which the Commission appears under the authority provided in this section.''.

AMENDMENT NO. 1298

On page 52, between lines 12 and 13, insert the following:

SEC. 510. LIMIT ON TIME TO ACCEPT CONTRIBUTIONS.

(a) TIME TO ACCEPT CONTRIBUTIONS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

''(i) TIME TO ACCEPT CONTRIBUTIONS.—

''(1) IN GENERAL.—A candidate for nomination to, or election to, the Senate or House of Representatives shall not accept a contribution from any person during an election cycle in connection with the candidate's campaign except during a contribution period.

''(2) CONTRIBUTION PERIOD.—In this subsection, the term 'contribution period' means, with respect to a candidate, the period of time that—

''(A) begins on the date that is the earlier of—

''(i) January 1 of the year in which an election for the seat that the candidate is seeking occurs; or

''(ii) 90 days before the date on which the candidate will qualify under State law to be placed on the ballot for the primary election for the seat that the candidate is seeking; and

''(B) ends on the date that is 5 days after the date of the general election for the seat that the candidate is seeking.

''(3) EXCEPTIONS.—

''(A) DEBTS INCURRED DURING ELECTION CYCLE.—A candidate may accept a contribution after the end of a contribution period to make an expenditure in connection with a debt or obligation incurred in connection with the election during the election cycle.

''(B) ACCEPTANCE OF CONTRIBUTIONS IN RESPONSE TO OPPONENT'S CARRYOVER FUNDS.—

''(i) IN GENERAL.—A candidate may accept an aggregate amount of contributions before the contribution period begins in an amount equal to 125 percent of the amount of carryover funds of an opponent in the same election.

''(ii) CARRYOVER FUNDS OF OPPONENT.—In clause (i), the term 'carryover funds of an opponent' means the aggregate amount of contributions that an opposing candidate and the candidate's authorized committees transfers from a previous election cycle to the current election cycle.''.

(b) DEFINITION OF ELECTION CYCLE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by section 307(b)) is amended by adding at the end the following:

''(22) ELECTION CYCLE.—The term 'election cycle' means the period beginning on the day after the date of the most recent general election for the specific office or seat that a candidate is seeking and ending on the date of the next general election for that office or seat.''.

AMENDMENT NO. 1299

On page 52, between lines 12 and 13, insert the following:

SEC. 510. REQUIRED CONTRIBUTOR CERTIFICATION.

Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and'' the first place it appears; and

(B) by inserting '', and, in the case of an individual who has made aggregate contributions in excess of $500, an affirmation that the individual is an individual who is not prohibited by sections 319 and 320 from making the contribution'' after ''employer''; and

(2) in subparagraph (B) by inserting ''and, in the case of a person who has made aggregate contributions in excess of $500, an affirmation that the person is a person that is not prohibited by sections 319 and 320 from making a contribution'' after ''such person''.

CLARIFICATION LEGISLATION

SMITH OF NEW HAMPSHIRE (AND GREGG) AMENDMENT NO. 1300

(Ordered referred to the Committee on Governmental Affairs.)

Mr. SMITH of New Hampshire (for himself and Mr. GREGG) submitted an amendment intended to be proposed by them to the bill (H.R. 1953) to clarify State authority to tax compensation paid to certain employees; as follows:

On page 2, strike lines 1 through 20, and insert the following:

SECTION 1. LIMITATION ON STATE AUTHORITY TO TAX COMPENSATION PAID TO INDIVIDUALS PERFORMING SERVICES AT CERTAIN FEDERAL FACILITIES.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, as amended by is amended by adding at the end the following:

''§ 115. Limitation on State authority to tax compensation paid to individuals performing services at certain Federal facilities

''Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, or the Portsmouth, New Hampshire Naval Shipyard, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

''115. Limitation on State authority to tax compensation paid to individuals performing services at certain Federal facilities.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pay and compensation paid after the date of the enactment of this Act.

Mr. SMITH of New Hampshire. Mr. President, on behalf of Senator GREGG and myself, I submit an amendment. Mr. President, this is a very simple and straightforward amendment which has been drafted to address a very unique situation concerning State tax liability for persons performing services at the Portsmouth, New Hampshire Naval Shipyard. This shipyard is a Federal facility located on a group of small islands in the inner Portsmouth Harbor and Piscataqua River, which forms the border between the States of New Hampshire and Maine.

The amendment we are offering will make pay and compensation of Portsmouth Naval Shipyard employees subject only to the State taxation laws of the State in which the employees reside.

On July 28, 1997, the House of Representatives passed H.R. 1953, a bill which likewise makes State taxing authority subject to an employee's State of residence with respect to three other Federal facilities located on State borders.

Again, Mr. President, these are very unique situations where we have a serious issue of tax fairness of Federal employees at these particular Federal facilities on the border between States. It is appropriate for the Congress, in these instances, to use its power to clarify taxing authority especially where the States involved have been unable to work out an equitable tax reciprocity agreement on their own. Moreover, I would note that in this instance, there is disagreement between New Hampshire and Maine on whether the border location of the shipyard puts it geographically in New Hampshire or Maine. This is all the more reason for Congress to seek to help these Federal employees caught in the middle of a border dispute.

As a Member of the Senate Committee on Governmental Affairs, I look forward to working with Chairman THOMPSON and my other colleagues on the committee in the next few weeks to schedule action on both the House bill and the amendment Senator GREGG and I are offering to it today.

Finally, Mr. President, I would note that when H.R. 1953 passed the House a few weeks back, some of my colleagues there noted that it took nearly 10 years to correct the tax inequity for the Federal employees at the three Federal facilities on State borders referenced in

that bill. Let me say that I first took up the unfair tax situation faced by my New Hampshire constituents at the Portsmouth Naval Shipyard nearly 10 years ago, and introduced legislation in the years that followed which, unfortunately, never came to pass. However, my colleagues have told me a congressional hearing might be the best way to make our case. That is why I look forward to Senate consideration of this amendment in committee. When the facts are carefully reviewed, I think my colleagues will realize that my constituents have waited too long already for resolution of the unfair tax burden they face by virtue of their employment at this particular Federal facility. My amendment with Senator GREGG to H.R. 1953 gives the Congress another opportunity to address this situation, so it is my hope we can now rectify this situation without further delay.

THE BIPARTISAN CAMPAIGN REFORM ACT OF 1997

BURNS AMENDMENTS NOS. 1301–1303

(Ordered to lie on the table.)

Mr. BURNS submitted three amendments intended to be proposed by him to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1301

At the end of title I, add the following:

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

''325. PARTICIPATION BY NATIONAL ORGANIZATIONS IN ELECTIONS FOR THE SENATE OR HOUSE OF REPRESENTATIVES.

''It shall be unlawful for the national chapter of any organization to conduct, or to use or make available funds of the national chapter to any person for the conduct of, campaign advertisements or any other form of participation in an election for the Senate or the House of Representatives in a State unless the State and local chapters of the organization consent to the participation.''.

AMENDMENT NO. 1302

At the end of title I, add the following:

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

''325. PENALTIES FOR VIOLATION OF ELECTION LAW.

''(a) IN GENERAL.—In addition to penalties that may be imposed under any other provision of this Act, section 607 of title 18, United States Code, or any other law requiring or prohibiting any activity relating to a Federal election, and person that violates any such person shall be punished by—

''(1) lifetime disqualification from candidacy for Federal office;

''(2) imposition of a fine of not less than $50,000;

''(3) in the case of an organization described in paragraph (3) or (4) of section 501(c) of the Internal Revenue Code that is exempt from taxation under section 501(a) of the Code, disentitlement to the exemption for a period of not more than 5 years.

''(b) VIOLATION BY AN ORGANIZATION.—In the case of a violation under subsection (a) by an organization, each of the officers of the organization that had power to prevent the organization from committing the violation shall be personally liable for the violation.''.

AMENDMENT NO. 1303

At the end of title I, add the following:

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

''325. DECLARATIONS OF INTENT TO BECOME A CANDIDATE; DECLARATIONS OF INTENT TO PARTICIPATE IN FEDERAL ELECTIONS.

''(a) DECLARATIONS OF INTENT TO BECOME A CANDIDATE.—Not later than January 1 of any year in which a general election for Federal office is to be held in a State, each person that intends to become a candidate for Federal office in the election shall file with the Commission and with the chief election official of the State a declaration of intent to become a candidate for the office that the person intends to seek.

''(b) DECLARATIONS OF INTENT TO PARTICIPATE.—Not later than January 1 of any year in which a general election for Federal office is to be held in a State, each individual or organization that intends to participate in the election through an issue advocacy or voter education campaign shall file with the Commission and with the chief election official of the State a declaration stating that intent.''.

ADDITIONAL STATEMENTS

BALTIMORE'S 311 INITIATIVE

● Mr. SARBANES. Mr. President, I rise today to bring my colleagues' attention to a crime-fighting initiative implemented by the Baltimore City Police Department, in conjunction with the Federal Community Oriented Policing Services [COPS] Program created by the 1994 Crime Bill, and with American Telephone and Telegraph. This initiative—the 1-year anniversary of which was the first of this month—has contributed greatly to community policing efforts in Baltimore, and I believe holds great promise for the Nation at large.

Like other major cities in America, Baltimore—our 12th largest city—has experienced over the past several decades a rapid rise in crime. One of the effects of this rise has been the increasing burden placed on the 911 emergency telephone system—a system which citizens regularly used to phone in not only emergency calls, but also criminal complaints of a nonemergency nature. In 1995 alone, the Baltimore Police Department fielded 1.7 million 911 calls. Such a volume made it increasingly difficult for the city's police to address in an expeditious manner those complaints that were truly of an emergency nature, and required the redeployment to the phone banks of officers who should have been on the city streets.

In October 1996, the Baltimore City Police Department, aided by a $350,000 award from the COPS office, established a new telephone line for nonemergency calls. This 311 line is staffed by limited duty officers specifically trained to handle both emergency and nonemergency calls, and citizen understanding of the differences between the 311 and 911 lines has been heightened by an intensive public awareness campaign.

Mr. President, this experiment has proven to be an unmitigated success. As a result of the implementation of the new 311 number, emergency calls to 911 have decreased by 25 percent, leaving Baltimore's police with more time to address in an expeditious manner true emergencies. In fact, statistics show that 911 operators now answer the phone on an average of 2 seconds, as compared to 6.5 seconds before the 311 line was set up, and that 80 percent fewer callers to 911 receive a message asking them not to hang up. In short, because of the 311 number, Baltimore's police can now respond immediately to situations that demand prompt action.

Moreover, the reduction in 911 calls has allowed Baltimore's police to spend more time patrolling their beats, a consequence of which has been a declining crime rate in the city of 15 percent in fiscal year 1997, as opposed to an 11 percent decline in fiscal year 1996.

These and other statistics appear in an October 2 New York Times article entitled ''Baltimore Cites Success with Alternative to 911,'' which I ask to be printed in the RECORD at the conclusion of my statement.

Mr. President, on this 1-year anniversary of the 311 program, I want to applaud the successes of the COPS Program, and the efforts of the Baltimore City Police Department and the Office of Governor Glendening, both of whom have demonstrated the kind of vision and initiative that are essential to a successful Federal-State-local law enforcement partnership. Numerous other localities are in the process of developing their own 311-type programs, and I fully expect that on the second anniversary of the Baltimore initiative, several of my colleagues will be on the Senate floor announcing similar success stories in their own States.

The article follows:

[From the New York Times, Oct. 2, 1997]

BALTIMORE CITES SUCCESS WITH ALTERNATIVE TO 911

(By Michael Janofsky)

BALTIMORE, OCT. 1.—Until a year ago, the owner of a cat stuck in a tree and the spouse of a shooting victim would be likely to call the same number for help: 911.

But under a pilot Federal program that could expand quickly around the country and beyond, Baltimore is using a different telephone number for non-emergencies, 311, a change that has reduced the number of 911 calls to local police by nearly 25 percent, enabling operators to handle life-threatening situations more efficiently and giving officers more time to patrol the streets.

In announcing the results of the program on its first anniversary, local, state and Federal officials said the 311 experiment has been so successful that more than 100 other jurisdictions, including Chicago and Philadelphia, are eager to try it.

''The results here have exceeded my expectations,'' said Joseph E. Brann, the director

of the Justice Department's Office of Community Oriented Policing. ''The importance to the rest of the country is that this was a community willing to use a new strategy to solve an old problem.''

Most regions have used 911 as an emergency alternative to a seven-digit number for the local police station since the early 1970's. But here in Baltimore, Thomas C. Frazier, the police commissioner, said the steady increase of calls to 911, an average of 5 percent a year in recent years, was forcing many officers to spend their entire eight-hour shifts responding to calls—many of which were not true emergencies—at the expense of department efforts to increase the time officers patrol neighborhoods.

''We are trying to create more discretionary time for officers.'' Mr. Frazier said at a news conference, ''and this enhances our ability. It has freed up an amount of time for them to be proactive.''

As part of the Clinton Administration's comprehensive 1994 crime act, the Justice Department last year had a small grant—$349,787—available to test a program that would combine new technology and a city's willingness to wean residents from 911 for non-emergency needs. Baltimore jumped at the chance.

After a year, Mr. Frazier pronounced the program ''a hugh success,'' with 24.8 percent fewer calls to 911 and better service for those who still needed it. A department analysis of calls made after 311 was implemented showed that 911 operators now answer within an average of two seconds, rather than six seconds; that 78.5 percent fewer callers get a busy signal, and that 82.2 percent asking them to not to hang up.

In addition, a police survey of people who called 311 found that 98.2 percent of them were satisfied with the response even after learning that an officer would not be immediately dispatched. For example, someone returning from vacation to discover a burglary had taken place would probably be told by a 311 operator that the police would respond, but not necessarily right away.

More significant, Mr. Frazier said, the availability of 311 to solve nonemergency problems led to an immediate decrease in the frequency with which the police were dispatched. After 311 was introduced, Mr. Frazier said, the number of times the police were dispatched fell enough to give an officer an additional hour a day for community policing. Mr. Frazier added that the overall crime rate in Baltimore has fallen 15 percent in 1997, compared with an 11 percent drop in 1996.

The success of the 311 option here probably will lead to its implementation in other cities. Lieut. Gov. Kathleen Kennedy Townsend, who helped lobby for the Federal grant, said Maryland's other populous regions, including Montgomery County and Prince George's County, near Washington, would soon get 311 systems. And John F. Reintzell, a spokesman for the Baltimore Police Department, said that the department had received inquiries from 150 police departments in the United States, Britain, Canada and South Korea.

Mr. Brann of the Justice Department said that the Federal Government did not intend to offer further financial support for 311 but that several current studies the Government was monitoring could help localities decide how they might amend the way they handle emergency calls. Dallas is offering a 311 line for access to all city agencies, and Buffalo is beginning a public awareness campaign to familiarize residents with seven-digit police station numbers.

''Agencies all over the country are interested,'' Mr. Brann said. ''But we're not trying to shove anything down anyone's throat. It should be a local agency determination.''●

TRIBUTE TO CONRAD RICHARD GAGNON, JR., AND MAUREEN E. CONNELLY

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Conrad Richard Gagnon, Jr., and Maureen E. Connelly who were named finalists in the second annual Samsung American Legion Scholarship Program.

The scholarship program is funded by a $5 million endowment from the Samsung Group, an international company based in South Korea, and is administered by the American Legion, the world's largest veterans organization. Only direct decedents of U.S. wartime veterans are eligible for the scholarships.

Conrad and Maureen are among many other outstanding young Americans named as finalists to compete for 1 of 10 college scholarships, each worth $20,000. The students were judged on the basis of their involvement in their school and community, and for their academic achievements.

Conrad is a native of Bedford, NH, and is currently in his senior year of high school. He is the son of Conrad and Gisele Gagnon, and has three bothers: Brian, Tim, and Dan. His grandfather, Richard Adalard Gagnon, is a World War Two veteran.

Conrad has distinguished himself by achieving excellent grades, as well as being involved in numerous and varied activities. He is an associate editor of his school year book, a member of his school's math team, and French club. He has been awarded the Boy Scouts Order of the Arrow, and will travel to California and Japan this summer on the Sony Student Abroad scholarship. Conrad also participates in community service activities such as peer tutoring, food drives, and was involved in organizing an effort to place over 100 of his peers in volunteer positions. He would like to study engineering and law in college.

Maureen is a resident of Greenland, NH. She attends Portsmouth High School. She is the daughter of Mark and Marian Connelly, and she has a sister Carolyn, and a brother Steven. Her grandfather, Quentin Dante Halstead, served on active duty in World War Two, the Korean war, and the Vietnam war.

Maureen has earned outstanding grades in honors and advance placement classes. She is also very active on her school's field hockey team and track team. In addition she is a member of student government, serving in the capacity of treasurer, as well as a member of the school newspaper staff. Maureen volunteers her time to teach young children field hockey and at a local hospital, she also maintains a job as a lifeguard. She is a senior in high school and would like to be a doctor.

Young men and women such as Conrad and Maureen are a valuable asset to New Hampshire and the future of the United States. I congratulate them on all their hard work and wish them success in their future endeavors.●

THE RALLYING CRY OF THE ECONOMIST

● Mr. MOYNIHAN. Mr. President, the most current issue of The Economist has a cover story on the Year 2000 Problem. Entitled the ''Millennium Bug Muddle,'' the story and editorial describe the global reaction to the computer glitch. While the editors do believe much of the alarmists hue and cry is overstated, they are careful not to minimize the warnings about the critical steps we must take to solve this problem.

First, even with the lowest estimates of cost at $52 billion, the millennium bug still counts as a serious computing problem, probably the worst to strike the industry to date. Governments and industries must be prepared to pay the bill. Executives and public officials will have to convince the shareholders and taxpayers that they should foot the bill even though the fix will not increase productivity one lick.

Second, in their research, The Economist authors found that ''firms that are a year or so into the repair job say they have learned two things. Had they done nothing, the consequences would have been ugly indeed, from complete failure of their accounting and billing systems to, in the case of some retail firms, an inability to do business at all. But solving the problem is proving relatively straightforward, if time consuming and expensive.'' This reaffirms my belief that this is a management problem, NOT a technological problem.

Third, the article alludes to the impending deluge of litigation. ''The results of these unfortunate programming decisions are already appearing. The Produce Palace, a retailer in Michigan, brought the first millennium bug case to court earlier this year, suing the makers of its sales terminals because their terminals cannot handle credit cards that expire after 1999 . . . Meanwhile, Hartford Insurance had to start fixing its systems as far back as 1988, when it realized that its 7-year bonds would crash its software from 1993 onwards.'' Our society is extremely litigious. Business interruptions and the ensuing blame game of lawsuits could have lasting harm on our economy and our courts.

Lastly, as The Economist does so well, the authors see the larger meaning in this problem. They conclude that because we are dependent on technology—and the pragmatic solutions that are devised in technology's evolution—we can be hindered and, in time, stricken, by the unintended consequences of these ''innovations.'' As they point out, ''British railwaymen chose Stephenson's standard gauge over Brunel's wider one in the first half of the 19th Century, as they did in America and most European countries. This standard, originally derived from horse-drawn wagons in British mines, has remained even as railway engineering has undergone 150 years of change. Not surprisingly, it is hopelessly inadequate.''

But in the end, though costly, the market will compel us to change. The authors write: ''Sometimes a standard will be chosen which later turns out to be wrong, (two-digit dates, narrow-gauge railways), but market forces keep the waste in check, and eventually the standard becomes wrong enough to be replaced.''

What market forces and The Economist authors have failed to address, however, is the lagging response of the U.S. Government to this problem (a relative benchmark, as the United States is ahead of most countries). With just under 800 days left, we cannot have half of our agencies still assessing how many mission critical systems will be affected. This is but the first phase of three—renovation and testing/implementation are the other two. We need an outside body to ensure this problem is fixed. My bill, S. 22, will do just that.

The good news is that cover stories like that of The Economist will increase awareness, the bad news is that without mention of the status of the Federal Government, the probability of widespread failure will increase.●

TRIBUTE TO EILEEN FOLEY, MAYOR OF PORTSMOUTH.

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Mayor Eileen Foley, a remarkable and dedicated leader from Portsmouth, NH. Mayor Foley, Portsmouth's favorite daughter, has announced her retirement from the office of mayor after serving 10 consecutive years. She has demonstrated tremendous leadership and guidance to a countless number of people. A special era of service and dedication has come to an end with Mayor Foley's retirement.

Mayor Foley, 79, has served the city in the top seat at various times for a total of more than 16 years. Her long history of city service began as a teenager, when she and her sisters helped their mother, Mary Carey Foley, in her mayoral campaign. The elder Foley served as the city's first woman mayor between 1945–47.

Eileen Foley continued the tradition by submersing herself in a career of dedicated public service, first in the Women's Army Corps in 1944 and later as State senator, Portsmouth City Counselor and School Board member. As mayor, she has served many terms, between 1968–72, again in 1984–85, and then again in 1988 until the present.

Mayor Foley, in her long years of public service, became identified with the very city of Portsmouth in the minds of local constituents, as well as government officials and business people far and wide. She has always acted as a kind of concerned and caring mother and goodwill ambassador, speaking at clambakes and ribbon cuttings, lending her support to civic, cultural, veterans, and charitable organizations, and representing the city around the State and at such distant locations as Carrickfergus in Northern Ireland and Nichinon in Japan.

Over the years, Mayor Foley has been honored by many, including being named as 1 of the 10 most powerful women in the State by a statewide business magazine, as well as being honored with a lifetime achievement award by the Portsmouth Rotary.

Mayor Foley will continue to serve on appointed boards, be visible around town, and take an active interest in city affairs, for it is hard to leave the public eye after earning the respect and admiration of so many.

Certain people are made to serve the public. Mayor Foley is such a person, epitomizing the term public servant. Her service to the town of Portsmouth, NH, its people and to the State of New Hampshire is nothing short of appreciative and commendable. Mr. President, as a public servant myself I understand the amount of time, heart, and dedication required each and every day. Mayor Foley has served the public, not out of force, but out of love and compassion for the people, demonstrating immense heart and dedication. Mayor Foley will be missed as her public legacy comes to an end.●

ANN ARBOR DISTRICT LIBRARY—1997 LIBRARY OF THE YEAR

● Mr. LEVIN. Mr. President, I rise today to congratulate the Ann Arbor District Library for being chosen the 1997 national library of the year by the Library Journal. The Ann Arbor District Library is being recognized for providing innovative and comprehensive services to the public in a highly responsive manner. Some of the recent changes at the Ann Arbor District Library include investments in technology to provide an extensive CD–ROM collection and Internet and World Wide Web connections. Also of note is the library's award winning welcome to the library packet which is aimed at parents of at-risk children to encourage reading, education, and child safety. All of these innovations have resulted in a significant increase in the library's usage.

Standing alone, the library's technological innovations, public awareness campaigns and exemplary service would be reason enough to merit this prestigious award. However, what is even more remarkable about the Ann Arbor District Library is that all of these new changes took place during a time of tremendous transition. In 1994, the Ann Arbor District Library was still part of the Ann Arbor Public School System. That same year, voters in Michigan approved a state-wide tax restructuring proposal which had the effect of preventing the Ann Arbor District Library from renewing its tax levy under the school districts. In order to survive, the Ann Arbor District Library had to become its own public entity with its own governing board and its own millage. Not only did the library succeed at doing all of this in only 2 years, but it also managed to institute all of those wonderful changes as well.

It took the exceptional talents of many dedicated library staff, trustees, and community members to institute new programs and services in a seamless manner to its patrons while simultaneously creating a new public entity from the ground up. In particular, I would like to recognize and congratulate the Ann Arbor District Library's administrative team which consists of the library's director, Mary Anne Hodel and her top deputies, Tim Grimes, Lana Straight, Don Dely, Gary Pollack, and Marge LaRose.

The Library Journal's selection of the Ann Arbor District Library as the 1997 library of the year is a fitting tribute to all of the hard work that went into establishing this library as an important, well utilized and well run public institution. ●

TRIBUTE TO CREATIVE OPTICS, INC.

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Creative Optics, Inc. in Bedford, NH, for receiving the Small Business Innovation Research [SBIR] Model of Excellence Tibbetts Award. Creative Optics is a 15-year-old, innovative think tank that develops ideas and solutions to complex problems facing the Department of Defense community.

Companies were selected based on the economic impact of their technological innovations and their overall business achievements. It is a competitive three-phase program that provides qualified small businesses with opportunities to propose innovative ideas to the Federal Government. These proposals are a response to solicitations published by the 10 Federal agencies on their upcoming research and development needs. There is a mutual benefit in that the Government secures the needed research, while the small business retains rights to commercialization. Creative Optics has made, and continues to make, a significant impact at the State and regional level.

After relocating to southern New Hampshire in 1991, Creative Optics developed a myriad of relationships with local organizations and business resources. Creative Optics is sharing its hard experience with other small businesses in the region, on the State level as well as the national level.

The president of Creative Optics, Dr. John F. Ebersole, and the owner Ingrid Ebersole, John's wife, have provided both technical vision along with an administrative personal touch to the company. Along with the Ebersole's vision and touch are the brilliant, creative minds of the individuals developing new, inventive ideas, allowing Creative Optics to shine.

Creative Optics is a unique small business in New Hampshire, providing high-level employment opportunities, economic growth, and an innovated

technology developed through SBIR funding. Small businesses are fruitful in research and development, producing more than half the Nation's product innovations. Furthermore, the Federal Government is achieving the highest quality research to meet specific mission needs, as well as expanding the Nation's industrial base. I commend Creative Optics for their outstanding innovations that benefit not only the State of New Hampshire but also the Nation as well. Creative Optics is a worthy candidate for receiving the prestigious Tibbetts Award.●

TRIBUTE TO FRED HOOPER

● Mr. GRAHAM. Mr. President, as more and more Americans live to be 100, thanks to advances in health and longevity, I am honored to offer a tribute to a distinguished centurion from Florida: Mr. Fred Hooper of Ocala, FL.

Mr. Hooper, who celebrates his 100th birthday on October 6, 1997, is a builder, an educator, and an inspiration to all those who have aspired to the triumph of victory in sports competition. Fred Hooper has a special place in the history of horse racing because he won the Kentucky Derby in 1945 with his first horse, ''Hoop Jr.'', bought in 1943. Since then, he has bred and raced more than 100 stakes winners.

For decades, Mr. Hooper has been an instrumental force in thoroughbred racing. Through his promotion of horse racing, he has supported and strengthened Florida tourism and agriculture; two industries which are important components of Florida's economy.

As he approaches the special milestone of his 100th birthday, Mr. Hooper continues to rise early in the morning to oversee the training of his top thoroughbreds and the cutting and baling of his hay in the fields at his farm.

I recently visited this living legend at his home in Ocala. As he recalled his accomplishments and his ties that extend throughout America, I was inspired by a man who has lived a full life and has impacted so many people and events. He told me of his first horse, ''Hoop Jr.'', and his working relationship with Eddie Arcaro, one of the all-time greatest jockeys. Together they achieved racing history with their victory at the 1945 Kentucky Derby. This Hooper-Arcaro combination advanced the Florida racing industry to national prominence, while making Fred Hooper a legend in Florida and the racing world.

I also learned that Mr. Hooper's activities have not been limited to racing. The Hooper Construction Company built roads, bridges, airports, dams and buildings in Florida and the Southeast. It has been said that if all the roads built by Mr. Hooper's company were linked together, the combined total would stretch for four lanes from Miami to Houston.

Education is another Fred Hooper hallmark. During the 1970's, he contributed to the building of a private school in Alabama, on the former site of his construction company. And, he is rightfully proud of his support—and the generosity of the thoroughbred industry—for the veterinary school at the University of Florida.

Part of the joy of this birthday is sharing the celebration with family. Mr. Hooper is the proud father of 4 children, 13 grandchildren and 9 great-grandchildren.

The celebration of his centennial birthday on October 6, 1997, will be another achievement in the rich and rewarding life of Fred Hooper. I ask my colleagues to join me, the community of Ocala, the Hooper family and all those who love horse racing in congratulating Fred Hooper and extending to him best wishes into the next century.●

HISPANOS UNIDOS CONTRA EL SIDA/AIDS, INC.

● Mr. LIEBERMAN. Mr. President, I rise today to recognize the accomplishments of Hispanos Unidos Contra El SIDA/AIDS, Inc. of New Haven, CT, as they celebrate their 10th anniversary.

In 1987, this organization was founded by a group of concerned citizens as Connecticut's first Latino AIDS agency. Since that time, this dedicated group of men and women have worked to both curb the spread of AIDS through education and provided support services to infected members of the Latino community and their families. By serving as a fully bilingual/bicultural resource, support and advocacy agency, Hispanos Unidos Contra El SIDA/AIDS has not only been effective at serving its own clients, but has helped other community and government organizations better serve the Latino community as well.

The dedication and commitment of the staff are evident not only in their casework but also in the partnerships and coalitions they form with State and local government and nonprofit agencies. In this way they are able to assist those most immediately in need while also working to better coordinate local, regional and statewide efforts to prevent the spread of AIDS. They are the true embodiments of the ideals of compassion and community service, and the people of Connecticut thank them for the important work they have done for the past ten years and will continue to do in the future.●

AUTHORIZING TESTIMONY BY EMPLOYER OF THE SENATE

Mr. DOMENICI. Mr. President, acting in behalf of the majority leader, first I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 130, submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 130) to authorize testimony by a Member and employee of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. LOTT. Mr. President, United States versus Delyla D. Wilson is a criminal case set for trial in the U.S. District Court for the District of Montana, charging the defendant with assault on Federal officials. The case arises out of the defendant's disruption of a public meeting in Montana earlier this year attended by Senator CONRAD BURNS, along with other Federal and State officials.

Both parties have subpoenaed an employee on Senator BURNS' staff, who witnessed this incident, to testify at the trial. This resolution would authorize the employee to testify and would also authorize Senator BURNS' testimony at related State proceedings.

Mr. DOMENICI. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 130) was agreed to.

The preamble was agreed to.

The resolution with its preamble reads as follows:

S. RES. 130

Whereas, in the case of *United States* v. *Delyla D. Wilson*, Case No. 97–CR–82–BLG, pending in the United States District Court for the District of Montana, subpoenas have been issued for testimony by Dwight MacKay, an employee on the staff of Senator Conrad Burns;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That Dwight MacKay is authorized to testify in the case of *United States* v. *Delyla D. Wilson*, except concerning matters for which a privilege should be asserted.

SEC. 2. The testimony of Senator Conrad Burns in related state proceedings is authorized.

PROVIDING TECHNICAL ASSISTANCE IN THE RESTORATION OF THE BASILICA OF ST. FRANCIS OF ASSISI

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 131, submitted earlier today by Senator DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 131) to express the sense of the Senate regarding the provision of technical assistance in the restoration of the Basilica of St. Francis of Assisi.

Mr. DOMENICI. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 131) was agreed to.

The preamble was agreed to.

The resolution with its preamble reads as follows:

S. RES. 131

Whereas the Basilica of St. Francis of Assisi is one of the finest examples of Italian Gothic art and architecture;

Whereas the Basilica is a living museum providing a home for the art of several great masters of the 13th and 14th centuries, and these art treasures depict scenes from the Old Testament and New Testament;

Whereas the Basilica housed the most interesting and important pictorial cycle in Franciscan iconography;

Whereas the famous fresco artist, Cimabue, began his work in the Basilica in 1277, and the works of Cimabue are seen in the apse and the vault of the Basilica and include a lovely Madonna with Child;

Whereas Cimabue's pupil, Giotto painted frescos at the turn of the 14th century and completed 28 famous and beautiful scenes based on St. Bonaventure's account of St. Francis' major accomplishments during his life. The frescos depict the life of St. Francis who had the special gift of understanding and being able to speak to animals;

Whereas other talented artists including Simone Martini and Pietro Lorenzetti left their artistic mark on the Basilica during the first half of the 14th century, frescoing the left side of the transept of the Lower Church;

Whereas the Basilica was severely damaged by twin earthquakes on September 24 and 25, 1997, the extent of which has been described as more devastating than the World War II bombings of Padua and Pisa in 1944;

Whease the famous frescoes painted by Giotto on the side walls of the Basilica in the early 14th century and depicting scenes from St. Francis' life are cracked but mostly intact;

Whereas experts in Italy are already working to restore the Basilica; and

Whereas the National Gallery in London and the Louvre in Paris have offered experts free of charge to help in the restoration of the Basilica: Now, therefore, be it

Resolved, That the Smithsonian Institution, the National Gallery of Art and any of the other premier art museums in the United States having pertinent expertise in restoration should provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquakes.

PRINTING OF A COLLECTION OF RULES AND AUTHORITIES OF SPECIAL INVESTIGATORY COMMITTEES OF THE SENATE

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 132, submitted earlier today by Senator WARNER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 132) to authorize the printing of a collection of rules and authorities of special investigatory committees of the Senate.

Mr. DOMENICI. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 132) was agreed to, as follows:

S. RES. 132

Resolved, That a collection of rules and authorities of special investigatory committees of the Senate, be printed as a Senate document, and there be printed additional copies of such document up to, but not exceeding, $1,200 for use of the Committee on Rules and Administration.

MILES LAND EXCHANGE ACT OF 1997

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 159, S. 590.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 590) to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado.

Mr. DOMENICI. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

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

The bill was considered read the third time and passed as follows:

S. 590

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 ''Miles Land Exchange Act of 1997''.

SEC. 2. LAND EXCHANGE, ROUTT NATIONAL FOREST, COLORADO.

(a) AUTHORIZATION OF EXCHANGE.—If the parcel of non-Federal land described in subsection (b) is conveyed to the United States in accordance with this section, the Secretary of Agriculture shall convey to the person that conveys the parcel all right, title, and interest of the United States in and to a parcel of Federal land consisting of approximately 84 acres within the Routt National Forest in the State of Colorado, as generally depicted on the map entitled ''Miles Land Exchange,'' Routt National Forest, dated May 1996.

(b) PARCEL OF NON-FEDERAL LAND.—The parcel of non-Federal land referred to in subsection (a) consists of approximately 84 acres, known as the ''Miles parcel'', located adjacent to the Routt National Forest, as generally depicted on the map entitled ''Miles Land Exchange'', Routt National Forest, dated May 1996.

(c) ACCEPTABLE TITLE.—Title to the non-Federal land conveyed to the United States under subsection (a) shall be such title as is acceptable to the Secretary of Agriculture, in conformance with title approval standards applicable to Federal land acquisitions.

(d) VALID EXISTING RIGHTS.—The conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary.

(e) APPROXIMATELY EQUAL VALUE.—The values of the Federal land and non-Federal land to be exchanged under this section are deemed to be approximately equal in value, and no additional valuation determinations are required.

(f) APPLICABILITY OF OTHER LAWS.—Except as otherwise provided in this section, the Secretary shall process the land exchange authorized by this section in the manner provided in subpart A of part 254 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(g) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Forest Supervisor, Routt National Forest, and in the office of the Chief of the Forest Service.

(h) BOUNDARY ADJUSTMENT.—

(1) INCLUSION IN ROUTT NATIONAL FOREST.—On approval and acceptance of title by the Secretary, the non-Federal land conveyed to the United States under this section shall become part of the Routt National Forest and shall be managed in accordance with the laws (including regulations) applicable to the National Forest System, and the boundaries of the Routt National Forest shall be adjusted to reflect the land exchange.

(2) RETROACTIVE APPLICATION.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Routt National Forest, as adjusted by this section, shall be considered to be the boundaries of the Routt National Forest as of January 1, 1965.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

NATIONAL GRASSLANDS CONSOLIDATION ACT

Mr. DOMENICI. Mr. President, Calendar No. 184, S. 750. I ask unanimous consent the Senate proceed to the immediate consideration of the above-stated calendar and bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 750) to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. EXCHANGE OF CERTAIN MINERAL INTERESTS IN BILLINGS COUNTY, NORTH DAKOTA.

(a) PURPOSE.—The purpose of this Act is to direct the consolidation of certain mineral interests in the Little Missouri National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests in order to enhance land management capability and environmental and wildlife protection.

(b) EXCHANGE.—Notwithstanding any other provision of law——

(f) if, not later than 45 days after the date of enactment of this Act, Burlington Resources Oil & Gas Company (referred to in this Act as ''Burlington'' and formerly known as Meridian Oil Inc.), conveys title acceptable to the Secretary of Agriculture (referred to in this Act as the ''Secretary'') to all oil and gas rights and interests on lands identified on the map entitled ''Billings County, North Dakota, Consolidated Mineral Exchange—November 1995'', by quitclaim deed acceptable to the Secretary, the Secretary shall convey to Burlington, subject to valid existing rights, by quit-claim deed, all Federal oil and gas rights and interests on lands identified on that map; and

(2) if Burlington makes the conveyance under paragraph (1) and, not later than 180 days after the date of enactment of this Act, the owners of the remaining non-oil and gas mineral interests on lands identified on that map convey title acceptable to the Secretary to all rights, title, and interests in the interests held by them, by quitclaim deed acceptable to the Secretary, the Secretary shall convey to those owners, subject to valid existing rights, by exchange deed, all remaining Federal non-oil and gas mineral rights, title, and interests in National Forest System lands and National Grasslands identified on that map in the State of North Dakota as are agreed to by the Secretary and the owners of those interests.

(c) LEASEHOLD INTERESTS.—As a condition precedent to the conveyance of interests by the Secretary to Burlington under this Act, all leasehold and contractual interests in the oil and gas interests to be conveyed by Burlington to the United States under this Act shall be released, to the satisfaction of the Secretary.

(d) EQUAL VALUATION OF OIL AND GAS RIGHTS EXCHANGE.—The values of the interests to be exchanged under subsection (b)(1) shall be deemed to be equal.

(e) APPROXIMATE EQUAL VALUE OF EXCHANGES WITH OTHER INTEREST OWNERS.—The values of the interests to be exchanged under subsection (b)(2) shall be approximately equal, as determined by the Secretary.

(f) LAND USE.—

(1) EXPLORATION AND DEVELOPMENT.—The Secretary shall grant to Burlington, and its successors and assigns, the use of Federally-owned surface lands to explore for and develop interests conveyed to Burlington under this Act, subject to applicable Federal and State laws.

(2) SURFACE OCCUPANCY AND USE.—Rights to surface occupancy and use that Burlington would have absent the exchange under this Act on its oil and gas rights and interests conveyed under this Act shall apply to the same extent on the federally owned surface estate overlying oil and gas rights and interests conveyed to Burlington under this Act.

(g) ENVIRONMENTAL PROTECTION FOR ENVIRONMENTALLY SENSITIVE LANDS.—All activities of Burlington, and its successors and assigns, relating to exploration and development on environmentally sensitive National Forest System lands, as described in the ''Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota'', executed by the Forest Service and Burlington and dated November 2, 1995, shall be subject to the terms of the memorandum.

(h) MAP—The map referred to in subsection (b) shall be provided to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, kept on file in the office of the Chief of the Forest Service, and made available for public inspection in the office of the Forest Supervisor of the Custer National Forest within 45 days after the date of enactment of this Act.

(i) CONTINUATION OF MULTIPLE USE.—Nothing in this Act shall limit, restrict, or otherwise affect the application of the principle of multiple use (including outdoor recreation, range, timber, watershed, and fish and wildlife purposes) in any area of the Little Missouri National Grasslands. Federal grazing permits or privileges in areas designated on the map entitled ''Billings County, North Dakota, Consolidated Mineral Exchange—November 1995'' or those lands described in the ''Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota'', shall not be curtailed or otherwise limited as a result of the exchanges directed by this Act.

Mr. DOMENICI. I ask unanimous consent the committee amendment be agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table.

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

The committee amendment was agreed to.

The bill (S. 750), as amended, was read the third time and passed.

S. 750

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

SECTION 1. EXCHANGE OF CERTAIN MINERAL INTERESTS IN BILLINGS COUNTY, NORTH DAKOTA.

(a) PURPOSE.—The purpose of this Act is to direct the consolidation of certain mineral interests in the Little Missouri National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests in order to enhance land management capability and environmental and wildlife protection.

(b) EXCHANGE.—Notwithstanding any other provision of law—

(1) if, not later than 45 days after the date of enactment of this Act, Burlington Resources Oil & Gas Company (referred to in this Act as ''Burlington'' and formerly known as Meridian Oil Inc.), conveys title acceptable to the Secretary of Agriculture (referred to in this Act as the ''Secretary'') to all oil and gas rights and interests on lands identified on the map entitled ''Billings County, North Dakota, Consolidated Mineral Exchange—November 1995'', by quitclaim deed acceptable to the Secretary, the Secretary shall convey to Burlington, subject to valid existing rights, by quit claim deed, all Federal oil and gas rights and interests on lands identified on that map; and

(2) if Burlington makes the conveyance under paragraph (1) and, not later than 180 days after the date of enactment of this Act, the owners of the remaining non-oil and gas mineral interests on lands identified on that map convey title acceptable to the Secretary to all rights, title, and interests in the interests held by them, by quitclaim deed acceptable to the Secretary, the Secretary shall convey to those owners, subject to valid existing rights, by exchange deed, all remaining Federal non-oil and gas mineral rights, title, and interests in National Forest System lands and National Grasslands identified on that map in the State of North Dakota as are agreed to by the Secretary and the owners of those interests.

(c) LEASEHOLD INTERESTS.—As a condition precedent to the conveyance of interests by the Secretary to Burlington under this Act, all leasehold and contractual interests in the oil and gas interests to be conveyed by Burlington to the United States under this Act shall be released, to the satisfaction of the Secretary.

(d) EQUAL VALUATION OF OIL AND GAS RIGHTS EXCHANGE.—The values of the interests to be exchanged under subsection (b)(1) shall be deemed to be equal.

(e) APPROXIMATE EQUAL VALUE OF EXCHANGES WITH OTHER INTEREST OWNERS.—The values of the interests to be exchanged under subsection (b)(2) shall be approximately equal, as determined by the Secretary.

(f) LAND USE.—

(1) EXPLORATION AND DEVELOPMENT.—The Secretary shall grant to Burlington, and its successors and assigns, the use of Federally-owned surface lands to explore for and develop interests conveyed to Burlington under this Act, subject to applicable Federal and State laws.

(2) SURFACE OCCUPANCY AND USE.—Rights to surface occupancy and use that Burlington would have absent the exchange under this Act on its oil and gas rights and interests conveyed under this Act shall apply to the same extent on the federally owned surface estate overlying oil and gas rights and interests conveyed to Burlington under this Act.

(g) ENVIRONMENTAL PROTECTION FOR ENVIRONMENTALLY SENSITIVE LANDS.—All activities of Burlington, and its successors and assigns, relating to exploration and development on environmentally sensitive National Forest System lands, as described in the ''Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota'', executed by the Forest Service and Burlington and dated November 2, 1995, shall be subject to the terms of the memorandum.

(h) MAP.—The map referred to in subsection (b) shall be provided to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, kept on file in the office of the Chief of the Forest Service, and made available for public inspection in the office of the Forest Supervisor of the Custer National Forest within 45 days after the date of enactment of this Act.

(i) CONTINUATION OF MULTIPLE USE.—Nothing in this Act shall limit, restrict, or otherwise affect the application of the principle of multiple use (including outdoor recreation, range, timber, watershed, and fish and wildlife purposes) in any area of the Little Missouri National Grasslands. Federal grazing permits or privileges in areas designated on the map entitled ''Billings County, North Dakota, Consolidated Mineral Exchange—November 1995'' or those lands described in the ''Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota'', shall not be curtailed or otherwise limited as a result of the exchanges directed by this Act.

ORDERS FOR TUESDAY, OCTOBER 7, 1997

Mr. DOMENICI. Mr. President, in behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m. on Tuesday, October 7. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period of morning business until 12:30 p.m., with Senators permitted to speak

for up to 10 minutes each with the following exceptions: Senator DASCHLE or his designee, 45 minutes, from 10:30 to 11:15; Senator HUTCHISON or her designee, 45 minutes, from 11:15 to 12 noon.

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

Mr. DOMENICI. I also ask unanimous consent that from the hour of 12:30 p.m. to 2:15, the Senate stand in recess for the weekly policy luncheons.

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

PROGRAM

Mr. DOMENICI. Mr. President, tomorrow the Senate will be in a period for morning business until 12:30. The Senate will then recess for the policy luncheons to meet until 2:15. When the Senate resumes at 2:15, the Senate will proceed to a cloture vote on the paycheck protection amendment, which is pending to the campaign finance reform bill. If cloture is not invoked, the Senate will proceed to a cloture vote on the campaign finance reform bill itself. If cloture is not invoked, the Senate could resume the D.C. appropriations bill for consideration of the remaining issues to that appropriations matter. Therefore, additional votes could occur during Tuesday's session of the Senate. Also, as announced, the Senate may turn to any appropriations conference report that becomes available.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. DOMENICI. If there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:36 p.m, adjourned until Tuesday, October 7, 1997, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 6, 1997:

DEPARTMENT OF STATE

JAMES CATHERWOOD HORMEL, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

GERALD S. MCGOWAN, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PORTUGAL.

LYNDON LOWELL OLSON JR., OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWEDEN.

A. PETER BURLEIGH, OF CALIFORNIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

BILL RICHARDSON, OF NEW MEXICO, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

RICHARD SKLAR, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR UN MANAGEMENT AND REFORM.

NANCY E. SODERBERG, OF THE DISTRICT OF COLUMBIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH RANK OF AMBASSADOR.

NANCY E. SODERBERG, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS.

DEPARTMENT OF TRANSPORTATION

KENNETH R. WYKLE, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION, VICE RODNEY E. SLATER.

EXTENSIONS OF REMARKS

TRIBUTE TO SOUTH CAROLINA TEACHER OF THE YEAR, CHRISTINE FISHER

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to South Carolina's Teacher of the Year, Christine Fisher. Mrs. Fisher is a constituent of mine, and a seventh and eighth grade band teacher at Southside Middle School in Florence, SC. She is in Washington DC, October 6–8 for the fifth annual National Teacher Forum.

This week, teachers across the Nation are being recognized for their leadership as well as excellence in teaching by participating in the National Teacher Forum. The forum is designed to tap the knowledge, experience, and insight that these teachers have gained with regard to Federal education programs and policies.

Mrs. Fisher has been a teacher for 21 years; 12 of which she has taught at Southside Middle School. Under her leadership, the Southside bands have been awarded outstanding performance awards for 12 straight years. Mrs. Fisher has also been the recipient of numerous awards including the Florence District One Teacher of the Year, Time Warner Cable Star Teacher, Lead Music Teacher at the Curriculum Leadership in the Arts, Outstanding Junior High Band Director of the eastern district of South Carolina, and Teacher of the Year at two schools during her teaching career. She has also been a guest conductor and clinician for the Berkeley County Honors Band, the Eastern District Honors Band and the Spartanburg County Honors Band. In addition to her musical experience, Mrs. Fisher has also helped in writing, and has received, numerous grants for music education and technology. Mrs. Fisher also has been a guest speaker for numerous music seminars, including university level classes. Aside from her mainstream curriculum, she also has a great interest and knowledge in music for the learning disabled student.

Throughout her 21 year tenure, Mrs. Fisher has taught music in schools through the Pee Dee area of the sixth congressional district. She is also a Member of the National Education Association, South Carolina Education Association, Music Educators National Conference, South Carolina Music Educators Association, and the South Carolina Band Directors Association.

Mr. Speaker, I know Mrs. Fisher will be an excellent resource for the National Teachers Forum, and I ask that you join me in saluting her as South Carolina's Teacher of the Year.

OUR LADY OF CONSOLATION ROMAN CATHOLIC CHURCH CELEBRATED 50TH ANNIVERSARY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to congratulate Our Lady of Consolation Roman Catholic Church in Merrillville, IN, in celebration of its 50th anniversary as a parish last Sunday, October 5, 1997. The anniversary celebration began with a Mass of thanksgiving, which was celebrated by Bishop Dale J. Melczek. Following the Mass, there was a banquet in the parish hall.

A parish of humble beginnings, Our Lady of Consolation, which was established as Immaculate Heart of Mary in 1947, celebrated its first Mass on October 5, 1947, in a town fire station. The parish was founded by Father Alvin Jasinski under the direction of the Fort Wayne Diocese to serve the needs of the growing Catholic population of Independence Hill, a section of what is now Merrillville, IN. In November 1947, 1 acre of land, which included a store and other buildings, was purchased as a more suitable site for the church. Many parishioners contributed their time, talent, money, and materials to transform the store into the first Immaculate Heart of Mary Church. Land for a permanent church site was acquired and a building fund was begun under the guidance of Father Leo Ambruster in the early 1960's. With the determination and patience of the parishioners, the cornerstone of the new church was blessed on August 27, 1967, only several years after the purchase of the land. The church was dedicated by Bishop Andrew Grutka as Our Lady of Consolation.

Our Lady of Consolation derived its name from the 2d century writer, St. Ignatius of Antioch. St. Ignatius was the first to express devotion to Mary as ''Consoler of the Afflicted.'' In the 17th century, when an outbreak of bubonic plague ravaged and decimated the Luxembourg population, the people prayed to Mary, Consoler of the Afflicted, for relief in their anguish and fear of death. Bishop Grutka decided to change the parish name from Immaculate Heart of Mary Church to Our Lady of Consolation since Holy Trinity Church in Gary, IN, built a statute commissioned ''Christ the Consoler.'' The bishop stated it was appropriate that Christ the Consoler have a Mother of Consolation.

In recent years, Our Lady of Consolation has flourished under the guidance of Father Joseph Vamos who arrived at the parish in 1987. In 1988, the cornerstone was laid for a parish activity center, which consists of a chapel used for weekday Mass, small weddings, and funerals, a parish office, large social and banquet hall, fully equipped kitchen, and six large classrooms. The classrooms are being utilized for faith formation program classes, small parish meetings, and a preschool serving approximately 40 children. The entire parish complex, which also consists of a rectory, was paid for within 3 years of its construction. Currently, the parish has taken on other initiatives, which include the redecoration of the church, the purchase of a new sacristy, the addition of an atrium entry way to the parish center, and the installation of stained glass windows in the chapel. The recent prosperity of Our Lady of Consolation may be attributed to both the foresight of past parish pastors, as well as the success of the parish's annual festival. The annual festival is a tradition that dates back to the early days of the parish in Independence Hill.

Although Our Lady of Consolation has changed drastically over the years, some aspects have remained the same. For instance, some of the original members of the small church in Independence Hill are still parishioners. Also, the Holy Name Society and the Altar and Rosary Sodality, which were founded in the very beginning of the church's history, still work for the betterment of the church today. Other organizations within the parish include an Over 55 Club, a parish youth group, and a newly formed Knights of Columbus Good Shepherd Council. The original parish consisted of under 100 families. Today, the number is over 1,000.

Mr. Speaker, I ask you and my other distinguished colleagues to join me today in commending the parish family of Our Lady of Consolation, under the guidance of Father Joseph Vamos, as they celebrate the 50th anniversary of their founding. All past and present parishioners and pastors should be proud of the numerous contributions they have made out of the love and devotion they have displayed for their church.

HONORING WILLIAM T. HUSTON, RECIPIENT OF THE SETON AWARD

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to my dear friend, William T. Huston. Bill has spent his career serving his family, his church, his community, and his country.

Our Nation was founded upon the principles of freedom, faith, and the pursuit of liberty. Bill is a man who exemplifies these qualities, and whose efforts to serve those around him are an inspiration to all.

As chairman of the Watson Land Co., Bill has proven himself to be a model of leadership. He tempers good business skills with a keen eye for serving his fellow man. As a community leader, Bill has led quietly by example, given countless hours of service, and encouraged those around him to do the same.

Mr. Speaker, tonight Bill Huston will be honored by the National Catholic Education Association for his commitment to American education. Bill also will be joined by another great

American, Dr. William Bennett, as they are presented with the prestigious Seton Award.

Named for Saint Elizabeth Ann Seton in recognition for her lifelong dedication to teaching, the award is presented annually to those who have dedicated their life to education. As a further tribute to Bill, the National Catholic Education Association will present a child in Bill's community with a $1,000 scholarship to use toward their education.

Mr. Speaker, the importance of a sound education must be underscored. As we look to solve the problems of the future, we have before us a man who has provided the right example. For his efforts, and in recognition of a well-deserved honor this evening, I am privileged to commend and pay tribute to William T. Huston.

PERSONAL EXPLANATION

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. SHERMAN. Mr. Speaker, I regret missing votes on the afternoon of October 1. Due to the pressing nature of the Jewish holidays it was necessary for me to leave town in order to arrive in California by sundown for Erev Rosh Hashana.

SUBPOENA ENFORCEMENT IN THE CASE OF DORNAN VERSUS SANCHEZ

SPEECH OF

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1997

Mr. MARTINEZ. Mr. Speaker, I hear over and over again that we are concerned about the integrity of our election process, and I agree with that, not only for the 46th congressional district but for all over the United States.

This is not the only place where voter fraud has occurred. But I hear interjected into the debate the reference to the number of fraudulent votes in the 46th district. Then our friend from Texas gets up and states that the Hermandad is the crookedest organization around and guilty of all kinds of wrongdoing.

The problem I have with that is an investigating committee trying to investigate someone who has already made up his mind lends itself to the idea that since they have already made up their mind, their investigation is going to conclude with the conclusions they have already made.

Let me say in the same breath that the gentleman speaks about the high level of debate that began this debate. He rushes in to chastise one of our Members for pulling a race card. What greater race card was there pulled when on that side of the aisle they chose as their closing speaker someone of Hispanic descent?

Finally, Mr. Speaker, Republicans have an 8-year history in southern California of intimidating Latino voters at the polls. The Republican Party paid $600,000 to settle two voting intimidation cases, one stemming from 1988 and one from 1989, in which the Orange County Republican Party placed security guards and signs at the voting polls designed to scare Latino voters.

Mr. Speaker, Hispanic-Americans have served in every branch of our military. They have fought and died in our wars, defending the cherished principles of freedom and democracy. Hispanic-Americans have earned the right to vote without being intimidated at the polls. It may come as a surprise to some of my friends on the other side of the aisle, but there are millions of Americans of Hispanic origin, many with surnames like de la Garza, Gonzalez, Torres, Rodriguez, Menendez, Becerra, and even Martinez who voted, and voted legally, in the last election.

THOMAS R. BROWN, SOUTH TEXAS VETERANS HEALTH CARE SYSTEM, SAN ANTONIO, TX, RECEIVES OLIN E. TEAGUE AWARD

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. STUMP. Mr. Speaker, in a ceremony on Thursday, September 18, 1997, in the House Veterans' Affairs Committee hearing room, Thomas R. Brown, chief, Recreation Therapy Service, South Texas Veterans Health Care System, San Antonio, TX, received this year's Olin E. Teague Award for his efforts on behalf of disabled veterans.

The Teague Award is presented annually to a VA employee whose achievements have been of extraordinary benefit to veterans with service-connected disabilities, and is the highest honor at VA in the field of rehabilitation.

Under Mr. Brown's pioneering leadership in the area of wheelchair sports, an extraordinarily effective recreation therapy program has been developed in the VA system. Due to Mr. Brown's career as a national and international wheelchair athlete and his success as a coach, teacher, and motivator, in 1980 he was asked to help establish a national wheelchair games program for VA in conjunction with the International Year for Disabled Persons. In 1981, the first National Veterans Wheelchair Games were held in Richmond, VA, with 74 veterans participating. Under Mr. Brown's continuing guidance and advice, the games have expanded with tremendous success as a rehabilitation tool. Veterans travel from all over the Nation to participate, many of whom have never before competed in organized sporting competitions. The games now boast of over 550 competitors giving veterans an excellent opportunity to interact with their peers, to experience the thrill of victory, and to participate with a level of exuberance many had thought was lost forever.

Mr. Speaker, the name Olin E. ''Tiger'' Teague is synonymous with exemplary service to the Nation's veterans. The late Congressman Teague served on the House Veterans' Affairs Committee for 32 years, 18 of those years as it distinguished chairman. No one who opposed him on veterans' issues ever had to ask why he was called Tiger. He set the standards by which we can best serve all veterans. I know my colleagues join me in offering our deep appreciation to Mr. Brown for his concern, dedication, and innovation in meeting the special rehabilitation needs of disabled veterans. We congratulate him for the excellence of his work and for the distinguished award he received.

SMALL BUSINESS PROGRAMS REAUTHORIZATION AND AMENDMENTS ACT OF 1997

SPEECH OF

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1997

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 2261 and to thank the bipartisan leadership of the Committee on Small Business for their cooperation in folding H.R. 2429, as reported from the Committee on Science, into the bill currently before the House. I also would like to thank our committee's leadership Chairman SENSENBRENNER, Chairwoman MORELLA, and Ranking Member GORDON for working so hard in the limited time we had available to us to make the STTR program a more effective resource for our Nation's small businesses.

I would like to address my remarks today to the Small Business Technology Transfer [STTR] program amendments which were reported from the Committee on Science and folded into this legislation.

The STTR program was begun as an experiment 4 years ago to help small businesses move ideas from our Nation's universities and national laboratories into the commercial marketplace. It is clear that this experiment has not been underway long enough to prove itself, and it needs to be extended for an additional 3 years. Hardly any of the STTR grantees have had enough time to move a promising idea to a commercial product or government purchase through the STTR process. It was also painfully clear during the committee's hearing on the STTR program that information is not available to answer the most basic question about the effectiveness of the STTR program or the SBIR program on which it was modeled. Witnesses did not have statistics available to them to counter the assertion that the STTR and SBIR programs are paying for research that the private sector would have been done anyway if the Government grants had not been available. The anecdotal evidence which was available to us suggests that the programs are providing major assistance to specific small businesses, but we have much to learn about the program's overall effectiveness. This situation must be rectified before the programs are extended again 3 years from now.

The Committee on Science accepted an amendment offered by Mr. SENSENBRENNER and me that may help solve this problem by bringing the STTR and SBIR programs under the Government Performance and Results Act, GPRA. Agencies will be required to develop performance measures for their SBIR and STTR programs, to collect information on the performance of grantees, and to analyze that data in light of program goals. Our committee report to accompany H.R. 2429 suggests a variety of possible measures which could be used for these programs. Each time agencies participating in STTR or SBIR submit a report under the GPRA Act, they will be required to

submit information on their SBIR and STTR programs as well. This should leave us with a firm basis in the future to look at these programs and to reform them as necessary.

The commercialization component of the SBIR and STTR programs can be seen through the program's phases. Phase I is for defining an idea; phase II is for developing the idea to the point where it is useful commercially or to the Government. Phase III is the point where the programs' successes are harvested either through private sector commercialization or through Government purchases of products and services. These programs have a second goal of providing value to the Government, a goal which can be complimentary to the commercialization goal. If Phase I and II grants are coordinated with the agencies' priority research and development programs, agencies should have a base of relevant expertise in the small business community for the Phase III work to build on. We, therefore, hope to see future SBIR and STTR solicitations positioned in the mainstream of agency and interagency priority initiatives.

Members of our committee continue to be concerned about the extreme concentration of SBIR and STTR grants in a small number of companies located in a few States. We know there are tens of thousands of small businesses throughout the country with high quality scientists and engineers on their staffs, many of which might benefit from SBIR or STTR participation. This will not happen as long as the program keeps awarding hundreds of grants each year to a handful of companies. We also wonder how companies can remain small businesses if they truly have the management capabilities to write hundreds of research proposals and to carry out dozens of research projects for the Government each year. If they really are moving the research results of all these projects towards commercialization, why aren't they becoming big enough to outgrow the program? Our legislation partially addresses this problem by requiring the SBA to perform outreach activities to encourage applications from a much larger and more diverse segment of the small business community. However, we did not have time in this authorization to agree upon more direct legislative solutions to the multiple awards problem. It is a problem that is serious enough that it should not be ignored any longer. We, therefore, urge participating agencies to be aggressive in broadening the base of program participants and warn agencies who persist in continually awarding many grants to the same companies to be prepared to show that these favored few companies are both adding value to the Government and aggressively developing markets for their research results.

LEE HAMILTON: A PUBLIC SERVANT REFLECTS ON THREE DECADES IN CONGRESS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. BEREUTER. Mr. Speaker, this Member would take a moment to recognize my distinguished colleague from Indiana, the Honorable LEE HAMILTON. First as chairman and now as ranking Democrat on the Committee on International Relations, LEE HAMILTON has consistently sought to promote the U.S. national interest and to advance our bilateral and multilateral relations around the globe. He has applied his Indiana common sense to many of the most difficult international issues that this country has been forced to address.

LEE HAMILTON was chairman of the Europe and Middle East Subcommittee when the Berlin Wall fell and when the Soviet Union collapsed. He was instrumental in crafting the SEED Act that provided timely assistance to the fledgling democracies in Central Europe, and he was the driving force behind the Freedom Support Act that support democratic institutions in Russia. These are just a few of his more recent landmark legislative accomplishments, Mr. Speaker, for which the distinguished gentleman can rightly take pride.

Mr. Speaker, although the distinguished gentleman sits on the other side of the aisle from this Member, this Member has regularly sought him out for advice and guidance. Years ago, when this Member was a junior member of the minority on the International Relations Committee, LEE HAMILTON helped this Member pursue a number of initiatives that, without this help, would have been impossible. LEE did not have to do this, and no one ever knew of his help; however, it meant an enormous amount to this relatively junior Member.

Mr. Speaker, LEE HAMILTON recently was awarded the Edmund Muskie distinguished Public Service Award for his 3½ decades of service to the Nation. This Member congratulates Mr. HAMILTON and would ask to submit into the CONGRESSIONAL RECORD the gentleman's statement, ''Reflections on the Congress and the Country,'' which he delivered to the Center for National Policy which was honoring him on September 29, 1997, with the Edmund Muskie Award. This gentleman wishes LEE and his wife Nancy all the best in the years ahead and thanks them for their remarkable contributions to our Nation.

REFLECTIONS ON THE CONGRESS AND THE COUNTRY

I really do not recall enjoying speeches any more than I have tonight. Thank you one and all. Some I thought could have been a little longer, others I found a bit restrained, but overall it has been an immensely satisfying evening.

I shall think often of this evening and the high honor you have paid to me. I've always wanted to walk off the stage before I was shoved off, and your nice gesture makes me think I have done that.

Politicians do a lot of things very well but I'm not sure retiring is one of them. I've always felt that you should leave when others think you should stay.

It has occurred to me in times past that the United States government needed the equivalent of a House of Lords for retired politicians. I'm beginning to think more favorably of that idea. I'm not quite sure what its purpose would be and I know that the taxpayers wouldn't tolerate it, but it would be a nice gathering place for a bunch of hasbeens. It would keep us out of mischief and perhaps more importantly keep us off the television, and an occasional good thought or deed might from time to time emerge.

No award comes to one person alone. All who receive an honor stand on the shoulders of many others. I acknowledge no all-inclusive list tonight of people who share this award with me, but among them most importantly are: my wife, Nancy, and our children, Tracy, Debbie, and Doug; I cannot begin to tell you the contributions they have made—but for a sample consider not having their husband and father around the house for 30 weekends a year for 30 years; the man who got me started in this political business, and he has remained a trusted friend and advisor, Dick Stoner, and his wife, Virginia; and, of course, a long list of outstanding staff members, without whose help I would have accomplished very little. The best advice for any Member remains: hire a staff a lot smarter than you are; and I have done that.

The award is all the more meaningful because it is named for Edmund Muskie. I still remember the clarity and persuasiveness of his statements on the budget, the environment, and foreign policy.

Mike Barnes and Mo Steinbruner have been doing an excellent job of continuing his important work at the Center for National Policy. As Madeleine Albright correctly noted last year, CNP is more than a think tank, it's an action tank.

And a word of special appreciation to Hank Schacht, the Chairman and CEO of Lucent Technologies. If you want a model for an American business executive, look no further. He combines all the skills of an outstandingly successful business executive with a commitment to the public interest that is simply extraordinary.

I've been asked to reminisce for a few minutes. Obviously they didn't expect anything too heavy from me this evening, and I'm pleased to comply.

EARLY YEARS IN CONGRESS

I've been fortunate to serve many years in Congress. I've served with 8 Presidents. I've worked with 11 Secretaries of State. And when I complete my 17th Congress, I'll be one of only around 80 Members in the history of the House who have served that long.

I remember, of course, my early years in Congress. I remember that the Speaker of the House then, John McCormack, could not remember my name. He called me John and Henry and Carl on various days. Then one day before the Democratic caucus to elect the Speaker he called me on the phone. I told him I wouldn't vote for him, but would vote instead for Mo Udall. That's probably not the smartest judgment I ever made. From that day on, however, he knew my name, and the next time he saw me in the hall he called me Lee. And to his eternal credit he never held it against me.

I remember those early days when Members of Congress could put a new post office in every village and hamlet, and I did. I built 17 in my first year in Congress.

And I remember needing only one staffer to help me answer constituent mail, and getting only an occasional visit from a lobbyist. I also remember that I could accept any gift offered, and make any amount of money of outside income, unrestricted and unreported. I even remember—in those pre-Vietnam and pre-Watergate days—people believing and trusting what government officials and politicians said.

I remember that when I first ran for Congress in 1964, my total campaign budget was $30,000, compared to $1 million last election.

And I remember many close personal relationships across the aisle. Early in my career, I made a parliamentary mistake on the floor. A senior Republican (and good friend) came over, put his arm around me, and gently pointed out my mistake and how to correct it—and this was on a bill he opposed. I can't imagine that happening today.

I remember walking into the House Foreign Affairs Committee room, which was then a small room now occupied by the House TV-radio gallery. I was told by the staff director there were no seats at the

Committee table for me or the other two freshmen Democratic Members. He told me that if I wanted a seat I had to arrive before the lobbyists and the spectators came in. But it really didn't matter whether I came or not; as a freshman I was not going to be recognized to speak.

UNFORGETTABLE MEMBERS OF CONGRESS

I remember some unforgettable Members of Congress, including the awesome—even fearsome—Chairman of the Judiciary Committee, Emanuel Celler. I was the designated spokesman when a group of us went to talk to him about the President's proposal to extend the term of House Members from two or four years. We favored the bill and had introduced it. And I asked him how he stood on the bill. His response has become a part of Washington lore. He said, ''I don't stand on it, I'm sitting on it. It rests four-square under my fanny and will never see the light of day.'' And of course it didn't, and we learned something about congressional power.

I remember Chairman Jamie Whitten, who would bring the most complicated appropriations bill, thousands of pages in length, to the floor of the House and spend his entire allotted debate time on a conference report thanking everyone under the sun, and saying nothing about the bill. The first few times he did it I though he might not be smart enough to explain the bill. I finally figured out that he was too smart to explain it, and he never did, and he always got it passed.

I remember how deeply disappointed President Johnson was when I offered the first amendment to reduce U.S. involvement in Vietnam. It was a switch of position for me, although others had preceded me. I was one of his favorites from the class of '64, and he had come to campaign for me in '66. He had taken a special interest in my career. I will never forget his eyes when he asked me, ''How could you do that to me, Lee?''

I remember Hale Boggs addressing President Nixon and members of his entire Cabinet in the Cabinet Room. He made an impassioned plea as only he could do on a subject I've long since forgotten, and as he left the room he did so with the observation, ''Now, Mr. President, if you'll excuse me, I have some important people waiting to see me in my office.''

The memories go on and on in an endless line of splendor. With each one of them it reminds me that serving in the House of Representatives has been a high privilege, but a good bit of fun too.

GOOD ADVICE

And I remember the good advice I got. I got good financial advice from President Johnson. He had the freshmen gather in the Cabinet Room. I don't remember much of what he said except one thing; he told us ''Buy your home.'' He said, ''If you're like most politicians it'll be the only decent investment you'll ever make.''

I remember Tip O'Neill putting his arm around me as we walked down the hall and giving me some advice. He called me Neal for my first decade here because I reminded him of a Boston baseball player by the name of Neal Hamilton. He said, ''Neal, you can accomplish anything in this town if you're willing to let someone else take the credit.''

I remember Wilbur Mills, a marvelous man, a superb legislator, who came, of course, to an unhappy ending. One evening we walked out of the Capitol together. His picture was on the cover of *Time* magazine; he was known all over the country; he was the foremost legislator in Congress—people sought his advice and clamored to speak with him even for a few seconds. I asked him where he was going, he said ''I'm going back to Arkansas. I'll have a public meeting.'' He mentioned some small Arkansas town and said ''There'll be about 15 or 20 people there.'' I never forgot it. As we departed he said ''Lee, don't ever forget your constituents. Nothing, nothing comes before them.''

And I remember Carl Albert who said always respect your colleagues and never forget that each one of them serves in this House because they were elected to do so by the American people.

PUBLIC ATTITUDE TOWARD GOVERNMENT

But let me go beyond the specific remembrances and turn more serious for a moment as we conclude.

There's been a massive change of attitude toward the role of government since I first came here. In the early 1960s many were brimming with optimism over the potential of federal programs to solve all kinds of problems—alleviating poverty, curbing racial discrimination, providing health coverage, rebuilding American's cities.

Today the mood has shifted toward pessimism about what government can achieve that is worthwhile. Many believe that government creates more problems than it solves.

Over these past 30 years I've been struck by the decline in public respect for government. In recent years it has threatened the ability of government to make good policy. Of course skepticism has always been a healthy strain in American thinking. Our Constitution reflects that with all of its checks and balances. And we all know that government can be inefficient, inaccessible, and unaccountable. But when healthy skepticism about government turns to cynicism, it becomes the great enemy of democracy.

I think the operative question in American government today is the same as it was at Gettysburg when Lincoln asked ''Can this nation so dedicated and so conceived long endure?'' That question may put it in rather apocalyptic terms, but it nonetheless is on the mark.

A constituent put the right question to me the other day, ''What's the most important thing you can do to restore confidence in government?''

RESTORING CONFIDENCE IN GOVERNMENT

You'll be happy to know I'm not going to try to answer that question in any length tonight.

But my basic response to my constituent was that to restore confidence in government we have to make government responsive, accessible, and workable.

I believe that representative democracy is our best hope for dealing with our problems. We live in a complicated country of vast size and remarkable diversity. When I was in high school we had 130 million people. Today we have almost 270 million. So in my working lifetime the population of the country has more than doubled. Our voters are many; they're spread far and wide; and they represent a great variety of races, religions, and national origins. It isn't easy to develop a system that enables such a country to live together peacefully and productively.

Representative democracy, for all of its faults, permits us to do that. It works through a process of deliberation, negotiation, and compromise—in a word, the process of politics. Politics and politicians may be unpopular but they're also indispensable. Politics is the way that we express the popular will of the people in this country. At its best, representative democracy gives us a system whereby all of us have a voice in the process and a stake in the product.

In many ways, we have lost what the founding fathers possessed—the belief that government can work. Government is certainly still needed to provide for our national security and help promote our general welfare. Sometimes government gets in our way, but other times it can be helpful to ordinary people in their effort to succeed, to have opportunity, and to correct instances of oppression and injustice.

Those of us who see important reasons for government to act must be willing not just to criticize government and try to improve its operations, we must also work to improve public understanding of what government can do, what it cannot do, and what it has done. I simply do not see how it is possible to deal with many of our problems without a minimal public confidence in government.

I know that many people say the government and Congress don't work very well. And it's certainly not difficult to point out instances when they don't. But on the other hand, given the size of the country and the number and complexity of the challenges we confront, my view is that representative democracy works reasonably well in this country. I do not for a moment agree with those who think that the American system has failed or that the future of the country is bleak.

IMPROVING OPERATIONS OF CONGRESS

My main interest during my years in Congress has been to make government responsive, accessible, and workable. Part of that representative democracy system, of course, is the role of Congress.

Congress is an enormously important and resilient institution. I'm impressed almost daily with the way it tackles difficult national problems, manages conflict in the country, acts as a national forum, reflects diverse points of view, and over time usually develops a consensus that reflects the collective judgment of a diverse people. It has helped create and maintain a nation more free than any other. It is the most powerful and most respected legislative body in the world.

It is not, of course, perfect. It has some major flaws. It doesn't think enough about the long term, for example; it can be much too partisan; and the system by which we finance our elections is a mess. But I nonetheless believe that Congress is—overall but not perfectly, often but not always—responsive to the sustained and express will of the American people. It's a much more responsive body than people think. Congress does usually respond to public opinion if that opinion is conveyed strongly by the American people, as we have seen in the recent work to balance the budget.

I have seen many changes over the years, but I think America is a better place today than it was when I came to Congress in 1965:

The Cold War is over, and we are at peace.

As the preeminent military power in the world, we do not worry about an imminent threat to our national security.

It is hard to find a place on the map where the U.S. is not engaged in some manner trying to make things better.

We enjoy the world's most competitive economy.

The new global trading system means new challenges and a host of new opportunities.

The Internet brings a world of knowledge to the most remote classroom or the most remote home.

We have greatly improved the lot of older Americans with programs like Social Security and Medicare.

Women and minorities have had new doors opened to them like never before.

And, by far the most important of all, this still is the land of opportunity where everyone has a chance, not an equal chance unfortunately, but still a chance to become the best they can become.

Congress did not single-handedly bring about all of these changes. But it played a

major role in every one of them. Congress is still the protector of our freedom and the premier forum for addressing the key issues of the day.

As I receive this award from the Center for National Policy and look back over my years in Congress, I'm not cynical, pessimistic, or discouraged. I'm optimistic about Congress and about the country. I am grateful for every day I've been a part of this body and I do not know of any place in the world that I would have preferred to be. I believe that inch by inch, line by line, I've had a small—very small—part in making this a more perfect union and making this country stronger, safer, and freer.

What more could anyone want?

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 7, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 8

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation relating to food safety.
SR–332

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of John Arthur Hammerschmidt, of Arkansas, James E. Hall, of Tennessee, and George W. Black Jr., of Georgia, each to be a Member of the National Transportation Safety Board.
SR–253

Indian Affairs
To hold hearings on the proposed settlement between State Attorneys General and tobacco companies, focusing on the proposed Indian provision.
SR–485

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to consider the nominations of Laura S. Unger, of New York, and Paul R. Carey, of New York, each to be a Member of the Securities and Exchange Commission, Dennis Dollar, of Mississippi, to be a Member of the National Credit Union Administration Board, Edward M. Gramlich, of Virginia, and Roger Walton Ferguson, of Massachusetts, each to be a Member of the Board of Governors of the Federal Reserve System, and Ellen Seidman, of the District of Columbia, to be Director of the Office of Thrift Supervision, Department of the Treasury.
SD–538

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR–253

Finance
To hold hearings on S. 1195, to promote the adoption of children in foster care.
SD–215

Foreign Relations
To hold hearings to examine proliferation threats through the year 2000.
SD–419

Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Labor and Human Resources
To hold hearings on the nomination of David Satcher, of Tennessee, to be Assistant Secretary of Health and Human Services and Medical Director and Surgeon General of the Public Health Service, Department of Health and Human Services.
SD–106

2:00 p.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine issues with regard to competition in the cable and video markets.
SD–226

2:15 p.m.
Foreign Relations
Business meeting, to consider the International Telecommunication Union Constitution and Convention (Treaty Doc. 104–34), Protocol Amending the 1916 Convention with Canada for the Protection of Migratory Birds (Treaty Doc. 104–28), Protocol Amending the Convention with Mexico for the Protection of Migratory Birds and Game Mammals (Treaty Doc. 105–26), Maritime Boundaries Treaty with Mexico (Ex. F, 96–1), and pending nominations.
SD–419

OCTOBER 9

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings to examine the proposed settlement between State Attorneys General and tobacco companies to mandate a total reformation and restructuring of how tobacco products are manufactured, marketed, and distributed in America, focusing on public health goals.
SR–253

Energy and Natural Resources
To hold hearings on the nomination of M. John Berry, of Maryland, to be Assistant Secretary of the Interior for Policy, Management, and Budget.
SD–366

Foreign Relations
International Economic Policy, Export and Trade Promotion Subcommittee
To hold hearings to examine the outlook and consequences of a new United Nations climate change treaty as the United States prepares for the December convention in Kyoto, Japan.
SD–419

Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine the National Institutes of Health clinical research.
SD–430

10:00 a.m.
Armed Services
To hold hearings on the nominations of Robert M. Walker, of Tennessee, to be Under Secretary of the Army, Jerry MacArthur Hultin, of Virginia, to be Under Secretary of the Navy, and F. Whitten Peters, of the District of Columbia, to be Under Secretary of the Air Force, all of the Department of Defense.
SR–222

Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold oversight hearings on the Financial Accounting Standards Board and its proposed derivatives accounting standard.
SD–562

Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Judiciary
Business meeting, to mark up H.R. 1847, to improve the criminal law relating to fraud against consumers, S. 474, to enforce regulations prohibiting the interstate or foreign transmission of gambling information against certain computer service providers, and S. 1024, to make permanent chapter 12 of the Bankruptcy Code relating to adjustment of debts of a family farmer with regular annual income.
SD–226

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold oversight hearings on the feasibility of using bonding techniques to finance large-scale capital projects in the National Park System.
SD–366

Foreign Relations
To hold hearings to examine the pros and cons of NATO enlargement.
SD–419

OCTOBER 20

10:00 a.m.
Indian Affairs
To hold hearings on H.R. 79, to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe, and S. 156, to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe.
SR–485

OCTOBER 21

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 1124, to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment.
SD–430

10:00 a.m.
Indian Affairs
To hold hearings on H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, and H.R. 976, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians.
SR–485

OCTOBER 22

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

10:00 a.m.
Judiciary
To hold hearings on the nomination of Bill Lann Lee, of California, to be Assistant Attorney General, Department of Justice.
SD–226

OCTOBER 23

9:30 a.m.
Indian Affairs
To hold hearings on S. 1077, to amend the Indian Gaming Regulatory Act.
SD–106

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 869, to prohibit employment discrimination on the basis of sexual orientation.
SD–430

OCTOBER 27

10:00 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the social impact of music violence.
SD–342

Indian Affairs
To hold oversight hearings on the contemporary status of the Bureau of Indian Affairs of the Department of the Interior.
Room to be announced

2:00 p.m.
Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine proposals to deter youth from using tobacco products.
SD–430

OCTOBER 28

10:00 a.m.
Labor and Human Resources
To resume hearings to examine an Administration study on the confidentiality of medical information and recommendations on ways to protect the privacy of individually identifiable information and to establish strong penalties for those who disclose such information.
SD–430

OCTOBER 30

10:00 a.m.
Labor and Human Resources
To hold hearings to examine recent developments and current issues in HIV/AIDS.
SD–430

NOVEMBER 5

9:30 a.m.
Indian Affairs
To hold oversight hearings on proposals to extend compacting to agencies of the Department of Health and Human Services.
SR–485

CANCELLATIONS

OCTOBER 8

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 1064, to amend the Alaska National Interest Lands Conservation Act to more effectively manage visitor service and fishing activity in Glacier Bay National Park.
SD–366

OCTOBER 29

9:30 a.m.
Indian Affairs
To resume oversight hearings on proposals to reform the management of Indian trust funds.
Room to be announced

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S10339–S10448

Measures Introduced: Five bills and three resolutions were introduced, as follows: S. 1255–1259, and S. Res. 130–132. **Page S10428**

Measures Reported: Reports were made as follows:

S. 587, to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, Colorado, with an amendment in the nature of a substitute. (S. Rept. No. 105–96)

S. 588, to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the State Creek Addition, with an amendment in the nature of a substitute. (S. Rept. No. 105–97)

S. 589, to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys, with an amendment in the nature of a substitute. (S. Rept. No. 105–98)

S. 591, to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado, with an amendment in the nature of a substitute. (S. Rept. No. 105–99) **Pages S10427–28**

Measures Passed:

Authorizing Senate Testimony: Senate agreed to S. Res. 130, to authorize testimony by a Member and an employee of the Senate. **Page S10445**

Restoration of Basilica of St. Francis of Assisi: Senate agreed to S. Res. 131, to express the sense of the Senate regarding the provision of technical assistance in the restoration of the Basilica of St. Francis of Assisi. **Pages S10445–46**

Authorizing Printing of Rules and Authorities: Senate agreed to S. Res. 132, to authorizing the printing of a collection of rules and authorities of special investigatory committees of the Senate. **Page S10446**

Miles Land Exchange: Senate passed S. 590, to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado. **Page S10446**

National Grasslands Management: Senate passed S. 750, to consolidate certain mineral interest in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, after agreeing to a committee amendment in the nature of a substitute. **Pages S10446–47**

Campaign Finance Reform: Senate resumed consideration of S. 25, to reform the financing of Federal elections, as modified, with the following amendments pending thereto: **Pages S10339–S10420**

Pending:

Lott Amendment No. 1258, to guarantee that contributions to Federal political campaigns are voluntary. **Page S10339**

Lott Amendment No. 1259 (to Amendment No. 1258), in the nature of a substitute. **Page S10339**

Lott Amendment No. 1260 (to Amendment No. 1258), to guarantee that contributions to Federal political campaigns are voluntary. **Page S10339**

Lott Amendment No 1261, in the nature of a substitute. **Page S10339**

Lott Amendment No. 1262 (to Amendment No. 1261), to guarantee that contributions to Federal political campaigns are voluntary. **Page S10339**

Motion to recommit the bill to the Committee on Rules and Administration with instructions to report back forthwith, with an amendment. **Page S10339**

Lott Amendment No. 1263 (to instructions of motion to recommit), to guarantee that contributions to Federal political campaigns are voluntary. **Page S10339**

Lott Amendment No. 1264 (to Amendment No. 1263), in the nature of a substitute. **Page S10339**

Lott Amendment No. 1265 (to Amendment No. 1264), to guarantee that contributions to Federal political campaigns are voluntary. **Page S10339**

A second motion was entered to close further debate on the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the

Senate, a vote on the cloture motion will occur on Wednesday, October 8, 1997. **Page S10378**

Senate will vote on a motion to close further debate on Lott Amendment No. 1258, listed above, on Tuesday, October 7, 1997, and could also vote on a motion to close further debate on the bill.

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting the report of the cancellation of dollar amounts of discretionary budget authority; which was referred jointly, pursuant to section 1025 of Public Law 93–344, to the Committee on Appropriations, and to the Committee on the Budget. (PM–71). **Page S10427**

Nominations Received: Senate received the following nominations:

James Catherwood Hormel, of California, to be Ambassador to Luxembourg.

Gerald S. McGowan, of Virginia, to be Ambassador to the Republic of Portugal.

Lyndon Lowell Olson, Jr., of Texas, to be Ambassador to Sweden.

A. Peter Burleigh, of California, to be a Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Deputy Representative of the United States of America to the United Nations.

Bill Richardson, of New Mexico, to be a Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations.

Richard Sklar, of California, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations for UN Management and Reform.

Nancy E. Soderberg, of the District of Columbia, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with rank of Ambassador.

Nancy E. Soderberg, of the District of Columbia, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

Kenneth R. Wykle, of Virginia, to be Administrator of the Federal Highway Administration. **Page S10448**

Messages From the President: **Page S10427**

Messages From the House: **Page S10427**

Measures Placed on Calendar: **Page S10427**

Statements on Introduced Bills: **Pages S10428–32**

Additional Cosponsors: **Pages S10432–33**

Amendments Submitted: **Pages S10434–41**

Additional Statements: **Pages S10442–45**

Adjournment: Senate convened at 1 p.m., and adjourned at 7:36 p.m., until 10:30 a.m., on Tuesday, October 7, 1997. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S10448.)

Committee Meetings

(Committees not listed did not meet)

INDIAN MINERAL RIGHTS

Committee on Indian Affairs: Committee concluded hearings on S. 1079, to permit the leasing of mineral rights in any case in which the Indian owner of an allotment of land that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment, after receiving testimony from Edward B. Cohen, Deputy Solicitor, Department of the Interior; Russell Mason, Three Affiliated Tribes of the Fort Berthold Reservation, New Town, North Dakota; and Jim Powers, Powers Energy Corporation, Williston, North Dakota.

House of Representatives

Chamber Action

Bills introduced: 10 public bills, H.R. 2607–2616; 3 private bills, H.R. 2617–2619; and 4 resolutions, H.J. Res. 95, H. Con. Res. 167, and H. Res. 259–260, were introduced. **Pages H8437–38**

Reports Filed: Reports were filed today as follows:

Conference report on H.R. 2158, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998 (H. Rept. 105–297);

H.R. 2607, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998 (H. Rept. 105–298);

H. Res. 258, providing for consideration of H.R. 629, to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact (H. Rept. 105–299);

H.R. 708, to require the Secretary of the Interior to conduct a study concerning grazing use of certain land within and adjacent to Grand Teton National Park, Wyoming, and to extend temporarily certain grazing privileges, amended (H. Rept. 105–300);

H.R. 1805, to amend the Auburn Indian Restoration Act to establish restrictions related to gaming on and use of land held in trust for the United Auburn Indian Community of the Auburn Rancheria of California (H. Rept. 105–301);

Revised Subdivision of Budget Totals for Fiscal Year 1998 (H. Rept. 105–302);

H.R. 2232, to provide for increased international broadcasting activities to China, amended (H. Rept. 105–303);

H. Res. 188, urging the executive branch to take action regarding the acquisition by Iran of C–802 cruise missiles (H. Rept. 105–304);

H.R. 2358, to provide for improved monitoring of human rights violations in the People's Republic of China, amended (H. Rept. 105–305);

H.R. 2469, to amend the Federal Food, Drug, and Cosmetic Act and other statutes to provide for improvements in the regulation of food ingredients, nutrient content claims, and health claims, amended (H. Rept. 105–306);

H.R. 1710, to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, clearance, and use of devices to maintain and improve the public health and quality of life of the citizens of the United States, amended (H. Rept. 105–307);

H.R. 2386, to implement the provisions of the Taiwan Relations Act concerning the stability and security of Taiwan and United States cooperation with Taiwan on the development and acquisition of defensive military articles, amended (H. Rept. 105–308 Part 1); and

H.R. 967, to prohibit the use of United States funds to provide for the participation of certain Chinese officials in international conferences, programs, and activities and to provide that certain Chinese officials shall be ineligible to receive visas and excluded from admission to the United States, amended (H. Rept. 105–309 part 1). **Pages H8323–61, H8437**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Stearns to act as Speaker pro tempore for today. **Page H8321**

Recess: The House recessed at 12:44 p.m. and reconvened at 2:00 p.m. **Pages H8322–23**

Committee on Transportation and Infrastructure: Read a letter from the Chairman, Committee on Transportation and Infrastructure wherein he transmitted copies of resolutions adopted by the committee on July 23—referred to the Committee on Appropriations. **Page H8361**

Suspensions: The House agreed to suspend the rules and pass the following measures:

H.R. 2206, amended, to amend title 38, United States Code, to improve programs of the Department of Veterans Affairs for homeless veterans; **Pages H8362–67, H8397**

H.R. 2571, to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1998; and **Pages H8368–69**

H.R. 1703, amended, to amend title 38, United States Code, to provide for improved and expedited procedures for resolving complaints of unlawful employment discrimination arising within the Department of Veterans Affairs. Agreed to amend the title. **Pages H8369–73**

Export-Import Bank Reauthorization: By a yea and nay vote of 378 yeas to 38 nays, Roll No. 492, the House passed H.R. 1370, to reauthorize the Export-Import Bank of the United States. Subsequently, S. 1026, a similar Senate-passed bill was passed in lieu after being amended to contain the text of H.R. 1370 as passed the House; and H.R. 1370 was laid on the table. Agreed that the House insist on its amendment and request a conference

with the Senate. Appointed as conferees: Representatives Leach, Castle, Bereuter, LaFalce, and Flake. **Pages H8373–83, H8395–97**

Agreed To:

The Solomon amendment that prohibits Export-Import subsidies of exports to Russia if Russia transfers an SS–N–22 or SS–N–26 missile system to the People's Republic of China; and **Pages H8380–81**

The Vento amendment that prohibits the use of Export-Import Bank assistance for exports to companies that employ child labor. **Pages H8381–83**

Rejected:

The Rohrabacher amendment that sought to prohibit assistance to companies that are at least 50 percent owned by a foreign government or military of a foreign government; and **Pages H8373–77, H8395**

The Rohrabacher amendment that sought to prohibit assistance to an entity owned by a government which is not chosen through free and fair democratic elections or which lacks an independent judiciary or for import from or export to a country with such a government. **Pages H8377–80, H8395**

On September 30, the House completed general debate, began considering amendments to the bill, and agreed to H. Res. 255, the rule that provided for consideration of the bill. **Pages H8184–H8207**

Recess: The House recessed at 4:07 p.m. and reconvened at 5:00 p.m. **Page H8383**

Agriculture Appropriations: By a yea and nay vote of 399 yeas to 18 nays, Roll No. 491, the House agreed to the Conference Report on H.R. 2160, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998. **Pages H8385–94**

Earlier, the House agreed to H. Res. 232, the rule waiving points of order against the conference report by a yea and nay vote of 367 yeas to 34 nays, Roll No. 490. Pursuant to the rule, H. Con. Res. 167, to correct a technical error in the enrollment of H.R. 2160, was adopted. **Pages H8383–85**

Commerce, Justice, State, and the Judiciary Appropriations Conference: The House disagreed with the Senate amendments to H.R. 2267, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998 and agreed to a conference. Appointed as conferees Representatives Rogers, Kolbe, Taylor of North Carolina, Regula, Forbes, Latham, Livingston, Mollohan, Skaggs, Dixon, and Obey. **Pages H8394–95**

Agreed to the Mollohan motion to instruct conferees to insist on the House position regarding funding for programs under the Victims of Child Abuse Act in the Juvenile Justice Programs account. **Pages H8394–95**

Order of Business—Suspensions: Agreed by unanimous consent that further consideration of remaining motions to suspend the rules postponed from Monday, September 29 be postponed until, Tuesday, October 7. **Page H8397**

Presidential Message—Line Item Veto Re Military Construction Appropriations: Read a message from the President wherein he, in accordance with the Line Item Veto Act (P.L. 104–130), cancels the dollar amounts of discretionary budget authority contained in the Military Construction Appropriations Act, 1998 (P.L. 105–45; H.R. 2016)—referred to the Committees on the Budget and Appropriations (H. Doc. 105–147). **Page H8398**

National Monument Fairness Act: The House completed general debate and began consideration of amendments to H.R. 1127, to amend the Antiquities Act to require an Act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres. **Pages H8398–H8413**

Rejected:

The Miller of California amendment that sought to require that the President consult with the governor of an affected State and others at least 60 days prior to issuing a proclamation. **Pages H8410–11**

Pending:

The Vento amendment was offered that seeks to provide a one year delay from the time the President announces a designation under the Antiquities Act to when that designation would actually take effect; and **Pages H8408–10**

The Hanson amendment in the nature of a substitute was offered that seeks to require that a proclamation of the President that results in excess of 50,000 acres in a single State may not be issued until 30 days after the President has solicited written comments from the State's Governor and such proclamation shall cease to be effective 2 years after issuance unless the Congress has approved it by joint resolution. **Pages H8411–13**

The House agreed to H. Res. 256, as amended, the rule that is providing for consideration of the bill on October 1. **Pages H8278–85**

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings of the House today and appear on pages H8384–85, H8394, and H8396–97. There were no quorum calls.

Adjournment: Met at 12:30 p.m. and adjourned at 11:21 p.m.

Committee Meetings

OVERSIGHT—OMB'S GPRA STRATEGIC PLAN

Committee on Government Reform and Oversight: Subcommittee on Government Management, Information, and Technology held a hearing on Oversight of OMB's GPRA Strategic Plan. Testimony was heard from the following officials of the GAO: Paul L. Posner, Director, Budget Issues; and J. Christopher Mihm, Assistant Director, Federal Management and Workforce Issues, General Government Division; and Edward DeSeve, Acting Deputy Director, OMB.

TUCKER ACT SHUFFLE RELIEF ACT; NATO SPECIAL IMMIGRANT AMENDMENTS

Committee on the Judiciary: Subcommittee on Immigration and Claims approved for full Committee action the following bills: H.R. 992, amended, Tucker Act Shuffle Relief Act of 1997; and H.R. 429, NATO Special Immigrant Amendments of 1997.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT ACT

Committee on Rules: Granted, by voice vote, an open rule on H.R. 629, Texas Low-Level Radioactive Waste Disposal Compact Act, providing one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. The rule permits the Chairman of the Committee of the Whole to accord priority in recognition to those Members who have preprinted their amendments in the Congressional Record prior to their consideration. The rule allows the Chairman to postpone recorded votes and to reduce to five minutes the voting time on any postponed question, provided that the voting time on the first in any series of questions is not less than 15 minutes. Finally, the rule provides one motion to recommit, with or without instructions. Testimony was heard from Representatives Dan Schaefer of Colorado, Barton of Texas, and Hall of Texas.

COMMITTEE MEETINGS FOR TUESDAY, OCTOBER 7, 1997

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Agriculture, Nutrition, and Forestry, to hold hearings on the nomination of Sally Thompson, of Kansas, to be Chief Financial Officer, Department of Agriculture, and on other pending nominations, 9 a.m., SR–332.

Committee on Banking, Housing, and Urban Affairs, Subcommittee on Securities to hold joint hearings with the Committee on Finance's Subcommittee on Social Security and Family Policy and the Committee on Finance's Subcommittee on Health Care, to examine investment based alternatives to the current pay-as-you-go method of financing Social Security and Medicare, 10 a.m., SD–215.

Committee on Commerce, Science, and Transportation, to hold hearings on the nominations of Terry D. Garcia, of California, to be Assistant Secretary for Oceans and Atmosphere, and Raymond G. Kammer, of Maryland, to be Director of the National Institute of Standards and Technology, both of the Department of Commerce, 10 a.m., SR–253.

Committee on Energy and Natural Resources, Subcommittee on Water and Power, to hold hearings on S. 725, to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District, S. 777, to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., H.R. 848, to extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, H.R. 1184, to extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, H.R. 1217, to extend the deadline under the Federal Power Act for the construction of a hydroelectric project in the State of Washington, S. 1230, to provide for Federal cooperation in non-Federal reclamation projects, and S. 841, to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, 2 p.m., SD–366.

Committee on Finance, Subcommittee on Social Security and Family Policy and Subcommittee on Health Care and the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Securities, to examine investment based alternatives to the current pay-as-you-go method of financing Social Security and Medicare, 10 a.m., SD–215.

Committee on Foreign Relations, to hold hearings to examine the strategic rationale for NATO enlargement, 10 a.m., SD–419.

Full Committee, to hold hearings on the Taxation Convention with Austria (Treaty Doc. 104–31), Tax Convention with Ireland (Treaty Doc. 105–31), Taxation Convention with Luxembourg (Treaty Doc. 104–33), Tax Convention with South Africa (Treaty Doc. 105–9), Tax Convention with Swiss Confederation (Treaty Doc. 105–8), Taxation Convention with Thailand (Treaty Doc. 105–2), Taxation Agreement with Turkey (Treaty Doc. 104–30), and Protocol Amending Tax Convention with Canada (Treaty Doc. 105–29), 2 p.m., SD–419.

Committee on Governmental Affairs, to resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing, 10 a.m., SH–216.

Committee on the Judiciary, to hold hearings on improving citzens' access to justice, focusing on vindication of property rights, 10 a.m., SD–226.

Committee on Labor and Human Resources, to hold hearings on the nomination of Charles N. Jeffress, of North Carolina, to be an Assistant Secretary of Labor, 9:45 a.m., SD–430.

Committee on Veterans Affairs, business meeting, to mark up miscellaneous veterans health and benefits bills, including S. 987, S. 714, S. 986, S. 309, S. 464, S. 623, S. 730, S. 801, S. 813, and S. 999, 3 p.m., SR–418.

NOTICE

For a listing of Senate committee meetings scheduled ahead, see pages E1940–41 in today's Record.

House

Committee on Agriculture, hearing on the Review of the Forest Recovery and Protection Act of 1997, 10:00 a.m., 1300 Longworth.

Committee on Education and the Workforce, to consider the following: motion to authorize the issuance of subpoenas for testimony in hearings on the Invalidated 1996 Teamster Election; and other pending Committee business, 11 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, to consider pending business, 10 a.m., 2154 Rayburn.

Committee on International Relations, hearing on Implementation of the U.S.-China Nuclear Cooperation Agreement: Whose Interests Are Served? 10 a.m., 2172 Rayburn.

Committee on the Judiciary, to markup the following bills: H.R. 1085, to revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, ''Patriotic and National Observances, Ceremonies, and Organizations''; H.R. 2578, to amend the Immigration and Nationality Act to extend the visa waiver pilot program, and to provide for the collection of data with respect to the number of non-immigrants who remain in the United States after the expiration of the period of stay authorized by the Attorney General; H.R. 1534, Private Property Rights Implementation Act of 1997; H.R. 992, Tucker Act Shuffle Relief Act of 1997; H.R. 1967, to amend title 17, United States Code, to provide that the distribution before January 1, 1978, of a phonorecord shall not for any purpose constitute a publication of the musical work embodied therein; and H.R. 2265, No Electronic Theft (NET) Act, 9:30 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Forest and Forest Health, to markup the following bills: H.R. 1739, BWCAW Accessibility and Fairness Act of 1997; H.R. 1309, to provide for an exchange of lands with the city of Greeley, Colorado, and The Water Supply and Storage Company to eliminate private inholdings in wilderness areas; and H.R. 434, to provide for the conveyance of small parcels of land in the Carson National Forest and the Santa Fe National Forest, New Mexico, to the village of El Rito and the town of Jemez Springs, New Mexico, 10:00 a.m., 1334 Longworth.

Subcommittee on National Parks and Public Lands, to hold a hearing on the following bills: H.R. 2313, to prohibit the construction of any monument, memorial, or other structure at the site of the Iwo Jima Memorial in Arlington, Virginia; S. 731, to extend the legislative authority for construction of the National Peace Garden memorial; and S. 423, to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason; followed by a markup of the following bills: H.R. 2136, to direct the Secretary of the Interior to convey, at fair market value, certain properties in Clark County, Nevada, to persons who purchased adjacent properties in good faith reliance on land surveys that were subsequently determined to be inaccurate; H.R. 1714, to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site; H.R. 2283, Arches National Park Expansion Act of 1997; H.R. 755, to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of their income tax overpayments, and to make other contributions, for the benefit of units of the National Park System; and H.R. 1635, National Underground Railroad Network to Freedom Act of 1997, 10:00 a.m., 1324 Longworth.

Committee on Rules, to consider the following: Conference Report to accompany H.R. 2107, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998; Conference Report to accompany H.R. 2158, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998; and Senate amendments to H.R. 1122, Partial Birth Abortion Ban Act of 1997, 1 p.m., H–313 Capitol.

Committee on Science, Subcommittee on Energy and Environment, hearing on Countdown to Kyoto Part I: The Science of the Global Climate Change Agreement, 10 a.m., 2318 Rayburn.

Permanent Select Committee on Intelligence, October 7, Subcommittee on Human Intelligence, Analysis, and Counterintelligence, executive, to hold a briefing on the Caspian Sea Oil Field/Pipeline, 3 p.m., H–405 Capitol.

Joint Meetings

Conferees, on H.R. 2264, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, 3:30 p.m., S–128, Capitol.

Next Meeting of the SENATE

10:30 a.m., Tuesday, October 7

Senate Chamber

Program for Tuesday: Senate will continue consideration of S. 25, Campaign Finance Reform at 2:15 p.m., with a cloture vote to occur on Lott Amendment No. 1258, to guarantee that contributions to Federal political campaigns are voluntary, and could vote on a motion to close further debate on the bill.

Senate may also resume consideration of S. 1156, D.C. Appropriations, 1998, with a cloture vote on Mack Modified Amendment No. 1253, to provide relief to certain aliens who would otherwise be subject to removal from the United States, to possibly occur thereon.

(Senate will recess from 12:30 p.m. until 2:15 p.m. for respective party conferences.)

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m., Tuesday, October 7

House Chamber

Program for Tuesday: Consideration of 1 Suspension, H.R. 1411, Drug and Biological Products Modernization Act of 1997;

Complete consideration of H.R. 1127, National Monument Fairness Act (modified closed rule);

Consideration of Motion to go to conference on H.R. 2159, Foreign Operations, Export Financing, and Related Programs Appropriations Act;

Consideration of H.R. 629, Texas Low-Level Radioactive Waste Disposal Compact (open rule, 1 hour of general debate);

Consideration of H.R. 901, American Land Sovereignty Protection Act (modified closed rule, 1 hour of general debate); and

Vote on Suspensions considered on September 29.

Extensions of Remarks, as inserted in this issue

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