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

(1) ADVISORY COMMITTEE.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary shall establish an Ecosystem Management Advisory Committee (referred to in this section as the ‘Advisory Committee’) to assist the Commission in preparing and reviewing the report required by subsection (e)(3).

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

(A) The members shall be selected from nominations submitted by tribal organizations located in States that have a significant amount of public lands (as determined by the Secretary, in consultation with the Governors of States described in subparagraph (A) or from the Western Governors Association.

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

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

(D) One member shall be representative of industrial concerns who has substantial experience and expertise in public land policy.

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

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

(i) constitutional or land use law; and

(ii) administrative law.

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

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

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

(6) The members of the Advisory Committee shall be allowed travel expenses, including per diem allowances of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Advisory Committee.

(i) Termination of Commission and Advisory Committee.—The Commission and Advisory Committee shall terminate on the date that is 90 days after the Commission submits a report to the Secretary and to Congress under subsection (e)(3).

(ii) Exception from Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission or to the Advisory Committee.

(iii) Authorization of Appropriations.—There are authorized to be appropriated to the Department of the Interior $3,000,000 to carry out this section.

SEC. 3. CONFORMING AMENDMENTS.

(a) Reenactment of Title I.—The table of contents at the beginning of the Federal Land Policy and Management Act of 1976 is amended by adding at the end of the items relating to title II the following new item:

"Sec. 215. Authority with respect to certain withdrawals." "Sec. 216. Ecosystem management.

"Sec. 217. Ecosystem Management Commission.

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

"Authorizing authority with respect to certain withdrawals."

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

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

II. Commission: Establish an Ecosystem Management Commission to:

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

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

III. Members: The membership of the Commission includes the Chairman and Ranking Members from the following Congressional committees:

A. Senate: Energy and Natural Resources Committee;

B. House: Public Lands, National Parks and Forests Subcommittee of the Appropriations Committee; Interior and Insular Affairs Committee; Appropriations Committee; Interior Subcommittee of the Appropriations Committee.

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

1. Defines ‘ecosystem management’;

2. Identifies constraints on and opportunities for coordinated ecosystem planning;

3. Examines existing laws and federal agency budgets affecting public lands management to determine whether any changes are necessary to facilitate ecosystem management;

4. Identifies incentives, such as trust funds, to encourage parties to engage in the development of ecosystem management strategies;

5. Identifies, through case studies that represent different regions of the U.S., opportunities for and constraints on ecosystem management.

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

Two tribal nominees;

Three nominees from the Western Governors Association;

Two members of conservation groups;

Two members from industry with public lands concerns;

Two members of professional societies familiar with the concept of ecosystem management;

Two members of the legal community.

VI. Appropriations: Authorized appropriations are $3 million.
Mr. HATCH. Mr. President, as we begin the 104th Congress I feel it is imperative that we complete the process of approving the Traumatic Brain Injury Act, S. 725 during the previous Congress. I regret that we were unable to pass this important legislation in the 103d Congress. I have the pleasure of reintroducing this legislation with my colleagues to support Traumatic Brain Injury Act.

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

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

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

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

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

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

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

A survivor of a severe brain injury typically faces 5 to 10 years of intensive services and estimated lifetime costs can exceed $4 million. The economic costs for traumatic brain injury alone approach $25 billion per year.

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

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

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

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

This bill will promote coordination in the delivery system and assure greater access to services for victims suffering from the disabling consequences of these injuries. By improving the quality of care, we can reduce severely the disabling effects and reduce the heavy toll from these injuries. The best treatment, however, is still prevention. More effective strategies to avert these injuries are critical.

The community education programs established under this bill, will broaden public awareness and encourage prevention.

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

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

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

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

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 317G of the Public Health Service Act (42 U.S.C. 241l-6) is amended—

(1) in subsection (d) Ð

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

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

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

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

(2) in paragraph (3), by adding at the end the following paragraph:

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

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

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

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

"The term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary."
SEC. 3. PROGRAMS OF HEALTH RESOURCES AND ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300I-61 et seq.) is amended by adding at the end the following sections:

"SEC. 1225. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

(a) In general.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to States for demonstration projects to improve access to health and other services regarding traumatic brain injury.

(b) Application for grant.—(1) The Secretary shall award a grant pursuant to this section to a State if the Secretary determines that the State has provided an application that:

(A) is complete;

(B) demonstrates a strategy for the demonstration project that includes plans for evaluation of the demonstration project;

(C) includes a description of how the demonstration project will be evaluated.

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

SEC. 4. STUDY; CONSENSUS CONFERENCE.

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

(I) in collaboration with appropriate State and local health-related agencies;

(II) in consultation with representatives of—

(A) representatives of organizations representing traumatic brain injury survivors in that State;

(B) trauma center organization or foundation representing traumatic brain injury survivors in that State; and

(C) any other group representing interests of individuals with traumatic brain injury;

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

(b) Consensus conference.—The Secretary shall hold a consensus conference involving the following:

(A) representatives of—

(i) the corresponding State agencies involved in rehabilitation services to individuals with traumatic brain injury or their family members.

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

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

(iv) representatives of the organizations or foundation representing traumatic brain injury survivors in that State; and

(v) individuals with traumatic brain injury or their family members.

(b) Functions.—An advisory board established under paragraph (1) shall—

(A) meet in accordance with the purposes of this Act; and

(B) make recommendations to the Secretary regarding traumatic brain injury.

(c) Matching funds.—An advisory board established under paragraph (1) shall be composed of—

(A) representatives of—

(i) the corresponding State agencies involved in rehabilitation services to individuals with traumatic brain injury or their family members.

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

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

(iv) representatives of the organizations or foundation representing traumatic brain injury survivors in that State; and

(v) individuals with traumatic brain injury or their family members.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

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every other American millions. For bystanders who would work every angle to themselves, and a firm no to those lobbying, no to those necessary programs, no to those Members who would build monuments to themselves, and a firm no to those lobbyists who would work every angle to slip special provisions into the tax code that benefit the fortunate few and cost every other American millions. For decades, Presidents of both parties have insisted that the deficit would be lower if they had the power to say no, in the form of the line-item veto.

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

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

Rather than simply joining one of the appropriations line-item veto bills then in existence, we needed to be honest about the fact that for each example of unnecessary, special-interest pork-barrel spending through an appropriations bill, there are similar examples of such spending buried in tax bills. The tax code provides special treatments for a wide stream of requests for preferential treatment through the tax code, including special depreciation schedules for commercial rather than residential real estate, fuel excise taxes for crop dusters, and tax credits for clean-fuel vehicles. In singling out these pork-barrel projects, I do not mean to pass judgment on their merits.

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

If the President had the power to excise special interest spending, but only in appropriations, we would simply find the special interest lobbyists who work appropriations turning themselves into tax lawyers and tax accountants, and use the special provisions in the tax code to speed the spending that drive up the deficit, and to avoid special interest spending, but only in the tax code.

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

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

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

The particular legislation that I am introducing today is identical to a bill I introduced in the 103rd Congress and is modeled on a bill my colleague Senator HOLLINGS has introduced in several Congresses. I want to thank and commend Senator HOLLINGS for working so hard to develop a workable line-item...
veto strategy, one that goes beyond po-
itical demagoguery to the real ques-
tion of how to limit spending. This bill will do little to limit the size of ap-
propriations bill and any bill affect-
ing revenues be enrolled as a separate
bill after it is passed by Congress, so
that the President can sign the full bill
or single out individual items to sign
and veto or to strike from other bills in
that it avoids obvious constitutional
obstacles and in that it applies to
spending through the tax code as well
as appropriated spending.

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

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

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

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

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

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

S. 98

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

SECTION 1. SHORT TITLE.
This Act may be cited as the "Tax Expend-
iture Control Act of 1995".

SECTION 2. TAX EXPENDITURES INCLUDED IN BUD-
GET RESOLUTION.
Sec. 301. (a)(1) of the Congressional Budget Act of 1974 is amended:
(1) by inserting after subsection (b)(2) the follow-
ing: "and tax expenditures (including in-
come tax expenditures or other equiva-
 lent base lowering tax provisions apply-
ing to other Federal taxes)", and
(2) by inserting after `tax expenditures' the fol-
lowing: "and tax expendi-
tures (including income tax expendi-
tures or other equivalent base lowering tax
provisions applying to other Federal taxes)'.

SECTION 3. TAX EXPENDITURE ANALYSIS IN REPORT
ACOMPANYING BUDGET RESOLUTION.
Sec. 301(e)(1) of the Congressional Budget Act of 1974 is amended by inserting
after `revenues' the following: "and tax ex-
penditures'.

SECTION 4. RECONCILIATION MAY INCLUDE TAX EX-
PENDITURE CHANGES.
Sec. 301(a)(2) of the Congressional Budget Act of 1974 is amended by inserting
after `revenues' the following: "and tax ex-
penditures'.

SECTION 5. CONGRESSIONAL BUDGET OFFICE RE-
PORT.
Sec. 202(f)(1) of the Congressional Budg-
et Act of 1995 is amended in the matter fol-
lowing subsection (c) by inserting "and budget out-
lays" after "budget out-
lays' and "tax expend-
tures'.

SECTION 6. EFFECTIVE DATE.
This Act and the amendments made by
this Act shall take effect on the date of en-
actment of this Act.

Mr. DASCHLE. Mr. President, my
distinguished colleagues from New Jer-
sey, Senator BRADLEY, and I am intro-
ducing today a bill that I believe
should be an important item on our
agenda for the 104th Congress.

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

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

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

As part of this process, programs are
reviewed by the President in submit-
ing his budget, and cuts are suggested
in an array of programs across the
board. Thereafter, the Budget Commit-
tee prepares its annual budget resolu-
tion in which every item of direct
spending, including entitlements, is di-
vided into budget function groups.

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

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

Make no mistake, I am not advocat-
ing that there be elimination of tax expendi-
tures, just as I would not suggest cutting discretionary programs and entitle-
ments in half without regard to mer-
it.

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

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

The scrutiny stops there. Nowhere is
this information incor-
porated in the budget process in a
meaningful way—a way that spurs ac-
tion to limit this form of spending.

There are no targets for tax expendi-
tures called for in the budget resolu-
tion, and there is nothing to force
Members to view tax expenditures by
budget function, comparing aggregate
spending in any given area through
direct spending and tax expendi-
tures.

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

Mr. President, my distinguished
colleague, Senator BRADLEY, and I am
introducing today would incor-
porate consideration of tax expendi-
tures in the budget process in a respon-
sible and more effective way. Essen-
tially, it would subject tax expendi-
tures to the same annual scrutiny that
entitlement spending currently re-
ceives. That should be the minimum.

The bill would require setting targets
tax expenditures in the annual budg-
et resolution and would require that the
total level of tax expenditures be broke
down in accordance to functional
category in the budget resolution it-
self. With this information, Congress
and the public could compare how
much is being spend on a particular
budget function both through direct
spending and through tax expenditures.

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

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

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

THE BUTTE COUNTY ACT OF 1995

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

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

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

The problem stems from 1961 when the Forest Service accepted what now appears to be an incorrect survey of the Plumas National Forest boundary. The surveyor could not locate the original survey corner established in 1869 so he established a new corner.

Since then, private landowners used the 1961 corner to establish boundaries and build improvements. In 1992 the Bureau of Land Management conducted a new survey which showed that land previously thought to be outside the boundaries of the Plumas National Forest is actually within the forest boundaries, and thus is Federal property.

The property owners relied upon the earlier erroneous survey which they believed to be accurate and have occupied and improved their property in good faith.

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

Mr. President, there is no Federal interest in this property and the Department of Agriculture has repeatedly testified favorably on this legislation. And I hope this Congress will move more quickly to enact this measure.

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

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

S. 99

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

SECTION 1. FINDINGS AND PURPOSE.

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

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

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

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

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

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term “affected lands” means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 12, 13, and 14, township 22 north, range 5 east, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

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

(3) the term “Secretary” means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LANDS.

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

SEC. 4. TERMS AND CONDITIONS OF CONVEYANCE.

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

(1) a description of the affected lands claimed;

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

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

(b) ISSUANCE OF DEED.—(1) Upon a determina-

tion by the Secretary that issuance of a deed for affected lands is consistent with the terms and conditions of this Act, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

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

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

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

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

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

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

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

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

By Mr. GLENN: S. 100. A bill to reduce Federal agency regulatory burdens on the public.

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

The problem is not that the Government is trying to fix something that “ain’t broke.” The Government has been responding to the call of the people to address public issues and concerns. In the area of environmental protection, for example, the American people continue to want Government
to do more to protect our natural environment. The problem is more complicated than the problem is that the government is not working well enough, it is not delivering on its promises to solve problems efficiently and effectively. The American public and Members of Congress know that we simply are not getting enough results for all the legislation and regulation, and expenditure of taxpayer dollars.

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

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

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

In addition to the agency requirements, this legislation would place into law a Presidential regulatory review process to be run by the Office of Management and Budget (OMB). While President Clinton's regulatory review Executive order has been generally well received, continuing calls for further reaching controls strongly suggest that Congress put into place a workable regulatory review process to ensure integrity and accountability in rulemaking and to prevent burdensome and unnecessary regulations.

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

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

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

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

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

SUMMARY OF THE REGULATORY ACCOUNTABILITY ACT OF 1995

1. AGENCY REGULATORY ANALYSIS (SEC. 4)

For every regulatory action, Federal agencies must consider:

- The need for and desired outcome of the rule;
- Costs and benefits;
- Regulated risks and their relation to other relevant risks;
- Alternatives to the proposed action;
- Effects on other governmental action (e.g., duplication of other rules, and impact on State and local governments);
- Takings impacts on constitutional private property rights;
- Major rules (e.g., $100 million annual economic effect) require more in-depth formal analysis and certification that:
  - Benefits justify costs;
  - Regulatory analysis supported by best available scientific and technical information;

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

2. PRESIDENTIAL REGULATORY REVIEW (SEC. 5)

Regulatory review by OMB:

- Oversee agency regulatory analysis;
- Review agency proposals before publication (including authorizations and return proposals for agency reconsideration);
- Oversee annual regulatory planning process (including review of existing regulations).

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

3. PUBLIC PARTICIPATION AND ACCOUNTABILITY (SEC. 6)

Agencies must improve public participation in rulemaking;

- Seek involvement of those benefited and burdened by the regulatory action;
- Publish summaries of regulatory analyses and regulatory review results in Federal Register notices;
- Place regulatory review-related communications in the rulemaking record.

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

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

4. RULES OF CONSTRUCTION (SEC. 7)

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

5. JUDICIAL REVIEW (SEC. 8)

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

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

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

THE LOBBYING DISCLOSURE ACT OF 1995

Mr. LEVIN. Mr. President, I introduce the Lobbying Disclosure Act of 1995. Our existing lobbying registration laws have been characterized by the Department of Justice as ineffective, inadequate, and unenforceable; they breed disrespect for the law because they are so widely ignored; they have been a sham and a shambles since they were first enacted almost 50 years ago. At a time when the American public is
increasingly skeptical that their Government really belongs to them, our lobbying registration laws have become a joke, leaving more professional lobbyists unregistered than registered.

The Lobbying Disclosure Act of 1995 would change all of that and ensure that we finally know who is paying how much a part of our Government process today as on-the-record rulemakings or public hearings. But we cannot expect the public to have confidence in our actions unless we conduct our business in the sunshine. The public has a right to know, and the public should know, who is being paid how much by whom to lobby on what issues. This bill is designed to meet that objective, while imposing minimal paperwork and the least possible burden on even those who are not professional lobbyists, but merely contact Members of Congress or staff.

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

The bill before us would tighten the gift rules, and it would tighten them dramatically. Under this bill, lobbyists would be prohibited from providing meals, entertainment, travel, or virtually anything else of value to Members of Congress and congressional staff. Acceptance of gifts from others would also be restricted significantly.

To give just one example, this bill would prohibit private interests from paying for any recreational expenses, such as green fees, for Members of Congress, whether in Washington or in the course of travel outside Washington. In fact, private interests would be prohibited from paying for congressional travel to any event, the activities of which are substantially recreational in nature. If this bill passes, recreational activities paid for by interest groups will be a thing of the past.

Make no mistake about this: the enactment of this bill would fundamentally change the way business is conducted on Capitol Hill. The proposed rules are not perfect, because these issues are complex and require careful consideration, but they are a long way toward rebuilding public confidence in this institution.

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

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

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

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

One of the reasons the public is suspicious of Government is the relationship between lobbyists and Government officials is the cloak of secrecy that currently covers too many lobbyists and their activities. Current law simply does not ensure even the most basic disclosure. For example, we have learned that a single, unregistered lobbyist in California lined up 5,000 or so people to sign a paper purporting to support a particular position on a policy issue. The signatories had been hoodwinked into believing that they would be literally freighted with their names to Washington to lobby on the issue. In fact, the lobbyist had sold the names of the signatories to a client for $5,000 in a semi-annual period.

In addition, this bill would simplify reporting of receipts and expenditures by substituting estimates of total, bottom-line lobbying income (by category dollar value) for the current requirement to provide 29 separate lines of financial information with supporting data, most of it meaningless. To further ensure that the statute will not impose new burdens on the private sector, the bill includes specific provisions allowing entities that are already required to account for lobbying expenditures under the Internal Revenue Code to use data collected for the IRS for disclosure purposes as well.

The bill also includes de minimis rules, exempting from registration any individual who spends less than 10 percent of his or her time on lobbying activities and any organization whose lobbying expenditures exceed $5,000 in a semi-annual period. Most small local organizations and entities located outside Washington are likely to be exempt from registration under these provisions, even if their employees make occasional lobbying contacts. Because the lobbying registration requirements in the bill apply separately to local chapters of national organizations if the local chapters are separate legal entities, many such local chapters may be exempt from registration as well.

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

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

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

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

Under existing statutes, there is no disclosure requirement when White House and other executive branch officials deal only sporadically with lobbyists for foreign persons. The new statute would replace the Federal Regulation of Lobbying Act; the disclosure requirements of the so-called Byrd amendment; the provisions of the Foreign Agents Registration Act (FARA) which apply to private persons and companies; and the HUD disclosure statutes. The provisions of the Byrd amendment prohibiting lobbying with appropriated funds would be left intact, as would the FARA provisions applicable to representatives of foreign governments and political parties.

The bill has three essential features: It would broaden the coverage of existing disclosure statutes to include many lobbyists for foreign persons. The new statute would replace the Federal Regulation of Lobbying Act; the disclosure requirements of the so-called Byrd amendment; the provisions of the Foreign Agents Registration Act (FARA) which apply to private persons and companies; and the HUD disclosure statutes. The provisions of the Byrd amendment prohibiting lobbying with appropriated funds would be left intact, as would the FARA provisions applicable to representatives of foreign governments and political parties.

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

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

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

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

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

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

I believe the answer to this question is clearly yes, especially with respect to the organization of our national system for processing export licenses for what are called nuclear dual-use goods—items that can be used for civilian purposes or for building nuclear weapons.

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

Mr. President, I ask unanimous consent to insert at the end of my remarks two detailed committee staff summaries of these reports. Quoting from the report by the four Inspectors General, here is what they had to say about our system for administering nuclear dual-use export controls:

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

The State IG found that considerable disarray exists in the operation of export control and intelligence shops at Energy were poor—at one point, an outside facilitator had to be brought in to patch up relations. Some key national security offices have no idea what the Commerce Department is approving for export.

The IGs report documents numerous other problems surrounding the lack of followup on licensing decisions.

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

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

For nuclear-related dual-use items (worth over $350 million) going to controlled countries turning down only 1 in a hundred licenses. The U.S. issued 336,000 export licenses for nuclear-related dual-use items between FY 1985-92 for nuclear-related dual-use items worth over $29 billion; 54,862 licenses (worth over $350 million) were approved for exports to 36 countries of proliferation concern; 24,048 of these licenses were approved for goods going to 8 countries that have sought or are now seeking nuclear weapons. Over 1,500 licenses covered weapons-related dual-use items worth over $350 million; 80 percent are not forwarded for further interagency review. Only Energy and Commerce have full access to all nuclear dual-use license applications.

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

LACK OF LICENSING DECISIONS

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

SKELETON STAFFS

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


As for the GAO, here is a summary of what they found about U.S. exports of nuclear dual-use goods: The U.S. issued 336,000 export licenses between FY 1985-92 for nuclear-related dual-use items worth over $29 billion; 54,862 licenses (worth over $350 million) were approved for exports to 36 countries of proliferation concern; 24,048 of these licenses were approved for goods going to 8 countries that have sought or are now seeking nuclear weapons. Over 1,500 licenses covered weapons-related dual-use items worth over $350 million; 80 percent are not forwarded for further interagency review. Only Energy and Commerce have full access to all nuclear dual-use license applications.

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


There is precious little in either of these reports to reassure members of Congress that our system for licensing nuclear dual-use items is up to par. At the very least, the system falls far short of reflecting the high priority that the President has determined should be accorded to halting the proliferation of nuclear weapons, a problem that is constantly aggravated by dangerous exports.
introducing today in the Nuclear Export Reorganization Act of 1995. It is useful to note that the reports by the Inspectors General and the GAO were prepared well after I introduced my original bill in 1993—the reports nevertheless underscore the obvious need for major reforms in the nuclear dual-use export licensing process.

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

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

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

In particular, the export control reforms would accomplish the following: I would add authority to issue dual-use export licenses in the Commerce Department, while ensuring that key agencies with national security responsibilities have full rights to review license applications and to oppose approvals when they would be contrary to the country’s nuclear nonproliferation interests.

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION

Bernard Baruch once said over 45 years ago that “we are here to make a choice between the quick and the dead.” Today, I can say that we have several new choices to make, each one potentially affecting the future of this planet. We must choose between leadership and acquiescence, between quick profits and the defense of our national security interests, and between the rule of law and the law of the jungle. The security threat we must collectively address—both politically here at home and in partnership with other nations—is nuclear war. We have an obligation to do all we can to stop all forms of nuclear weapons proliferation, and—as in the recent cases of South Africa and Brazil—to work to roll back existing bomb programs wherever they may be.

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

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

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CONCLUSION

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

COMMUNICATION PROBLEMS

Defense once had to get Customs to block a shipment of goods that had been licensed by Commerce. The Energy IG found that “communications” between Energy’s control and intelligence shops at Energy were “poor” at one point, an outside “facilitator” had to be brought in to patch up relations. Commerce’s Census Bureau will not share export data with Commerce’s export licensing office. Commerce will not show its licensing manual to other agencies. State IG found Commerce’s internal licensing review procedures “scattered” and “an awkward mechanism.” Energy refers most of its licenses to the weapons labs with the least intelligence sources, and the fewest of licenses went to the lab (Livermore) with the most resources. Commerce still does not grant full access to its licensing database to other agencies handling nuclear dual-use exports. The Defense
The Energy IG report found that “the ECO did not have current written procedures for processing export cases . . .” [D±8]. The IG noted that Energy “had no structured intelligence data documenting the bases for its advice, recommendations, or decisions regarding its review and approval of licenses cases” [C±35]. The report also found that “the degree of compliance by Energy with the export licensing review criteria contained in the Export Administration Regulations and the Nuclear Non-Proliferation Act of 1978 could not be determined because ECO did not retain records documenting the bases for its advice and recommendations on export cases.” [C±5] The Defense IG found that “the DTSALicense Directorate uses no formal, written criteria to resolve differences between Commerce and the EAA. . . and Energy records management directives.” The report also noted that “the ECOD did not retain records documenting the bases for its advice, recommendations, and approval of export applications.” [C±5] The Energy IG found that “the ECOD’s export license database; DTSALicenseTechInformation System (the Pentagon’s export database); DTSA=Defense Technology Information System; NNPA=Nuclear Non-Proliferation Act of 1978; ECOD=Export Control Organization; DTC=Defense Trade Control System; and EAA=Export Administration Act of 1979; Energy’s Export Information System; EEO=Energy’s Export Control Operations Division.” [D±8].

LACK OF FOLLOW-UP

The State IG found that “considerable disaster exists” in the operation of pre-license and post-shipment checks; the system was “inefficient.” The IG said that the program suffered from “insufficient historical records and program tracking.” Commerce lacks a “strategic plan” to conduct such checks, the IG said. He noted that the ECO did not have “a strategic plan” to conduct such checks. The IG noted that the ECO had “a strategic plan” to conduct such checks.

GRIDLOCK ON THE INFORMATION HIGHWAY

When asked what intelligence database was used in Energy’s export control office, a supervisor said “we do not have one.” He noted that Energy “had no structured intelligence database for licensing use. Energy’s information system is classified for intelligence only but it is always marked “no information.” Energy’s S/P database is found at the store very limited classified data—Commerce’s system is unclassified. There are “significant weaknesses (about 25% of licenses surveyed) in the databases of Energy and Commerce, which the ECO said “call into question the integrity of the export licensing process.” One lab scientist called licensing information “a gold mine that’s not being mined.” Energy’s database does not log final agency decisions on export cases referred to ECOD annually and the relatively small staff assigned to review them, the average amount of time that would be available for an analyst to review the files of the various offices of the different agencies was very limited. Not taking into account time off for annual leave, sick leave, vacation, travel, or other activities, we estimated that a maximum of 40 minutes per case would be available.” [C±11] . . . the ECO export control analysts had, on the average, a maximum of 40 minutes to review each nuclear dual-use or high technology case. The actual reviews spent on a case is probably substantially less than 40 minutes.” [C±20] . . . according to ECO and Energy national security officials, the ECO is “awfully thin” in terms of experienced export analysts who can process export cases in an effective and timely fashion. ECO and labora- tory officials told us that the loss of two of the key export analysts in the ECO would cause the Department ‘severe problems’. [C±20]

The Energy IG report found that: “At the time of the review, only two individuals in ECO, the Export Control Supervisor and an export control analyst, were experienced in export control matters. . . and were not aware of the export cases.” [D±12] The Energy IG report found that “Resolution of referral issues is important to the overall disposition of nuclear material as occurred in October 1992 when Defense found it necessary to request the U.S. Customs Service to stop shipment of a commodity for national security reasons even though the shipment had been licensed by Commerce.” [D±12] "Our [Energy IG] analysis indicted that Commerce may have improperly referred eight percent of the cases to Energy." [D±12] The State IG report found that “the State Department’s export control office is not capable of performing the tasks specified in the Foreign Non-Proliferation Act. . . of the Export Control Act.” [D±8]. It is difficult to determine how many of the cases referred to State is not explained in the IG reports. The State IG “discovered that the scatter of referral decisions is to incorporate these deliberations with the advice and recommendations on export cases.” [C±35]

The Energy IG report found that “the ECO did not have current written procedures for processing export cases . . .” [D±8]. The IG noted that Energy “had no structured intelligence data documenting the bases for its advice, recommendations, or decisions regarding its review and approval of licenses cases” [C±35]. The report also found that “the degree of compliance by Energy with the export licensing review criteria contained in the Export Administration Regulations and the Nuclear Non-Proliferation Act of 1978 could not be determined because ECO did not retain records documenting the bases for its advice and recommendations on export cases.” [C±5] The Defense IG found that “the DTSALicense Directorate uses no formal, written criteria to resolve differences between Commerce and the EAA. . . and Energy records management directives.” The report also noted that “the ECOD did not retain records documenting the bases for its advice, recommendations, and approval of export applications.” [C±5] The Energy IG found that “the ECOD’s export license database; DTSALicenseTechInformation System (the Pentagon’s export database); DTSA=Defense Technology Information System; NNPA=Nuclear Non-Proliferation Act of 1978; ECOD=Export Control Organization; DTC=Defense Trade Control System; and EAA=Export Administration Act of 1979; Energy’s Export Information System; EEO=Energy’s Export Control Operations Division.” [D±8].
ECD, leaving only one individual experienced in processing cases. We believe that the lack of experienced analysts in ECD and the lack of current procedures on how to process export cases could possibly lead to mistakes in the processing of export cases and a longer review cycle for cases referred to Energy.” [C–36]

The Export Control Supervisor [at Energy]... the organization in review... [and] also considered foreign policy and national security issues. According to the Supervisor, he had training and experience in export control. [C–12]

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

"...an analyst at LANL explained that the Critical Technology Group (IT–3) had only one individual with time available to read all the intelligence information received by the office. [C–54]... he had training and experience in export control. [C–12]

The ECD had no structured intelligence data base to use in support of export case reviews. He said that Energy's automated Export Information System [EIS] was not designed for use in support of export case reviews. He explained that Energy had no process in place or no dedicated employee to update the system. [C–27]

The Director said that the EIS was only authorized to process information classified SECRET and below. Furthermore, he said that most of the intelligence useful to the ECD for export cases had not been classified as SECRET, or was subject to limited distribution. [C–27]

"Current at each agency now has on-line access to the ECASS to a limited degree. Each agency's access to the ECASS system varies as to cases they can view, what information is available, and when they can view it. Consequently, it would seem desirable that in the long term, expanded access to and use of the ECASS system by all involved agencies could enhance the effectiveness of the licensing process. For example, it would permit agencies to identify patterns and other trends of exporting which might have a significant bearing on their decisions. [C–27]

...the databases at Commerce and Energy showed inconsistencies in almost a quarter of the dual-use nuclear export cases in our sample. The Defense IG found that “Even through the D TSA had the information available, it did not update the FORDTIS with the final U.S. Government position in any of the FORDTIS files for our sample of 60 dual-use applications.” [C–32] The Defense IG said that the “DTSA licensing officers need to communicate to affected DoD Components the results of uninitialed applications.” [B–16]

According to the Energy IG report, several analysts noted a “lack of cooperation” between the export control and intelligence offices. The IG report stated, “The intelligence analysis general consensus was that communications between AN and IN were poor.” [C–27]

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

The Chief Scientist of the Livermore National Laboratory told Commerce IG investigators that export licensing information was a “... gold mine that's not being used.” [C–27]

The IG found that “The EIS could currently not include information on whether a commodity was approved/disapproved, and if approved, was purchased and shipped.” [C–29]

"The EIS current does not include information on whether a commodity was approved/disapproved, and if approved, was purchased and shipped.” [C–29]

"When asked upon what intelligence data base the ECD depended, the ECD Export Control Supervisor said that... the field always reflected "no information" available. He explained that ECD had no process in place or no dedicated employee to update the system. [C–27]

"...the databases at Commerce and Energy showed inconsistencies in almost a quarter of the dual-use nuclear export cases in our sample. The Defense IG found that “Even through the DTSA had the information available, it did not update the FORDTIS with the final U.S. Government position in any of the FORDTIS files for our sample of 60 dual-use applications.” [C–32] The Defense IG said that the “DTSA licensing officers need to communicate to affected DoD Components the results of uninitialed applications.” [B–16]

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this system and provides misleading information regarding export licensing. Commerce IG found that "... canceled checks are counted as completed checks." [A-16] "Post-shipment verification information maintained in a separate database also contained errors...[the cases reviewed by the Commerce IG] represent an error of 21 percent. Not only were documented errors submitted in the cables requesting pre-licensing checks but those pre-license checks were conducted inefficiently. Some of the checks were conducted where there were no indications of the points of the particular product. There is no assurance that the random checks and verifications are obtaining the maximum benefits for the programs. Without stated objective, the results of the procedures are difficult to measure. In fiscal year 1992, 132 pre-license checks were conducted for a variety of reasons, including a lack of funding. There is no assurance that these were low priority cases." [A-14] "Enforcement Support [at Commerce] published the guide "How to Conduct Pre-Licenses Checks and Post-Shipment Verification" in August 1992. However, almost all the posts we visited had either not received it or not read it at the time of our visit..." [A-14] "Six of the 11 posts used foreign...nationals for post-shipment verifications. (all papers were filed in one fold.) One post kept no files at all." [A-15] "The commercial officers also wanted to know how they could recognize potential or actual improper usage of the particular product they were reviewing. For example, one of the commercial officers discovered that performing post-shipment verifications on chemicals is very difficult; the barrels shown could be full of water, and the officers would never be able to tell the difference. The lack of detailed information contained in the cables requesting pre-license checks and post-shipment verifications makes it difficult to verify and retain documents regarding the cases. There is no reliable audit trail for the actions taken on the applications." [A-8] [A-14] "Commercial officers are usually required by Commerce's U.S. and Foreign Commercial Service. [A-13] [Note: This enforcement role contrasts with the export promotion role of the FCS as highlighted in the United States Government Manual of 1993/4; according to this manual, the Director General of the FCS...supports overseas trade promotion events; manages a variety of export promotion services and products; promotes U.S. products and services throughout the world market; conducts conferences.]" [A-14] "Our review of documentation sent in by exporters disclosed only a four percent compliance rate with that requirement. Commerce was not taking any action to contact exporters who failed to submit the required information. Commerce officials assure us that exporters have complied with conditions placed on licenses." [3] "Furthermore, not all licenses that required follow-up actions to monitor the conditions were included in Export Administration's tracking system. As a result, Export Administration's management does not have reasonable assurance that the exporters have complied with conditions placed on licenses." [A-2] [A-10] "...Export Administration officials do not have reasonable assurance that the exporters have complied with conditions placed on licenses. Equally troubling is the likelihood that a substantial number of license conditions required for follow up are not even in the tracking system." [A-12] "In response to Commerce IG concerns about the lack of follow-up on license conditions, Commerce licensing officials expressed concern that they did not have the needed resources to follow up on all conditions as the report suggests inasmuch as 100 percent auditing is extremely difficult and not cost effective." [A-12] "Although there are currently 36 standard conditions [applied to licenses], only 11 require verification by the exporter of Commerce. Commerce's own verification procedures demonstrate that this system and provides misleading information regarding export licensing. The State IG found that the State Department's Blue Lantern responsibility. In response to a Blue Lantern request, Customs officials most often relay the request to the State Department, who would then investigate the transaction and inform U.S. Customs of the result." [D-15] ACCOUNTABILITY "ECOD personnel could not provide us documentation that they followed the written procedures in the EAR, NNP, and Energy guidelines regarding export licensing activities. [C-20] "While we found no evidence of inappropriate or incorrect recommendations by Energy, the Export Control Operation Division does not retain records to show the basis for its advice, recommendations, or decisions or its justification for placing commodities to the lists of controlled commodities. The division is therefore not in compliance with certain provisions of the Export Administration Act of 1979...and with records management directives from Energy. As a result, it was not possible to determine the extent to which Energy used the criteria in the Export Administration Regulations and the Nuclear Non-Proliferation Act of 1978 in making licensing recommendations. In addition, the Export Control Operation Division did not have current written procedures for processing export licenses. [C-18] "The Commerce IG investigators...be ineffective. The records [in the Export Information System (EIS)] lack certain required information. Specifically, the EIS did not contain information concerning the 'factual and analytical bases' for Energy's advice, recommendations, or decisions regarding export cases. We...found that the EIS did not have current written procedures for processing export cases." [C-15] "An ECOD [Energy] export control analyst said that he destroyed paper copies of information that he received or wrote pertaining to export cases...He also said that he lacked the time and space to file and retain documents regarding the cases. The IG found that technical changes were examples of paper records that he destroyed." [C-16] We could not conclusively determine if the ECOD export control analysts used the Part 778.4 factors in their review of export cases. ECOD analysts said that they had no records to document that they applied the Part 778.4 factors to their analyses in determining the significance of the commodities for nuclear explosive purposes. One ECOD export control analyst said that, although he considered the factors in determining export classification, he did not record the thought process that he used in making his determination. [C-18] "We also could not determine conclusively if the Energy national laboratories considered the Part 778.4 factors in reviewing export cases....According to an ECOD export control analyst, the laboratories are not required to address the Part 778.4 factors for their technical reviews of export cases....Laboratory officials told us that the ECOD reviewed the export factors in Part 778.4 of the EAR to review the cases...Personnel at two of the three Energy national laboratories that we visited said that they did not retain documentation regarding the bases of the advice and recommendations that they provided to the ECOD on export cases." [C-19]
"We could not conclusively determine if ECOD personnel considered the NNPA criteria in their decisions to refer export cases to the SNEC. Based on a limited review of records in the EIS, we determined that the EIS file records regarding the factual or analytical bases for recommendations to refer export cases to the SNEC. The ECOD Export Control Supervisor said that he made determinations whether the case should be referred to the SNEC by applying the criteria cited above . . . He said that no record was generated by the EIS regarding his referral for the SNEC and that he made no paper copy of his analysis." [C±19]

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

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

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

"We also sent a letter to provide specific documents [e.g., memos pertaining to letters delegating review authority, National Security Directive 3 on procedures for processing cases, and the latest revisions of commodity control lists] that, in our opinion, should have been retained in accordance with the provisions of the EAA . . . [several] "could not be produced by ECOD personnel from their records." [C±16]

"We could not determine the degree of compliance by Energy with the export licensing criteria contained in the Export Administration Regulations (EAR) and the Nuclear Non-Proliferation Act of 1978 (NNPA) because the Export Control Operations Division (ECOD) did not maintain records documenting the bases for its advice and recommendations on export cases." [C±18]

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

"[Commerce IG found that] Commerce does not maintain sufficient documentation for the ECOD personnel regarding the factual or analytical bases for recommendations to refer export cases to the SNEC. As a result, audit trails for the actions taken on applications are often incomplete." [A±1]

"We found that Commerce does not maintain sufficient documentation to provide a reliable audit trail of the actions taken on applications." [A±8]

"The computer record of the application is sometimes changed by Export Administration during the review process; there may be valid reasons for these changes, the current documentation of the process does not provide a reliable record of who made these changes and when they were made. There is no permanent record of what changes were made or why they were made, regardless of daily transactions by Export Administration officials." [A±8]

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

WEAKNESSES IN THE LAWS AND REGULATIONS

"While the Export Administration Act gives decision-making authority for dual-use license applications to Commerce and seems to encourage that this be done with limited referral (¶ 3.10) to other agencies, certain sections of the act impact on this authority. At best, the statute is somewhat ambiguous . . . we recommend that the respective roles of the various agencies involved in the dual-use export licensing process be clarified in reauthorizing the Export Administration Act." [6]

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

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

"Part 778.4 of the EAR does not specifically direct Energy to consider these factors . . . The statute is somewhat ambiguous . . . we recommend that the respective roles of the various agencies involved in the dual-use export licensing process be clarified in reauthorizing the Export Administration Act." [C±18]

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

"After reviewing deficiencies in Energy's use of intelligence information in reviewing licenses at Energy Headquarters, the Energy IG report concluded that "if AN [Energy's export license office] were reducing its emphasis on intelligence in reviewing export cases, we believe that AN management should clearly state this policy." [C±29]
testing of nuclear weapons or production of special nuclear materials." [29] "The decision to approve the grinding machines, valued at $1.5 million, came after the SNEC had recommended denial of less valuable NRL licenses. [30] The U.S. had recommended denial of these licenses on grounds that there was an unacceptable risk of diversion to nuclear proliferation activities. [31] The U.S. had approved dual-use licenses during this period, denied 1.5 percent, and returned 8.9 percent without action." [32]

Of the 92 categories of items listed in the Export Administration Regulations since fiscal year 1985 as controlled for nuclear proliferation reasons, 59 were licensed to Special Country List destinations involved in nuclear proliferation activities. [20] These cases involved a flash X-ray system going to an "end user suspected of developing nuclear weapons detonation. According to Energy of- ficials, these items are in greater demand than the rest of the NRL because they have the potential for non proliferation use. [30] NRTL items with relatively few nonnuclear uses were approved in small numbers or not at all, especially to Special Country List destinations." [20]

"The NRL items most commonly licensed have a variety of applications for nuclear weapons development, including weapons testing, uranium enrichment (isotopic separa- tion, in licenses for nuclear enrichment development, and weapons detonation. According to Energy of- ficials, these items are in greater demand than the rest of the NRL because they have the potential for non proliferation use. [17] NRTL items with relatively few nonnuclear uses were approved in small numbers or not at all, especially to Special Country List destinations." [20]

Licensing Procedures and Policies

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

"[From fiscal years 1988 to 1992], Energy did not forward to the Subgroup on Nuclear Export Coordination about 80 percent of the licenses it received from Commerce for end users of nuclear proliferation concern...[including goods] inten- ded for end users suspected of developing nuclear explosives or special nuclear mate- rials. Because of these developments, the Commerce Department did not always send to Energy all those licenses requiring referral and that Energy recommended approval of a majority of them. In addition, Commerce also approved without Energy consultation numerous licenses for other items going to end users engaged in nuclear weapons activities without submitting them to interagency review." [33]

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"...Defense and Arms Control and Disarmament Agency representatives to the Sub-Group identified a number of licenses that they believed warranted interagency review but were not placed on the Subgroup's agenda.\[33\] Defense and ACDA officials stated that not all nuclear-related dual-use licenses could be of concern to various SNEC agencies are being referred to the Sub-Group. Defense and ACDA officials said they have only a limited ability to hold Energy accountable for its licensing recommendations because they lack access to licensing information on licenses approved without SNEC review since October 1991.\[41\]

From fiscal years 1988 to 1992, "Energy referred 26 percent of its dual-use license applications it received from Commerce for end users listed as sensitive on its Nuclear Proliferation Watch List. Of the license applications, Energy, Commerce, and ACDA were ultimately approved, less than 1 percent were denied, and the remainder were generally returned without action."\[39\]

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

GAO found that about 39 percent of nuclear-related dual-use items "or even distinguish the relative importance of items having uses in nuclear, chemical, or biological proliferation or missile technology applications."\[48\] GAO found that Commerce has developed specific guidance for conducting nuclear-related dual-use inspections.

"According to State, Defense, and ACDA officials, SNEC is not able to provide an assessment of the end user's reliability; and 'U.S. embassy and consulate officials have not been provided access to end-user facilities.' GAO found that "without such expertise and training, it is difficult for them [inspectors] to effectively determine the potential for diverting these items to a nuclear weapons program."\[52\] GAO also found that "Embassy officials do not always report on the reliability of end user involvement by Commerce for end use control."

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

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GAO found that "Embassy officials in some countries have difficulty obtaining immediate access to foreign facilities or cannot obtain access at all because the host government is sensitive about inspections infringing on its sovereignty." GAO cited India and Germany as two such countries.
According to U.S. officials, there is no evidence of cases where end-use assurances have been violated; however, officials also said there is no systematic effort to verify compliance with such assurances because they constitute an official commitment of foreign governments. According to State Department officials, most end-use assurances have no provisions for verifying compliance.  

Second, downgrading the position sends a message that we are not serious about fighting terrorism and that we don’t consider it a priority. What will the terrorists think if we downgrade an office designed to thwart their attacks on American targets? I think they will become emboldened. This move cannot have a positive effect on our counter-terrorism efforts.

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

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

The 1990 report of the Chairman of the Senate Committee on Foreign Relations, following the bombing of Pan Am Flight 103, called for the creation of such a position. Interestingly, four former counter-terrorism and international narcotics control officials, in a letter to me begged, “Don’t gut our counter-terrorism capability.”

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

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

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

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

SEC. 1. COORDINATOR FOR COUNTER-TERRORISM.

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

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

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

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

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

By Mr. D’AMATO (for himself, Mr. CONRAD, Mr. DORGAN, Mrs. KASSEBAUM, and Mr. BAUCUS):

S. 104

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

THE COORDINATOR FOR COUNTER-TERRORISM
POSITION ACT OF 1995

Mr. D’AMATO. Mr. President, I introduce a bill to permanently establish by statute the position of the Coordinator of Counter-Terrorism within the office of the Secretary of State. If the State Department had its way it would downgrade the day-to-day responsibilities of the office, from an Assistant Secretary to an Associate Director. I am pleased that my colleague from New York, Representative Ben Gilman will be introducing identical legislation in the House of Representatives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. 104

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

SECTION 1. COORDINATOR FOR COUNTER-TERRORISM.

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

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

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

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

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

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

S. 105

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

THE SPECIAL USE VALUATION FOR FAMILY FARMS ACT OF 1995

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

Section 2032A, which bases the estate tax applicable to a family farm on its
use as a farm, rather than on its mar-
ket value, reflects the intent of Con-
gress to help families keep their farms. A
family that worked hard to maintain a farm should not have to sell it to a third party solely to pay stiff es-
tate taxes resulting from increases in the value of the land. Under section 2032A, inheriting family members are required to continue farming the prop-
erty for at least 15 years. In other cases, the IRS might avoid having the IRS “recapture” the tax savings.

At the time section 2032A was en-
acted, it was common practice for one or more family members to cash lease the farm from the other members of the family. This practice made sense where one family member was more in-
volved than the other family members in the day-to-day farming of the land. Typically, however, the other family members would continue to be at risk as to the value of the farm and to par-
ticipate in decisions affecting the farm’s operations. Cash leasing among family members remained a common practice after the enactment of section 2032A. An inheriting child would cash lease from his or her siblings, with no reason to expect a change in the IRS’s position. This practice might jeopardize the farm’s qualification for special use valuation.

Based at least in part on some lan-
guage that I am told was included in a
Joint Committee on Taxation publica-
tion in early 1992, the Internal Revenue Service has taken the position that cash leasing among family members will disqualify the farm for special use valuation. The matter has since been the subject of numerous audits and some litigation, though potentially hundreds of family farmers may yet be unaware of the change in events. Cases continue to arise under this provision.

In 1988, Congress provided partial clarification of this issue for surviving spouses who cash lease to their chil-
dren. Due to revenue concerns, how-
ever, the language that was made part of the situation where surviving children cash lease among themselves.

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

A case that arose in my State of South Dakota illustrates the unfairness and devastating impact of the IRS interpretation of section 2032A. Janet Kretschmar, who lives with her hus-
band, Craig, in Cresbard, SD, inherited her mother’s farm along with her two sis-
ters in 1980. Because the property would continue to be farmed by the family members, estate taxes were paid on it pursuant to section 2032A, saving over $50,000 in estate tax. Janet and Craig continued to farm the land and have primary responsibility for its day-to-day operation. They set up a simple and straightforward ar-
rangement with the other two sisters wherein Janet and Craig would lease the sisters’ interests from them.

Seven years later, the IRS told the
Kretschmars that the cash lease ar-
rangement was not qualified for special use valuation and that they owed $54,000 to the IRS. According to the IRS, this amount represented es-
tate tax that was being “recaptured” as a result of the disqualification. This came as an enormous surprise to the Kretschmars, as they had never been notified of the change in interpretation of the law and had no reason to believe that their arrangement would no longer be held valid by the IRS for purposes of qualifying for special use valuation. The fact is that, if they had known this, they would have organized their affairs in one of several other ac-
teptable, though more complicated,
ways.

For many years, I have sought inclu-
sion in tax legislation of a provision that would clarify that cash leasing among family members will not dis-
qualify the property for special use valuation. In 1992, such a provision was successfully included in H.R. 11, the Revenue Act of 1992 and passed by Con-
gress. Unfortunately, H.R. 11 was sub-
sequently vetoed.

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

I must emphasize that there may be an additional concern. Some agri-
cultural states where families are cash leasing the family farm among each other un-
aware that the IRS could come knock-
ing at their door at any minute. I urge my colleagues in the Senate who may have such cases in their State to work with us and support this important clarification of the law.

I intend to request the Joint Com-
mittee on Taxation to estimate the re-
venue impact of this proposal. At a
proper time thereafter, I will rec-
ommend any necessary offsets over a 10-year period as required by the Budg-
et Act.

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

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

S. 105

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

The deduction for charitable use of passenger automobiles (IRC § 274(a)(4)).

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

Many individuals who volunteer for charitable organizations incur out-of-
pocket expenses that are not reim-
bursed by the charity. One such ex-
 pense occurs when an individual uses his or her own car to carry out chari-
table purpose activities. Examples of this are when an individual provides transportation to a hospital for veter-
ans, delivers meals to the homeless or elderly on behalf of a charity, or trans-
ports children to scouting and other youth activities.

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

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

Unfortunately, due to an anomaly in the tax code, the Secretary of the Treasury does not have the authority to make corresponding increases in the
standard mileage rate for charitable use of one's vehicle. Thus, the standard charitable mileage rate remains today at 12 cents per mile. The legislation I am introducing, which is identical to bills I have introduced in previous Congresses on this matter, would address this inconsistency. First, it would allow the Secretary of the Treasury to increase the standard charitable mileage expense deduction rate to 16 cents per mile. This would restore the ratio that existed in 1984 between the charitable mileage rate and the business mileage rate.

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

In 1983, the Joint Committee on Taxation estimated the cost of this proposal at $327 million over a five-year period. This amount is not insignificant despite the merits of this measure. Therefore, at an appropriate time, I intend to recommend offsets for the proposal over a ten-year period as required by the Budget Act.

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

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

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

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

S. 107

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

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

(a) In General. Subsection (i) of section 170 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

"(c) Standard Mileage Rate for Use of Passenger Automobile.--

"(1) General Rule. Except as provided in paragraph (2), for purposes of computing the deduction under this section for use of passenger automobile, the standard mileage rate shall be 16 cents per mile.

"(2) Taxable Years Beginning After 1994.--Not later than December 15 of 1995, and each subsequent year, the Secretary may prescribe an increase in the standard mileage rate allowed under this section with respect to taxable years beginning in that calendar year.

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

By Mr. DASCHLE:

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

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

In the state of South Dakota, the Black Hills National Forest spreads over some 6,000 square miles. Many of my colleagues may be familiar with it. In this forest, there is a thriving logging industry that employs many South Dakotans. The logging companies that have operations there would not be able to do their business without the assistance of those who cut the logs and haul or "skid" them to the trucks on which they are carried to the mill. These workers--"cutters" and "skidders," and the contractors who employ them, are collectively referred to as "loggers."

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

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

Despite this 6,000-square-mile stretch of forest, IRS has said that loggers cannot deduct the cost of driving their own vehicles to work each day. Loggers criticized the IRS's ruling. They pointed out that the average commuter makes a much shorter and more direct trip from home to work than do loggers, and that the IRS scheme of what we do here in the Senate, it would restore a measure of fairness to loggers who currently are subject to the IRS's whims.

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

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

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

S. 107

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

SECTION 1. GENERAL. Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (a) as subsection (b) and inserting after subsection (a) the following new subsection:

"(c) Special Travel Expense Rules for Loggers. --(1) In General. Notwithstanding subsection (a) and section 262, in the case of an individual, there shall be allowed as a deduction under this section an amount equal to the travel expenses of such individual in connection with the trade or business of logging (including the miles to and from such individual's home).

"(2) Trade or Business of Logging. --For purposes of this section, the term 'trade or business of logging' means the trade or business of the cutting and skidding of timber.

"(b) Effective Date. The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1994.
By Mr. DASCHLE (for himself and Mr. JEFFORDS):

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


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

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

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

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

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

The need to slow the detrimental effects on our environment of traditional sources of energy is as important as energy supply and security. Renewable energy sources are the answer to this need. I have often spoken on the merits of alcohol fuels in this regard. Solar and geothermal energy have similar potential for the environment. For example, in the solar mode of operation, solar technology has no combustion-related emissions at all. Even when using back-up fossil fuel to assure reliability, present generation solar technology produces far less carbon dioxide than natural gas, fossil fuel alternative. Geothermal plants also emit substantially less carbon dioxide than gas, oil, or coal-fired plants for the same electrical output.

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

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

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

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

S. 108

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

SECTION 1. CHANGES RELATING TO ENERGY CREDIT.

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

(1) Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended—

(A) by striking in the matter before paragraph (1) "paragraph (e)" and all that follows thereafter and inserting "paragraph (a)";

(B) by inserting before paragraph (1) the following paragraph:

"(e) Limitation on capital gains tax credit.—(1) In general. ÐThe credit allowed under subsection (a) for the taxable year is limited to the lesser of—

(A) the credit allowed under subsection (a) for the taxable year, or

(B) $10,000."

(2) Section 38(c) of such Code is amended by adding after "or the amount of the credit under subsection (a)

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

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

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


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

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

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

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

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

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

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

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

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

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

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

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

S. 109

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

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

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

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

and

(2) by inserting “, flood, or other weather-related conditions” after “drought” in the subsection.

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

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

(2) by inserting “, flood, or other weather-related conditions” after “drought” in the subsection heading.

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

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

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

THE TAX TREATMENT OF CROP DISASTER ASSISTANCE ACT OF 1995

Mr. DASCHLE. Mr. President, I am introducing legislation today to address the problems farmers have experienced in filing and paying taxes on proceeds from livestock sold because of drought, flood, or other weather-related conditions.

This would conform the treatment of livestock due to flooding and other circumstances had occurred.

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

The legislation we are introducing today would simply permit section 451(d) to operate in either direction, so long as the farmer recognizes the disaster payment in the year in which he would otherwise have recognized the income from the crops that were destroyed.

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

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

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

It is my intention to pursue passage of this measure at the earliest opportunity this year. I am joined by my distinguished colleagues in the Senate and I, as well as many members of the House of Representatives, introduced similar legislation to amend the Tax Code to provide them the option to go back and increase their 1993 disaster payments, this legislation would provide them the option to go back and amend their 1993 returns. Moreover, the measure is prospective, as it is nonetheless important to ensure fairness to farmers who suffer crop damage as result of future disasters.

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

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

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The legislation we are introducing today would simply permit section 451(d) to operate in either direction, so long as the farmer recognizes the disaster payment in the year in which he would otherwise have recognized the income from the crops that were destroyed.
income from such crops involved would have been reported in the taxable year of destruction or damage. 

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

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

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

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

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

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

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

S. 112. A bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs; to the Committee on Finance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. 112

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

(a) DEDUCTION MADE PERMANENT.—

(1) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6) and inserting—

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

(b) INCREASE IN AMOUNT.—

(1) IN GENERAL.—Paragraph (1) of section 162(l) of such Code is amended by striking "25 percent of " and inserting "100 percent of ".

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

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

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

THE TAX TREATMENT OF TELEPHONE COOPERATIVES ACT OF 1995

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

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

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

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

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

Under Internal Revenue Code section 501(c)(12), a telephone cooperative qualifies for tax exemption only if at least 85 percent of its gross income consists of amounts collected from members for the sole purpose of meeting losses and expenses. Thus, the bulk of the revenues must be related to providing services needed by members of the cooperative, not to serving rural consumers. No more than 15 percent of the cooperative’s gross income may come from non-member sources, such as property rentals or interest earned on funds on deposit in a bank. For purposes of the 85 percent test, certain
A Technical Advice Memorandum (TAM) released by the Internal Revenue Service three years ago to change the way telephone cooperatives characterize certain expenses for purposes of the 85 percent test. If the rationale set forth in the TAM is applied to all telephone cooperatives, the majority could lose their tax-exempt status.

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

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

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

Ensuring that telephone cooperatives may retain their legitimate tax-exempt status is one vital step we can take. I believe that providing access to customers for long distance calls and billing and collecting for those calls on behalf of the cooperative's members and the long distance companies are indisputably part of the exempt function of providing telephone service, especially to rural communities. The nature and function of telephone cooperatives is to serve the public at large and are excluded from the calculation since 1916, and neither should the formula upon which they rely to obtain tax-exempt status.

In the 103rd Congress, the Joint Committee on Taxation estimated the cost of this legislation to be $59 million over a 5-year period. At the appropriate time, I will recommend appropriate offsets to cover the cost of this measure over the 10-year period required under the Budget Act.
The Municipal Securities Disclosure Act of 1995. This bill would give the Securities and Exchange Commission (SEC) the authority to require registration and disclosure by municipalities that issue securities. This bill will ensure that municipal securities investors are provided with more complete and comprehensive information by issuers and their interests and obligations. The recent events in Orange County underscore the importance of providing municipal bond purchasers with this complete and comprehensive information.

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

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

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

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

Corporations must register with the SEC and comply with a range of disclosure obligations. They must disclose detailed information about the company’s business, management, debts and assets. A company must disclose information about its other securities and information about legal proceedings in which it may be involved. A company must also meet standards for accuracy in reporting financial data. The company’s books must be submitted to independent accountants and this information must be supplied in the formal filing process.

To protect investors and ensure a sound municipal securities system, municipal issuers must be subject to a similar disclosure regime. Comprehensive and accurate disclosure by issuers on an initial and ongoing basis is critical to investors in assessing prices at the offering, in making decisions as to which bonds to buy, and in deciding when to get out. The recent events on Orange County are an illustration of the kinds of disclosure problems that a municipal securities investor faces. It is unclear whether purchasers of bonds issued by Orange County or other governmental entities who had invested in the Orange County investment fund knew of the fact that the Orange County investment fund was experiencing serious losses. It is not clear whether they knew of the fund’s investments in complex derivatives. It is not clear whether they knew of the risks of the fund’s highly leveraged investment strategy were disclosed. What is clear is that the SEC was not given the opportunity to review offerings before sale to the public in order to raise appropriate questions or solicit more information.

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

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

I ask unanimous consent that the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

**S 114**

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

THE MUNICIPAL SECURITIES DISCLOSURE ACT OF 1995

Mrs. BOXER. Mr. President, I am introducing today The Municipal Securities Disclosure Act of 1995, which would give the SEC the flexibility and authority to require registration by municipal issuers and disclosure of relevant information. This legislation does not dictate what municipalities must disclose, but rather, it grants the SEC the power to be employed with the proper and appropriate scope.
SEC. 2. MUNICIPAL SECURITIES TREATMENT UNDER SECURITIES EXCHANGE ACT OF 1934.

(a) EXEMPTION AUTHORITY.—Section 3(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78b) is amended by adding at the end the following:

"(b) AMENDMENT TO DEFINITION OF "EXEMPTED SECURITY".—Section 3(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking clause (ii);

(B) by redesignating clauses (iii) through (v) as clauses (ii) through (iv), respectively; and

(2) in subparagraph (B)—

(A) by striking clause (ii); and

(B) by striking clause (iii)."

(b) AMENDMENT TO SECT. 2. MUNICIPAL SECURITIES TREATMENT UNDER SECURITIES EXCHANGE ACT OF 1934.

(a) REPEAL OF EXEMPTION FOR MUNICIPAL SECURITIES.—Section 3(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(a)(2)) is amended in the first sentence—

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

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

(b) AMENDMENT TO SECT. 3. MUNICIPAL SECURITIES EXEMPTION.—Section 3 of the Securities Act of 1933 (15 U.S.C. 77c) is amended by adding at the end the following new subsection:

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

SEC. 3. EFFECTIVE DATE.

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

SEC. 4. FUNDING.

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

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

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

THE COLONIAL PARKWAY ACT OF 1995

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

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

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

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

York County has the personnel, the expertise, and the equipment to better administer, maintain, and operate the sewer systems than National Park Service staff. Negotiations to transfer the Yorktown and Moore House sewer systems have been ongoing since the 1970s when York County took over operation of the Yorktown system through written agreement between York County and the National Park Service and a grant of approximately $72,500 to improve the Yorktown system.

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

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

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

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

The Colonial Parkway was authorized by Congress as part of Colonial National Historical Park in the 1930's to connect Jamestown, Williamsburg, and Yorktown with a scenic limited-access motor road. According to the 1980 Act of Congress, the parkway corridor is to be an average of 500 feet in width, and in most areas the roadway was built in the middle of this corridor. In the area between Mill Creek and Neck O'Land Road, however, the parkway was built closer to the northern boundary to avoid wetlands, placing the roadway very close to the adjoining private property in that location.

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

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

By Mr. WELLSTONE;

S. 116. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to prohibit participation in Federal elections by multicandidate political committees, to establish a 100-to-1 match for contributions to candidates, and for other purposes; to the Committee on Governmental Affairs.

SENATE FAIR ELECTIONS AND GRASSROOTS DEMOCRACY ACT

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

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

Mr. WELLSTONE. Mr. President, as the 104th Congress begins today, I am reintroducing two key pieces of reform legislation that I had pushed hard to get enacted during the last Congress. The first is a bill which I believe should serve as a benchmark for profound and far-reaching reform of the way we finance our election campaigns here in Congress. According to the Federal
Election Commission, House and Senate candidates spent a record $589.5 million on their 1994 campaigns through November 28. Final totals for the 1994 elections will be available next month, and are expected to be much higher. This out-of-control spending must be controlled, and thorough reform is needed to restore confidence in the political system and rid it of the influence special interests. This will require that the lobbying and gift ban bill is enacted into law as a part of the Congressional Accountability Act to be considered by the Senate later this year.

This year’s election returns sent a signal to Congress loud and clear: Americans want us to clean up the political system, and rid it of the influence special interests. They wrote to me that these huge amounts of money and special interest perks have an effect on the decisionmaking process here in Washington, because they give special access and undue influence to those who support and provide contributions to Members of Congress. They believe that these people are not being truly representative of the American people. They are demanding for years—especially in a reform culture which reduces the influence of special interests, it would be bitterly ironic if we voted to exempt ourselves from conflict-of-interest gift rules under which the executive branch has lived for years—especially in a reform bill which extends many Federal laws to Congress. There is no way to justify that kind of exemption. That is why we must include the gift ban in the congressional coverage bill.

The same kind of Republican opposition to and obstruction of the reform bill would also have blocked finance reform. Last year, after long and hard-fought battles in both the House and Senate, our Republican colleagues killed a compromise proposal that had been made by the Democratic House-Senate leadership, refusing even to allow a formal House-Senate conference to meet and discuss the measure.

While I had hoped for even more far-reaching reforms than were contained in that compromise proposal, I was pleased and encouraged that those who had presented themselves to the American people as reformers of the political system were able to block real reform in the form of campaign finance reform legislation—and to get away with it. Let us make one thing crystal clear: more than any of the institutional changes being proposed—some cosmetic, some real—in congressional caucuses, committees, congressional staff, and the like, efforts to combat special interest influence in the form of real campaign finance and lobby reform are what would really change the way business is done here in Washington.

But these reforms are being resisted by the Republican congressional leadership; in fact they apparently will be defeated. They will accept these immediate steps to limit the influence of wealthy special interests in the legislative process. This year, while the new majority leader and others in the House Republican leadership have made it clear that campaign finance reform is not on their agenda for this Congress, I want to make it equally clear that it will be at the top of the Democratic agenda. They have said political reform is off the table. I am going to ensure it gets back on the table—and stay there.

That is why today I am re-introducing the Senate Fair Elections and Grassroots Democracy Act of 1995, legislation which I believe should serve as a benchmark for true campaign finance reform for U.S. Senate campaigns.

I am working on this bill, I had hoped for more far-reaching reforms than were contained in that compromise proposal, I was pleased and encouraged that those who had presented themselves to the American people as reformers of the political system were able to block real reform in the form of campaign finance reform legislation—and to get away with it. Let us make one thing crystal clear: more than any of the institutional changes being proposed—some cosmetic, some real—in congressional caucuses, committees, congressional staff, and the like, efforts to combat special interest influence in the form of real campaign finance and lobby reform are what would really change the way business is done here in Washington.

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money being poured into congressional campaigns from special interests.

Perhaps nowhere can the confluence between moneyed special interests and the legislative process be demonstrated more starkly than in the widely reported upon threats by the new House leadership to the corporate PAC’s and other special interests here in Washington: pony up now before the elections with your huge contributions, or you will be iced out of the legislative process. For those PAC directors who refused to contribute to Republican coffers, there was a promise of two long, cold years. That, Mr. President, perhaps more than any other single recent event, reveals the breathtaking hypocrisy of these so-called reformers. That the incoming House leadership would publicly threaten PAC directors and others with retribution or retaliation through the lawmaking process is unprecedented, and signals how far down the road of special interest control we have come. And how desperately the system cries out for reform.

And what should be our measure of true reform? The essential standard of a truly representative democracy is this: every person should count as one, and no more than one. I believe my bill squarely meets that standard. For years, Americans have pressed for a complete overhaul of the way we finance and conduct Federal elections—not a set of modest, incremental changes. People feel ripped off by our political system, unprecedented, angry, and frustrated by gridlock. They are demanding change, we have promised change, and I intend to do whatever I can to ensure that the Senate delivers on that promise.

They know that without real campaign reform, attempts to restructure America’s health care system, create jobs and rebuild our cities, reduce defense spending, and solve other pressing problems will remain frustrated by the pressures of special interest, big-money politics. And they know that too often, their families get outbid in the bidding wars over Federal tax breaks that we seem to be about to em-bark upon, with virtually all of the tax benefits going to wealthy individuals with large stock portfolios, and wealthy corporations.

The American people have demanded fundamental political reform, and they deserve it. If we in the Congress are to earn back the trust of the American people, we must enact sweeping reform now.

The Senate Fair Elections and Grassroots Democracy Act provides for individual limits of $100 on contributions to Senate candidates, a total ban on Political Action Committee (PAC) contributions, lower spending limits than in last year’s S. 3 based on State voting-age population, a 90 percent reduction in the amount wealthy candidates can choose to fund their own campaigns, to eliminate the problem of candidates spending millions of their own money to buy seats in Congress, a prohibition on soft money, plus free broadcast time, reduced mail rates for eligible candidates and prohibitions of contributions from certain lobbyists—all within a comprehensive system of voluntary public financing of primary and general Senate campaigns patterned after the Presidential system. I believe these elements are key to true reform.

This is the best time in two decades for fundamental reform, despite Republican attempts to sweep these much-needed changes under the rug. We must restore the basic democratic principle of one person, one vote by enacting true campaign and lobbyist ban outright the practice of Members of Congress being lavished with gifts and other perks and special favors from lobbyists. I urge my colleagues to support these bills. I ask unanimous consent that summaries of my comprehensive campaign finance reform bill, and of the lobbyist gift ban provisions from last year’s conference report after which my bill is patterned, be printed in the RECORD at the end of my statement, and in addition, that a copy of a letter from Fred Wertheimer, executive director of Common Cause, to all Members of the Senate urging the prompt passage of these important reforms in both the House and the Senate be printed because I think it speaks to all of us about the need for strong campaign reform and lobbyist gift ban legislation. I ask further unanimous consent that a copy of my gift rule amendment, and the copy of my gift ban bill be printed in the RECORD following my statement.

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

Sec. 1. Short title; amendment of Campaign Act; table of contents.
(a) SHORT TITLE.ÐThis Act may be cited as the “Senate Fair Elections and Grassroots Democracy Act of 1995”.

(b) AMENDMENT OF FECA.ÐWhen used in this Act, the term “FECA” means the Federal Election Campaign Act of 1971 (2 U.S.C. 301 et seq.).

(c) TABLE OF CONTENTS.—
Sec. 1. Short title; amendment of Campaign Act; table of contents.
Sec. 2. Findings and declarations of the Senate.
TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING
Subtitle A—Senate Election Campaign Spending Limit and Benefits
Sec. 101. Senate spending limits and benefits.
Sec. 102. Ban on activities of political action committees in Federal elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by noneligible candidates.
Sec. 105. Federal broadcast time.
Subtitle B—General Provisions
Sec. 131. Extension of reduced third-class mailing rates to eligible Senate candidates.
Sec. 132. Reporting requirements for certain independent expenditures.
Sec. 133. Campaign advertising amendments.
Sec. 134. Definitions.
Sec. 135. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES
Sec. 201. Clarification of definitions relating to independent expenditures.

Sec. 301. Personal contributions and loans.
Sec. 302. Extensions of certain provisions.
Subtitle B—Provisions Relating to Soft Money of Political Parties
Sec. 311. Contributions to political party committees for grassroots Federal election campaign activities.
Sec. 312. Provisions relating to national, State, and local party committees.
Sec. 313. Restrictions on fundraising by candidates and officeholders.
Sec. 314. Reporting requirements.
Sec. 315. Limitations on combined political activities of political committees of political parties.

TITLE III—EXPENDITURES
Sec. 401. Reduction of contribution limits.
Sec. 402. Contributions through intermediaries and conduits; prohibition of certain contributions by lobbyists.
Sec. 403. Contributions by dependents not of voting age.
Sec. 404. Contribution to candidates from State and local committees of political parties to be aggregated.
Sec. 405. Limited exclusion of advances by campaign workers from the definition of the term “contribution”.

TITLE IV—CONTRIBUTIONS
Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 502. Personal and consulting services.
Sec. 503. Reduction in threshold for reporting of certain information by persons other than political committees.
Sec. 504. Computerized indices of contributions.

TITLE V—PRESIDENTIAL DEBATES
Sec. 601. Findings and purposes.
Sec. 602. Presidential and vice presidential candidate debates.

TITLE VII—MISCELLANEOUS
Sec. 701. Prohibition of leadership committees.
Sec. 702. Polling data contributed to candidates.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS
Sec. 801. Effective date.
Sec. 802. Sense of the Senate regarding funding of Senate Election Campaign Fund.
Sec. 803. Severability.
Sec. 804. Expedited review of constitutional issues.

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.
(a) Necessity for Spending Limits.—The Senate finds and declares that—
(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;
(2) permitting candidates for Federal office to raise and spend unlimited amounts of
money constitutes a fundamental flaw in the current system of campaign finance. It has undermined public respect for the Congress as an institution and has given large private contributors undue influence with respect to public policy and the Congress;
(3) the failure to limit campaign expenditures has driven up the cost of election campaigns and made it difficult for qualified candidates without personal fortunes or access to large contributors to mount competitive congressional campaigns;
(4) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns;
(5) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system that provides substantial public benefits to candidates who agree to limit campaign expenditures; and
(6) serious and thoroughgoing reform of Federal election law that imposes strict new rules and limits on campaign contributions would severely undermine the efficiencies of the candidate's State;
(7) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns;
(8) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns; and
(9) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns; and

TITLE I--CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING
Subtitle A--Senate Election Campaign Spending Limits and Benefits
SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.
(a) IN GENERAL.--FEC is amended by adding at the end the following new title:

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Title V--Expenditure Limits and Benefits for Senate Election Campaigns

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Sec. 501. Eligibility.
(a) IN GENERAL.--For purposes of this title, a candidate is an eligible Senate candidate if--
(1) the candidate and the candidate's authorized committees cooperate in the case of
(b) PRIMARY ELECTION EXPENDITURE LIMITS.
(A) the candidate and the candidate's authorized committees cooperate in the case of

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Sec. 503. Expenditure Limits and Benefits for Senate Election Campaigns
(a) IN GENERAL.--For purposes of this title, a candidate is an eligible Senate candidate if--
(1) the candidate and the candidate's authorized committees cooperate in the case of

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Sec. 504. Access Requirements.
(a) GENERAL.--For purposes of this section, a 'candidate' means an individual who is seeking to become a candidate in a general election, the period beginning on January 1 of the calendar year preceding the calendar year of the general election and ending on the date on which a candidate submits a first request to receive benefits under section 503 or
(b) with respect to a candidate who is or who is seeking to become a candidate in a special election, the period beginning on the date the vacancy occurs in the office for which the election is held and ending on the date of the general election.

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Sec. 505. EXPENDITURE LIMITS.
(a) PERSONAL FUNDS EXPENDITURE LIMIT.
(1) IN GENERAL.--The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees from the sources described in paragraph (2).
(2) SOURCES.--A source is described in this paragraph if it is--
...
(2) $2,500,000.

(c) RUNOFF ELECTION EXPENDITURE LIMIT.—The expenditure limit applicable to an eligible Senate candidate is 20 percent of the general election expenditure limit.

(d) GENERAL ELECTION EXPENDITURE LIMIT.—

(1) IN GENERAL.—The general election expenditure limit applicable to an eligible Senate candidate is an amount equal to the lesser of—

(A) $4,500,000; or

(B) four times the amount of local income taxes paid by the candidate in a State that has no more than 1 television transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in the State.

(2) STATE WITH ONE TELEVISION TRANSMITTER.—The amount determined under paragraph (1) shall be reduced by—

(A) 25 cents multiplied by the voting age population in excess of 4,000,000; and

(B) 30 cents multiplied by the voting age population in excess of 4,000,000.

(3) IN GENERAL.—An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the primary election expenditure limit, general election expenditure limit for the purpose of maintaining a legal and accounting compliance fund, or general election expenditure limit for the purpose of making expenditures for Federal, State, or local income taxes with respect to the candidate's authorized committees.

(4) LEGAL AND ACCOUNTING COMPLIANCE FUND.—An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the primary election expenditure limit, general election expenditure limit for the purpose of maintaining a legal and accounting compliance fund, or general election expenditure limit for the purpose of making expenditures for Federal, State, or local income taxes with respect to the candidate's authorized committees.

(b) Raising aggregate contributions or makes or becomes obligated to make aggregate expenditures from such payments to defray expenditures needed for the purpose of making expenditures for Federal, State, or local income taxes with respect to the candidate's authorized committees.

(c) LIMIT. —The general election expenditure limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the primary election spending limit.

(2) MULTICANDIDATE POLITICAL COMMITTEE RUNOFF ELECTION EXPENDITURE LIMIT.—The multicandidate political committee runoff election expenditure limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the runoff election spending limit.

(3) PERIODS WHEN PROVISIONS ARE IN EFFECT.—This subsection and other provisions in this title relating to multicandidate political committees shall be of no effect except during any period in which those provisions are in effect under section 334.

(B) The amount of the contributions that may be accepted and expenditures that may be made pursuant to this paragraph shall not be taken into account in determining the general election expenditure limit applicable to the candidate under this title.

(2) IN GENERAL.—An eligible Senate candidate who receives payment for an independent expenditure amount under section 503(b)(1)(B) or an excess expenditure amount under section 503(b)(1)(C) may make expenditures from such payments to defray expenditures for the primary election, runoff election, or general election, respectively, without regard to the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit.

(3) INDEPENDENT EXPENDITURE AMOUNT AND EXCESS EXPENDITURE AMOUNT.—An eligible Senate candidate who receives payment under section 503(b)(1)(B) or an excess expenditure amount under section 503(b)(1)(C) may make expenditures from such payments to defray expenditures for the primary election, runoff election, or general election, respectively, without regard to the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit.

(4) UNMATCHED EXCESS EXPENDITURES.—

(A) An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the personal funds expenditure limit, primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit for the purpose of maintaining a legal and accounting compliance fund, or general election expenditure limit for the purpose of making expenditures for Federal, State, or local income taxes with respect to the candidate's authorized committees.

(B) An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the personal funds expenditure limit, primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit for the purpose of maintaining a legal and accounting compliance fund, or general election expenditure limit for the purpose of making expenditures for Federal, State, or local income taxes with respect to the candidate's authorized committees.

(5) INDEPENDENT EXPENDITURE AMOUNT.—

(A) An eligible Senate candidate who is an independent expenditure amount equal to the amount of contributions received by an independent expenditure amount under section 301(9)(B) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of those provisions, the base period shall be calendar year 1995.

(b) AMOUNT OF PAYMENTS.—For purposes of this title, the term 'expenditure' has the meaning stated in section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or the candidate's authorized committees, section 301(9) shall be applied without regard to clause (ii) or (vi) of section (a)(3).

SEC. 503. BENEFITS.

(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

(1) free broadcast time under title VI;

(2) the mailing rates provided in section 3653;

(3) the amounts determined under subsection (a)(3), the amounts determined under section 303(9)(B) shall be applied without regard to clause (ii) or (vi) of section (a)(3).

(b) IN GENERAL.—An eligible Senate candidate who is a major party candidate—

(1) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the primary election spending limit;

(2) during the runoff or general election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the primary election spending limit.
the candidate’s immediate family) in the aggregate amount of $100 or less, up to 50 percent of the primary election spending limit, the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the general election account, and

(ii) during the primary election period, an aggregate amount of $100 or less, up to 50 percent of the primary election expenditure limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the general election account, and

(iii) during the general election period, an aggregate amount of $100 or less, up to 50 percent of the general election expenditure limit.

(3) INDEPENDENT EXPENDITURE AMOUNT.—For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the primary election period, runoff election period, or general election period, respectively, by 1 or more persons in opposition to, or on behalf of, an opponent of an eligible Senate candidate of the candidate’s immediate family in the aggregate amount of $100 or less, up to 50 percent of the general election expenditure limit, less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election account.

(4) EXCESS EXPENDITURE AMOUNT.—For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

(A) In the case of an eligible Senate candidate of an eligible Senate candidate of major party who has an opponent in the primary election, runoff election, or general election, respectively, who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the primary expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to the sum of—

(i) if the excess equals or exceeds 133% percent of such limit, an amount equal to one-third of such limit;

(ii) if the excess equals or exceeds 133% percent of such limit, an amount equal to one-third of such limit; and

(iii) if the excess exceeds 133% percent of such limit, an amount equal to one-third of such limit;

(B) in the case of an eligible Senate candidate who is not a major party candidate—

(i) during the primary election period, an aggregate amount of $100 or less, up to 50 percent of the primary election expenditure limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the general election account, and

(ii) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate’s State (other than the candidate and members of the candidate’s immediate family) in the aggregate amount of $100 or less, up to 50 percent of the primary election expenditure limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the general election account, and

(iii) during the general election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate’s State (other than the candidate and members of the candidate’s immediate family) in the aggregate amount of $100 or less, up to 50 percent of the general election expenditure limit, less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election account.

(5) USE OF PAYMENTS.—Payments received by an eligible Senate candidate under subsection (a)(2), (a)(3), or (a)(4) shall be used to defray expenditures incurred with respect to the primary election period, runoff election period, and period for the candidate.

(6) PROHIBITED USE.—Payments received by an eligible Senate candidate under subsection (a)(2), (a)(3), or (a)(4) shall not be used—

(A) except as provided in subparagraph (D), to make any payments, directly or indirectly, to such candidate or to any member of the candidate’s immediate family;

(B) to make any expenditure other than expenditures to further the primary election, runoff election, or general election, or for such election in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to the amount of the excess expenditures, or

(C) to make any expenditures that constitute a violation of any law of the United States or of the State in which the expenditures are made; or

(D) subject to section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the primary election, runoff election, or general election of the candidate.

SEC. 505. CERTIFICATION BY COMMISSION.

(a) IN GENERAL.—The Commission shall certify to the Secretary of the Treasury the amount of benefits to which the candidate is entitled.

(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications, proceedings, and orders) under this Act made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Comptroller General of the United States or by the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a candidate, the Commission shall examine and audit the campaign accounts of all other candidates in the manner specified in this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a candidate, the Commission shall examine and audit the candidate’s campaign account to determine, among other things, whether such candidate has complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection.

(c) MISUSE OF BENEFITS.—If the Commission determines that a candidate failed to continue eligibility requirements of section 501 that the candidate was entitled, the Commission may assess a civil penalty against such candidate and such candidate shall pay an amount equal to the amount of such benefit.

(d) EXCESS EXPENDITURES; REVOCATION OF STATUS.—If the Commission determines that payments were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

(e) REVOCATION OF STATUS.—If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments received under this title.

(f) MISUSE OF BENEFITS.—If the Commission determines that a candidate has received benefits under this Act that the candidate was not entitled to, the Commission shall notify the candidate, and the candidate shall pay an amount equal to the amount of such benefit.
(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this title, or to include in any evidence, books, or information representation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an expenditure audit by the Commission under this title; or

(3) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

(3) in addition to the penalty provided by subparagraph (A), a person who accepts any kickback or illegal benefit in connection with any benefits received by an eligible Senate candidate pursuant to the provisions of this title, or received by the authorized committees of such a candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

SEC. 507. JUDICIAL REVIEW.

(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals to expeditiously take action on all petitions filed pursuant to this title.

(b) APPLICATION OF TITLE 5.—Chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning stated in section 551(3) of title 5, United States Code.

SEC. 508. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

(a) APPEARANCES.—The Commission may appear in and be heard in any action instituted under this section and section 507 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 53 of title 5, United States Code.

(b) INSTITUTION OF ACTIONS.—The Commission may, through attorneys and counsel described in subsection (a), institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

(c) INJUNCTIVE RELIEF.—The Commission may, through attorneys and counsel described in subsection (a), petition the courts of the United States for an injunctive relief as is appropriate in order to implement any provision of this title.

(d) APPEALS.—The Commission may, on behalf of the United States, appeal from, and to petition the Supreme Court for certiorari to review, judgments, or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

SEC. 509. REPORTS TO CONGRESS; REGULATIONS.

(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth

(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) REGULATIONS.—The Commission may prescribe such regulations, conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as it deems necessary to carry out its functions and duties under this title.

(c) STATEMENT TO SENATE.—Thirty days before prescribing a regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed regulation and containing a detailed explanation and justification of the regulation.

SEC. 510. PAYMENTS RELATING TO ELIGIBLE CANDIDATES.

(a) ESTABLISHMENT OF CAMPAIGN FUND.—

(1) IN GENERAL.—There is established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

(2) APPROPRIATIONS.—(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to

(i) any contributions by persons which are specifically designated as being made to the Fund;

(ii) amounts collected under section 550(h); and

(iii) any other amounts which may be appropriated to or deposited into the Fund under this title.

(b) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

(c) Amounts in the Fund shall remain available without fiscal year limitation.

(d) ACCOUNTS.—(1) The Secretary of the Treasury shall maintain in the Fund a general fund and a special account for the purpose of carrying out the provisions of this title.

(2) The Senate Election Campaign Fund and the balance in any account maintained the Fund.

(3) The amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate.

(4) The amount of repayments, if any, required under section 505 and the reasons for each repayment required.

(5) The balance in the Senate Election Campaign Fund, and the balance in any account maintained the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) REGULATIONS.—The Commission may prescribe such regulations, conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as it deems necessary to carry out its functions and duties under this title.

(c) STATEMENT TO SENATE.—Thirty days before prescribing a regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed regulation and containing a detailed explanation and justification of the regulation.
SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) In General—Title III of FECA (2 U.S.C. 441b et seq.) is amended by adding at the end of the following new section:

"SEC. 315A. (a) "There are authorized to be appropriated—"(1) $375,000; or "(2) $5,000 in the case of any such candidate.""

(b) Effect on Other Provisions of Title V—Title V of FECA (as added by this section), or the candidate and the candidate's authorized committees; and

(c) Candidate's Committees.—Section 313(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) For purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed in whole or in part by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.

SEC. 304A. (a) Candidate Other Than Eligible Senate Candidate.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b), except that such candidate shall file such report with the Secretary of the Senate within 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election ballot) setting forth the candidate's total contributions and expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 1 percent of such limit) with the Secretary of the Senate within 1 business day after such additional contributions are raised, or expenditures are made or obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed $150,000, $330,000, and 200 percent of such limit.

(2) The Commission—

(A) shall, within 2 business days of receipt of a report required under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 502(a).

(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the amounts which would allow a report under paragraph (2). The Commission shall, within 2 business days after making such determination, notify each eligible Senate candidate of the general election about such determination, and shall, when such contributions or expenditures exceed the...
general election expenditure limit under section 303(a), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 303(a).

(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 302(a) during the election cycle from his personal funds, the funds of the candidate's family, or personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 1 business day after such expenditures have been made or loans incurred.

(2) The Commission within 2 business days after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about such report.

(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 2 business days after making such determination shall notify each eligible Senate candidate in the general election involved about such determination.

(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

(A) who becomes a candidate for the office of United States Senator;

(B) who is a candidate for such other Federal, State, or local office or was a candidate for such other office and

(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual, shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local campaign for which the amount included in the report under paragraph (1) was made for purposes of influencing the election of the individual to the office of United States Senator.

(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

(d) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act or on the basis of such Commission's own investigation or determination.

(e) ISSUES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 313(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 313(a).

(f) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.
(1) in paragraph (2), by striking out the undesignated matter after paragraph (C); and
(2) by redesignating paragraph (3) as paragraph (5); and
(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

``(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section), aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $5,000 are made with respect to the same election as the initial statement filed under this section.

(C) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the expenditure is paid for by a donor, in writing, in a clearly readable manner with a reasonable degree of color contrast between the background and the printed communication.

(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

``(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election;

(B) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours, after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

``(5) If any person intends to make independent expenditures aggregating $5,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

``(6) At the same time as a candidate is no longer an authorized candidate, the candidate's political committee or other person paying for the communication shall file a statement identifying the candidate and states that the candidate has approved the communication.

``(7) The Secretary of the Senate shall be responsible for the content of this advertisement.

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

SECTIONS. (a) In general.—Section 301 of FECA (2 U.S.C. 431(13)) is amended by striking paragraphs (20) and (21) and inserting the following new paragraphs:

``(3) consist of a reasonable degree of color contrast between the background and the printed statement.

``(1) of sufficient type size to be clearly readable by the recipient of the communication;

``(2) contained in a printed box set apart from the other contents of the communication; and

``(3) are made in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.

``(4) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

``(1) of sufficient type size to be clearly readable by the recipient of the communication;

``(2) contained in a printed box set apart from the other contents of the communication; and

``(3) are made in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.

``(5) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

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``(2) contained in a printed box set apart from the other contents of the communication; and

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``(7) The Secretary of the Senate shall be responsible for the content of this advertisement.

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``(1) of sufficient type size to be clearly readable by the recipient of the communication;

``(2) contained in a printed box set apart from the other contents of the communication; and

``(3) are made in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.

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``(1) of sufficient type size to be clearly readable by the recipient of the communication;

``(2) contained in a printed box set apart from the other contents of the communication; and

``(3) are made in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.

``(6) Any independent expenditure aggregating $5,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

``(7) The Secretary of the Senate shall be responsible for the content of this advertisement.

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``(1) of sufficient type size to be clearly readable by the recipient of the communication;

``(2) contained in a printed box set apart from the other contents of the communication; and

``(3) are made in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.

``(5) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

``(1) of sufficient type size to be clearly readable by the recipient of the communication;

``(2) contained in a printed box set apart from the other contents of the communication; and

``(3) are made in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.

``(6) Any independent expenditure aggregating $5,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

``(7) The Secretary of the Senate shall be responsible for the content of this advertisement.

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``(3) are made in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.

``(4) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

``(1) of sufficient type size to be clearly readable by the recipient of the communication;

``(2) contained in a printed box set apart from the other contents of the communication; and

``(3) are made in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.
Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A), by striking "is the intent of Congress that a Member of, or a Member-elect to, Congress" and inserting "A Member of, or Member-elect to, the House"; and

(2) in subparagraph (C)—

(A) by striking "such mass mailing is postmarked fewer than 60 days immediately before the date and inserting "if such mass mailing is postmarked during the calendar year"; and

(B) by inserting or reinserting immediately before the period.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) expresses advocacy; and

"(ii) is made without the participation or cooperation of a candidate or a candidate’s representative.

(b) THE FOLLOWING SHALL NOT BE CONSIDERED AN INDEPENDENT EXPENDITURE:

"(i) An expenditure made by a political committee of a political party.

"(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate’s election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate’s agent and the person making the expenditure.

"(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been a member or employee, or agent of a candidate or a candidate’s representative.

"(v) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing services in the same election cycle to the candidate in connection with the candidate’s pursuit of nomination for election or to Federal office, in the same election cycle, including any advice relating to the candidate’s decision to seek Federal office.

"(vi) An expenditure if the person making the expenditure has consulted at any time during the same election cycle about the candidate’s pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee, or agent of a party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate’s campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate’s campaign.

"For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(18) The term ‘express advocacy’ means, when a communication is taken as a whole, an expression of support for or opposition to a specified group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.’’.

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(b)(A) of FECA (2 U.S.C. 431(b)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting "and"; and

(3) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(ii) activities conducted for the purpose of influencing a Federal candidate regarding a Federal candidate’s authorized committees; or

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(b)(A) of FECA (2 U.S.C. 431(b)(A)), as amended by section 301(b), is amended—

(1) by striking "or" at the end of clause (i); and

(2) by inserting at the end of clause (ii) and inserting "or";

and

(3) by inserting at the end the following new clause:

"(iv) with respect to a candidate and the candidate’s authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $500 and

"(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of the mailing in the case of advertising by a mailing.

SECTION 311. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES FOR GRASSROOTS FEDERAL ELECTION CAMPAIGN ACTIVITIES

(a) IN GENERAL.—Section 315(a)(1)(C) of FECA (2 U.S.C. 441a(1)(C)) is amended by striking "$5,000" and inserting "$10,000 plus an additional $5,000 that may be contributed to a political committee established and maintained by a State political party for the sole purpose of conducting grassroots Federal election campaign activities coordinated by the Congressional Campaign Committee and Senatorial Campaign Committee of the party.

(b) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(3)) is amended by adding at the end the following new paragraph:

"(3) The term ‘grassroots Federal election campaign activity’ means—

"(A) voter registration and get-out-the-vote activities;

"(B) campaign activities, including broadcasting, newspaper, magazine, billboard, mailings, and new media communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) are identified as part of a generic campaign activity or that identify a Federal candidate regardless of whether a State or local candidate is also identified;

"(C) the preparation and dissemination of campaign materials that are intended to influence a Federal candidate regardless of whether a State or local candidate is also identified;

"(D) development and maintenance of voter files;

"(E) any other activity affecting (in whole or in part) an election for Federal office; and

"(F) activities conducted for the purpose of raising funds to pay for activities described in subparagraphs (A), (B), (C), (D), and (E), to the extent that any such activity is allocable to Federal election under a regulation issued by the Commission.’’.

SEC. 312. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end the following new paragraph:

"(4) A State committee of a political party, including subcommittees of that State committee, shall not make expenditures in connection with the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e). This paragraph shall not authorize a party committee to make expenditures for audio broadcasts (including television broadcasts) in excess of the amount which could have been made with regard to a national political party committee of that political party.

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(b)(8) of FECA (2 U.S.C. 431(b)(8)) is amended—

(A) in clause (x), by striking ‘‘direct mail’’ and inserting ‘‘mail’’; and

(B) by repealing clauses (x) and (xi)
(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended by repealing clauses (vii) and (ix).

(c) **Soft Money of Committees of Political Parties.**—(1) Title III of FECA, as amended by subsection (a), is amended by inserting after section 324 the following new section:

**"POLITICAL PARTY COMMITTEES"**

"Sec. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which is in part or in whole conducted in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) Any amount contributed or received on behalf of any candidate for Federal office if such person is a candidate for Federal office, an individual holding Federal office, or any national, State, district, or local committee of a political party (including subordinate committees).

"(3) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office if such activity is permitted under State law is not otherwise permitted by law; and

"(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

(b) **Tax-Exempt Organizations.**—Section 315 of FECA (2 U.S.C. 443b), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(i) A local candidate committee shall not be required to record or report under this Act the expenditures of any other committee which are made independently from the State committee.

"(ii) A State committee shall not be required to record or report under this Act the expenditures of any other committee which is described in paragraph (1) from a State or local committee receiving any contribution described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act with respect to Federal candidates and political committees under this Act, and are not from sources prohibited by this Act with respect to elections to Federal office.

"(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subparts (3)(A) and (3)(B) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, or any national, State, district, or local committee of a political party (including subordinate committees).

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

SEC. 314. REPORTING REQUIREMENTS.

(a) **Reporting Requirements.**—Section 315 of FECA (2 U.S.C. 443c), as amended by subsection (a), is amended by adding after the following new subsection:

"(d) Political Committees.**—(1) The national committee of a political party and any congressional campaign committee, and any committee of a political party and any national or State committee (including any subordinate committees) for any election year.

"(2) A political committee described in paragraph (1) shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.
"(3) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election or for combined activities.

(4) Any receipt or disbursement to which this subsection applies exceeds $50, the political committee shall include identification of the person from whom, or to whom, such payment or disbursement was made.

(5) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by this Act.

(b) Report of Exempt Contributions.—Section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)) is amended by inserting at the end the following:

``(III) a political party;

(IV) a partnership or sole proprietorship;

(V) an individual; or

(VI) any combination of the entities described in paragraphs (I) through (IV).''

(c) Reporting of Exempt Expenditures.—Section 301(n) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(n)) is amended by inserting at the end the following:

``for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $50 shall be reported.''

(d) Contributions and Expenditures of Political Committees.—Section 301(o) of FECA (2 U.S.C. 431(o)) is amended by adding at the end the following:

``(1) Federal candidates shall include Federal accounts with respect to Federal elections, and non-Federal candidates shall include non-Federal accounts with respect to non-Federal elections.

(2) Administrative expenditures shall be paid from the Federal account in Presidential election years. In all other years, the costs of voter drives and administrative expenditures shall be paid from a Federal account in Presidential election years. In all other years, the costs of voter drives and administrative expenditures shall be paid from a Federal account in Presidential election years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in Presidential election years.

(3) State and local party committees shall include Federal accounts with respect to Federal elections, and non-Federal accounts with respect to non-Federal elections.

(4) Any payments for legal or accounting services, if such services are for the purpose of ensuring compliance with this Act.

(5) The term `ballot composition' means the number of Federal offices on the ballot, compared to the total number of offices on the ballot during the next election cycle for the State. In calculating the number of offices for purposes of this subsection, the following offices shall be counted, if on the ballot during the next election cycle. No more than three additional statewide partisan candidates shall be counted, if on the ballot in the majority of the State's counties during the next election cycle.

(6) The term `time or space devoted to Federal candidates' means with respect to a particular communication, the portion of the communication devoted to Federal candidates compared to the entire communication, except that no less than one-third of any communication shall be considered devoted to a Federal candidate.

(7) Contributions made directly or indirectly by a person to or on behalf of a political committee, including contributions made or arranged to be made by an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

(8) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit to a candidate, shall be treated as contributions from the intermediary or conduit to the candidate.

(i) The contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

(j) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit to a candidate, shall be treated as contributions from the intermediary or conduit to the candidate.

(k) The term `intermediary or conduit' means any intermediary or conduit to a candidate, including contributions made or arranged to be made by an intermediary or conduit to a candidate.

(l) A political committee shall include Federal accounts with respect to Federal elections, and non-Federal accounts with respect to non-Federal elections.

(m) The term `principal campaign committee' includes any political committee that makes payments for combined political activity and which, in any calendar year, makes contributions in excess of $10,000 from the principal campaign committee to a Federal candidate; or the candidate or representative of a candidate receiving contributions to the candidate's principal campaign committee or authorized committee;
“(ii) a professional fundraiser compensated for services at the usual and customary rate;

“(iii) a volunteer hosting a fundraising event at the volunteer’s home, in accordance with section 309(b) of title 5, United States Code;

“(iv) an individual who transmits a contribution from the individual’s spouse;

“(v) the term ‘representative’ means an individual who is authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate’s campaign organization, provided that the individual is not described in subparagraph (B)(ii).

“(vi) 2 or more national, State, or local committees of a political party (including any subordinate organization who is primarily engaged in propaganda or political activities for elections to Federal office in the State in which such individual resides, or the Congress, other than a clerical or secretarial employee; or

“(vii) an employee of a Senator, of a Senate committee, or on the leadership staff of the Senate, other than a clerical or secretarial employee; and

“(viii) an employee of a joint committee of the Senate, other than a clerical or secretarial employee.”

SEC. 403. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

“(a) IN GENERAL.—Section 315(a) of FECA (2 U.S.C. 441a), as amended by section 402(b), is amended by adding at the end the following new subsection:

“(n) For purposes of this section, any contribution by an individual who—

“(i) is a dependent of another individual; and

“(ii) does not include a communication that is—

“(A) made on behalf of a public official acting in an official capacity;

“(B) a request for an appointment, a request for a meeting or a hearing, or any other request, including a request for information to the public;

“(C) an employee of a member of the House of Representatives, of a committee of the House of Representatives, of a committee of the Senate, other than a clerical or secretarial employee; or

“(D) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party, to be aggregated.

“(D) Nothing in this paragraph shall prohibit—

“(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

“(A) 2 or more candidates;

“(B) 2 or more national, State, or local committees of a political party within the meaning of section 301(a) acting on their own behalf or for the benefit of a particular candidate;

“(C) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party; or

“(D) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

“(E) contributions made or arranged to be made by—

“(1) in clause (xiii), by striking ``and'' after the date on which the contribution is made or solicited; and

“(2) by striking subparagraph (B); and

“(3) by redesigning subparagraph (C) as subparagraph (B).

“SEC. 404. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

“(a) IN GENERAL.—Section 315(a) of FECA (2 U.S.C. 441a), as amended by section 402(b), is amended by adding at the end the following new paragraph:

“(n) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee, if such contribution, when added to the total of contributions accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.”.

“CONFORMING AMENDMENT.—Section 313(a)(5) of FECA (2 U.S.C. 441a)(a)(5) is amended—

“(1) by adding “and” at the end of subparagraph (A); and

“(2) by striking subparagraph (B); and

“(3) by redesigning subparagraph (C) as subparagraph (B).

“SEC. 405. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM ‘CONTRIBUTION’.

Section 301(b)(8) of FECA (2 U.S.C. 431(b)(8)) is amended—

“(1) in clause (xii), by striking “and” after the semicolon at the end; and

“(2) in clause (xiv), by striking the period at the end and inserting “; and” and

“(3) by adding at the end the following new clause:

“(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course.
of such individual’s responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the aggregate value of all such advances to any candidate shall not exceed $500 with respect to an election.’’

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraph (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) is amended by inserting after “calendar year” each place it appears the following: “(election cycle, in the case of the Federal Election Committee or of a committee for a Federal office)”.

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by striking $500 and inserting $50.

SEC. 503. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of FECA (2 U.S.C. 434(b)(3)(A)) is amended by striking “$200” and inserting “$50”.

SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 313(a) of FECA (2 U.S.C. 437(a)) is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by striking the period at the end of paragraph (1) and inserting “; and”;

(3) by adding at the end the following new paragraph:

“(1) maintain computerized indices of contributions of $50 or more.”

TITLE VI—PRESIDENTIAL DEBATES

SEC. 601. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) American voters are increasingly frustrated with the significant political debate in presidential elections in the United States, and voting participation in the United States is lower than in any other advanced industrialized country, due in part to such frustration;

(2) the right of eligible citizens to participate in the election process as informed voters, provided in and derived from the first and fourteenth amendments to the Constitution, has consistently been protected and promoted by the Federal Government;

(3) United States presidential debates sponsored by nonpartisan organizations offer important fora for open, free, and substantive exchanges of candidates’ ideas, and should include all significant candidates, including non-major and independent candidates; and

(4) throughout United States history, significant minority and independent candidates have provided a source for new ideas and new programs, offering American voters an opportunity to engage in a diverse and open political discourse on critical issues of the day.

(b) PURPOSES.—The purposes of this title are to make participation in presidential debates mandatory for all political committees as part of all general election campaign funds and to allow all candidates who meet the criteria outlined in this Act to participate in such debates.

SEC. 602. PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATE DEBATES.

Section 9003 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(e) PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATE DEBATES.—

“(1) AGREEMENT TO DEBATE.—In addition to meeting the requirements of subsection (a), the chairperson of the Federal Election Commission, or, in the case of a principal campaign committee other than a principal campaign committee other than a principal campaign committee for a candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

“(8) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. All contributions made by such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 4941 of the Internal Revenue Code of 1986, making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions to exceed $250 to candidates for elective office.”

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(h) of FECA (2 U.S.C. 433(h)), as amended by section 33(b), is amended by inserting at the end the following new sub-paragraph:

“(D) A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.”

TITLE VII—MISCELLANEOUS

SEC. 703. PROHIBITION OF LEadership COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

“(3)(A) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

“(i) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate’s principal campaign committee, but only if that national committee maintains books of account with respect to its functions as a principal campaign committee; and

“(ii) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

“(B) As used in this paragraph, the term ‘supporting’ does not include, in any election by any authorized committee in amounts of $1,000 or less to an authorized committee of any other candidate.”; and

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

“(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

“(B) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. All contributions made by such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 4941 of the Internal Revenue Code of 1986, making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions to exceed $250 to candidates for elective office.”

SEC. 706. PROHIBITION OF FUNDING OF SENATE ELECTION CAMPAIGNS.

It is the sense of the Senate that—

(1) the current Presidential checkoff should be increased to $5.00, its designation converted to the “Federal Senate Election Campaign Checkoff”, and individuals should be permitted to contribute an additional $5.00 to the fund in additional taxes if they so desire; and

(2) the Internal Revenue Service and the Federal Election Commission should be required to develop and implement a plan to publicize the fund and the checkoff to increase participation in the fund.

(3) funds to pay for the increase in the checkoff to $5.00 should come from the repeal of the tax deduction for business lobbying activities.

SEC. 803. SEVERABILITY.

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including
any amendment made by this Act, or the application of any such provision to an individual or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other individuals or circumstances, shall not be affected thereby.

**SEC. 804. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.**

(a) **DIRECT APPEAL TO SUPREME COURT.**—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) **ACCEPTANCE AND EXPEDITION.**—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

**SUMMARY OF SENATE FAIR ELECTIONS AND GRASSROOTS DEMOCRACY ACT CONTRIBUTION LIMITS**

Political Action committees—prohibited from making contributions or expenditures to influence federal elections. If ban declared unconstitutional: (1) lowers PAC contribution limit to $250 per candidate, and (2) imposes aggregate PAC receipts limit on Senate candidates.

Individual contribution limits—lowered to $100 for donations to Senate candidates, per election cycle.

**VOLUNTARY CAMPAIGN EXPENDITURE LIMITS**

General election period: Formula-based, from $775,000 (small states) to $4.5 million (large states).

Primary election period: 67% of general election limit (maximum).

Runoff election: 20% of general election limit.

Candidate’s personal funds limit: $25,000. Limits increased if opponent raises or spends more than 200% of general election limit.

**BENEFITS FOR CANDIDATES ABIDING BY VOLUNTARY EXPENDITURE LIMITS**

Public funding (and runoff): match for individual in-State donations of $100 or less, up to 50% of spending limit.

General: Major party candidates given subsidy equal to spending limit. Minor party candidates: provided match for individual in-State donations of $100 or less, up to 50% of spending limit.

Campaign funding: payments to participating candidates to compensate for and in amount of (1) opponents’ expenditures in excess of spending limit, and (2) independent expenditures made against participant or for opponent.

Free Broadcast Time—broadcasters must provide 90 min. of prime access time to eligible candidates within broadcast area, in segments of at least 1 min., with no more than 15 min. within a 24-hour period and no more than 25% of a broadcast consisting of other than candidates’ remarks.

Reduced Postal Rate—1 mailing per eligi- ble voter during general election period, at lowest non-profit third-class rate.

Eligibility threshold for benefits—candid- ate must raise 5% of general election limit in amounts of $100 or less (at least 60% within-state).

Funding source—appropriated funds, fi- nanced by increase in dollar checkoff to $5 and elimination of tax deduction for lobbying.

**SOFT MONEY**

Prohibits all “soft” money in federal elections; requires that all federal election expenses be from sources allowed by federal law.

Establishes Grassroots Federal Election Fund to be maintained by state political parties for grassroots political activities that benefit candidates exclusively. Contributions to these funds must be raised and disclosed under federal limits, and may not exceed $5,000.

**BUNDLING**

Prohibits bundling by all PACs; parties, unions, corporations, labor organizations, and national banks; partnerships or sole proprietors; and lobbyists.

Prohibits lobbyists from contributing funds to, or soliciting funds for Members of Congress if they have lobbied those Members or their staffs during the last twelve months.

**INDEPENDENT EXPENDITURES**

Tightens definition to ensure proper dis- closure from candidates; augments disclosure and disclaimer requirements.

**CONFERENCE REPORT ON GIFTS PORTION OF LOBBYING DISCLOSURE BILL (AS COMPARED TO SENATE-PASSED BILL)**

The conference report on gifts to Members, officers and employees of Congress is the same as the Senate-passed bill on gifts, S. 1935, with a few exceptions as shown in italic.

As with the Senate bill, gifts are prohibited except as described below:

**FROM LOBBYISTS**

Food/refreshments of nominal value not part of a meal.

Campaign contributions/attendance at fund- raising events sponsored by political organiza- tions.

Informational materials like books, video- tapes.

Gifts from close personal friends and fam- ily members.

Penion/other employment benefits earned while serving as an employee of lobbying firm.

**FROM NON-LOBBYISTS**

Food/refreshments/entertainment in Mem- ber’s home state. They remain subject to current rules until and unless changed by Rules Committee.

Food/refreshments of minimal value (less than $20).

Personal and family relationship.

Gifts from personal friends to personal posi- tion for personal relationship over $250 must be ap- propriately disclosed.

Conference report does not restrict gifts to spouses and dependents unless the Member has reason to believe gift was given because of the Member’s official position and where the gift is given with the knowledge and acquiescence of the Member. Such gifts are then treated as gifts to the Member.

Also conference report explicitly allows a spouse or dependent to travel with a Member at the expense of the private party if other spouses/ dependents are expected to do so or there is a legitimation of purpose.

Spouses/dependents are also allowed to ac- company Members to widely attended events.

**COMMON CAUSE**


DEAR SENATOR: Enclosed for your informa- tion the login of a letter delivered today to House Speaker Newt Gingrich from Common Cause.

In a 1990 speech, Speaker Gingrich stated: “We must insure that citizen politics defeats money politics.” Speaker Gingrich said.

The Common Cause letter urges Speaker Gingrich to make good on his words and lead an effort to reform the corrupt influence money system in Congress.

Sincerely,

FRED WERTHEIMER,
President.

**COMMON CAUSE**


DEAR SPEAKER GINGRICH: On August 22, 1990, in a speech to The Heritage Foundation, you said:

“The first duty of our generation is to reestablish integrity and a bond of honesty in the political process” and called for the passage of “reform laws to clean up the election and lobbying systems.”

“We must insure that citizen politics de- feats money politics.” Speaker Gingrich said.

The Common Cause letter urges Speaker Gingrich to make good on his words and lead an effort to reform the corrupt influence money system in Congress.
should be challenged to register and vote to achieve that goal."

We agree,

As you become Speaker of the House of Representatives today, you have a unique moment in history in which to make good on your words. You have a unique opportunity to lead an effort to reform the corrupt system in Congress which you have criticized throughout your House career.

As you also stated in your speech before The Heritage Foundation:

"Congress is a broken system. It is increasingly a system of corruption in which money politics, special favors, dishonesty and deception corrode the very process of freedom and alienate citizens from their country."

I am enclosing other examples of statements you have made over the years about the importance of integrity in government and the need for political reform.

You and the newly elected Republicans in the House have told the country that you are committed to changing the way Washington works.

But citizens throughout this nation clearly understand that there is no way to change the way Washington works without fundamental reform of the corrupt influence money system. This requires effective campaign finance reform and a tough gift ban for Members of Congress.

In your words, "The first duty of our generation is to reestablish integrity and a bond of honesty in the political process."

In your words, "We should punish wrongdoers in politics to reestablish government and campaign laws to clean up the election and lobbying systems."

In your words, "We must insulate that citizen politics from money politics. This is the only way our system can regain its integrity."

In your new position of leadership, you now face a clear choice. You can make good on your words and lead the effort to clean up Congress. Or you can ignore your words and become the chief protector of the corrupt influence money system in Washington.

Common Cause strongly urges you to make good on your words by supporting and scheduling early action on effective and comprehensive campaign finance reform legislation.

In your words, "We must work to ensure that the American people will have an opportunity to participate in the political process."

We agree, Mr. Speaker, that the American people are expecting you to lead an effort to reform the corrupt system in Congress which you have criticized throughout your House career.

Sincerely,

FRED WERTHEIMER,
President.
(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay; or

(E) the former loans from banks and other financial institutions on terms generally available to the public; or

(F) in the form of reduced membership or other fee representation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(2) A plaque, trophy, or other memento of modest value.

(3) An unsolicited offer for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

(e)(1) Except as prohibited by paragraph 1, a member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if:

(A) the member, officer, or employee participates in the event as a speaker or a panel participant, representing information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the member's, officer's, or employee's official position;

(B) attendance at the event is appropriate to the performance of the official duties or representative function of the member, officer, or employee.

(2) A member, officer, or employee who attends an event described in clause (1) may accept an unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

(3) Except as prohibited by paragraph 1, a member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted for attendance with the event.

(4) For purposes of this paragraph, the term "free attendance" may include waiver of all or part of a conference or other fee, the provision of transportation, or the provision of local transportation expenses reimbursed or to be reimbursed shall be signed by the member or officer under whose direct supervision the employee works and shall include—

(i) the name of the employee;

(ii) the name of the person who will make the reimbursement;

(iii) the time, place, and purpose of the travel; and

(iv) a determination that all such expenses are necessary transportation, lodging, and related expenses reimbursed or to be reimbursed.

(3) A good faith estimate of total meal expenses reimbursed or to be reimbursed;

(4) A good faith estimate of the total of other expenses reimbursed or to be reimbursed;

(5) A determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

(6) In the case of a reimbursement to a member or officer, a determination that the travel was in connection with the duties of the member or officer as an officerholder and would not create the appearance that the member or officer is using public office for private gain.

(6) For the purposes of this paragraph, the term "necessary transportation, lodging, and related expenses"—

(a) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

(b) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

(c) does not include expenditures for recreation activities, in activities other than that provided to all attendees as an integral part of the event; and

(d) may include travel expenses incurred on behalf of either the spouse or a child of the member, officer, or employee subject to a determination signed by the member or officer (or in the case of an employee, the member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursements filed pursuant to subparagraph (a) as soon as possible after they are received.

4. In this rule:

(a) "the term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees, agents, or representatives act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is—

(i) the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition's or association's dues or assessments;

(ii) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition's or association's dues or assessments.

(b) The term "lobbying firm"—

(A) means a person or entity that has 1 or more employees who are lobbyists on behalf of any client other than that person or entity; and

(B) includes a self-employed individual who is a lobbyist.

The term "lobbyist" means a person registered under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or...
required to be registered under any successor statute.

"(d) The term 'State' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 2. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS TO THE ETHICS IN GOVERNMENT ACT.—Section 112(a)(2)(B) of the Ethics in Government Act (5 U.S.C. 302) is amended by adding at the end thereof the following: "(2) Reimbursements deemed accepted by the Senate pursuant to Rule XXXV of the Standing Rules of the Senate shall be reported as required by such rule and need not be reported under this section."

(b) REPEAL OF OBSOLETE PROVISION.—Section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 31-2) is repealed.

(c) GENERAL SENATE PROVISIONS.—The Senate Committee on Rules and Administration, on behalf of the Senate, may accept gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

SEC. 3. EXERCISE OF SENATE RULEMAKING POWERS.

Sections 1 and 2(c) are enacted by the Senate:

1. as an exercise of the rulemaking power of the Senate pursuant to section 7353(b)(1) of title 5, United States Code, and, accordingly, they shall be considered as part of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

2. with full recognition of the constitutional right of the Senate to change such rules at any time and in the same manner and to the same extent as in the case of any other rule.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on May 31, 1995.

Mr. FEINGOLD. Mr. President, today I am pleased to join my colleagues, Senators Lautenberg and Baucus, in once again introducing legislation that will fundamentally reform the way Congress deals with the thousands and thousands of gifts and other perks that are offered by Members each year from individuals, lobbyists and associations that seek special access and influence on Capitol Hill.

Last year, this body approved a strong gift ban bill by a resounding vote and signed that bill into law. But the legislation did not go far enough. It was a step in the right direction, but it did not address the problem of gifts that are given to Members of Congress to help them do their jobs. For example, the bill we are introducing today will ban provisions contained in this legislation that allow legislators and staff to carry out their official responsibilities as elected representatives.

Let me illustrate this point by referring to a TIME/CNN poll taken late last year. Like many polls before it, this poll showed that public approval of the performance of Congress as an institution is embarrassingly low. This poll also found that 84 percent, 84 percent of the American people believe that officials in Washington are heavily influenced by special interests and serve the interests of a few at the expense of such a large percentage of the American people.

The issue here, is not whether Members of Congress are indeed for sale or susceptible to pressure from special interests. We know that this is largely invalid. It is because of our failure to identify what has fueled this perception, and pass reforms that will regain the lost trust and faith the American people have in our Government.

The number and types of gifts delivered to Members each and every day is astonishing, and frankly, we should be thankful that most of our constituents are spared the imagery that has become a frequent sight on Capitol Hill of flatbed carts moving through the hallways of Congress, stacked with gifts. Though I have adopted a strict policy for myself and my staff that prohibits the acceptance of virtually anything of value, my office has received—and declined—a bag of gifts from the U.S. Senate 2 years ago. I have had some unusual gifts come into my office, including, for the second consecutive year, a Christmas tree. It may strike some of our constituents as odd that there is a lobbying firm out there that is committed to leveling a small forest every year to provide Christmas trees to Members of Congress. But it is not only the gifts themselves that anger the American people, it is also the source of these gifts. It is the perception of a clear quid pro quo arrangement among our constituents, and this is reflected in the same TIME/CNN poll I referred to earlier.

In this poll, the following question was posed: "Which one of these groups do you think have too much influence in government?" A list of choices were provided, and which groups did respondents believe have too much influence in public policy decisions? The wealthy, large corporations, foreign governments and special interest groups. The gifts that are received—again, that I personally decline—range from fruit baskets to artwork to fine wine—you name it. The sources of these gifts? The wealthy, large corporations, foreign governments and special interest groups. In other words, the exact same groups cited by a majority of poll respondents as having special influence and access with the Federal Government are the exact same groups that provide most of the gifts and money to Members of Congress. The connection is clear, and I am convinced that if we eliminate such unnecessary gifts we can convince the American people that we are not beholden to any special interests and we can begin to break down the walls of distrust between the American people and their Government.

The bill we are introducing today will strictly prohibit the lobbying community from providing free meals, travel and entertainment to Members of Congress and their staffs. Most of these stringent rules will apply to nonofficial gifts as well. The legislation also includes exceptions to these tight restrictions that will allow legislators and staff to carry out the day to day responsibilities of a Member of Congress. For example, these exceptions do allow Members to be reimbursed for certain expenses incurred in connection with the attendance of programs, seminars and conferences related to official business. Those exceptions aside, the gift ban provisions contained in this legislation will take a hard line against those offered items that are completely unrelated to official business. For example, the legislation also includes exceptions to these tight restrictions that will allow legislators and staff to carry out the day to day responsibilities of a Member of Congress. For example, these exceptions do allow Members to be reimbursed for certain expenses incurred in connection with the attendance of programs, seminars and conferences related to official business. Those exceptions aside, the gift ban provisions contained in this legislation will take a hard line against those offered items that are completely unrelated to official business.

The current gift rules, which allow Members of Congress and their staff to accept gifts worth up to $250 from any one source during a year and do not include toward the $1,000 per year limit, $500 under $100, are simply unacceptable. When the U.S. Senate first debated this issue last year, differing objections were raised to our effort to prohibit the acceptance of these gifts. Some argued that the gifts provided to Members and their staff are not traditional or special access for anyone, or do they have any influence on the legislative process. Maybe, maybe not. But it is the mere appearance of impropriety that has so sharply turned the American people against this institution. For our constituents, the latest Washington scandal is the last straw. The American people are looking for leaders who are prepared to take forceful steps to allay any perceived conflicts of interest between the acceptance of such gifts and our responsibilities as elected representatives.

I served for 10 years in the Wisconsin State Legislature as a State senator. S 366

CONGRESSIONAL RECORD – SENATE January 4, 1995
By Mr. MOYNIHAN.

S. 118. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on Finance.

VIOLENT CRIME REDUCTION ACT AND REAL COST OF HANDGUN AMMUNITION ACT

Mr. MOYNIHAN. Mr. President, I introduce two bills: the Violent Crime Reduction Act of 1995 and the Real Cost of Handgun Ammunition Act of 1995. Their purposes are to ban or heavily tax .25 caliber, .32 caliber, and 9 mm ammunition. These calibers of bullets are used disproportionately in crime. They are not sporting or hunting rounds, but instead are the bullets of choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the third time in as many Congresses that I have introduced legislation to ban or tax these pervicious bullets. As the terrible gunshot death toll in the United States continues unabated, so too does the need to do something about them by keeping these bullets out of the hands of criminals, would save a significant number of lives.

The number of Americans killed or wounded each year by bullets demonstrates their true cost to American society. I just look at the data: In 1993, 16,189 people were murdered by gunshot. An even greater number lost their lives to bullets by shooting themselves, either purposefully or accidentally. And although no national statistics are kept on bullet-related injuries, studies suggest they occur 2 to 5 times more frequently than do deaths. This adds up to 184,000 bullet-related injuries per year.

Homicide is the second leading cause of death in the 15 to 34-year-old age bracket. It is the leading cause of death for black males aged 15 to 34. The lifetime risk of death from homicide in U.S. males is 1 in 164, about the same as the risk of death in battle faced by U.S. servicemen in the Vietnam War. For black males, the lifetime risk of death from homicide is 1 in 28, twice the risk of death in battle faced by Marines in Vietnam.

As noted by C. Sagan Baker and her colleagues in the book "Epidemiology and Health Policy," edited by Sol Levine and Abraham Lilienfeld:

There is a correlation between rates of private ownership of guns and gunshot-related death rates; guns cause two-thirds of family homicides; and small easily concealed weapons comprise the majority of guns used for homicides, suicides and unintentional death.

Baker states that:

... these facets of the epidemiology of firearm fatalities have important implications. Combined with their lethality, the widespread availability of easily concealed handguns for impetuous use by people who are angry, drunk, or frightened appears to be a major determinant of the high firearm death rate in the United States. Each contributing factor has implications for prevention. Unfortunately, issues related to gun control have evoked such strong sentiments that epidemics that underlie these data are rarely employed to good advantage.

Strongly held views on both sides of the gun control issue have made the subject difficult for epidemiologists. I would suggest that a good deal of energy is wasted in this never-ending debate, for gun control as we know it is impossible. We need to focus on the bullets and not the guns.

I would remind the Senate of our experience in controlling epidemics. Although the science of epidemiology traces its roots to antiquity—Hippocrates stressed the importance of considering environmental influences in human diseases—the first modern epidemiological study was conducted by James Lind in 1747. His efforts led to the eventual control of scurvy. It wasn't until 1795 that the British Navy sourced his analysis—citrus and limes in shipboard diets. Most solutions are not perfect. Disease is rarely eliminated. But might epidemiology be applied in the case of bullets to reduce suffering? I believe so.

In 1900, Walter Reed identified mosquitoes as the carriers of yellow fever. Subsequent mosquito control efforts by another U.S. Army doctor, William Gorgas, enabled the United States to complete the Panama Canal. The French failed because their workers were too sick from yellow fever to work. Now that it is known that yellow fever is caused by a virus, vaccines are used to eliminate the spread of the disease.

These pioneering epidemiology successes showed the world that epidemics require an interaction between three things: The host (the person who becomes sick or, in the case of bullets, the shooting victim); the agent (the cause of sickness, or the bullet); and the environment (the setting in which the sickness occurs or, in the case of bullets, violent behavior). Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this approach apply to the control of bullet-related injury and
death? Again, we are contemplating something different from gun control. There is a precedent here. In the middle of the 19th century, it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman of New York State. In the 1959 Presidential campaign, I drafted a statement on the subject which was released by Senator John F. Kennedy as part of a general response to queries from the American Automobile Association. Then Senator Kennedy stated: "Traffic fatality constitutes one of the greatest, perhaps the greatest of the nation's public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The new highways will do much to control the rise of the traffic toll, but by themselves they will not reduce it. A great deal more investigation is needed. We have already begun in connection with the highway program. It should be extended until highway safety research takes its place as an integral part of many similar programs of health research which the federal government supports."

Experience in the 1950's and early 1960's, prior to passage of the Motor Vehicle Safety Act, showed that traffic safety enforcement campaigns designed to change human behavior did not improve traffic safety. In fact, the death and injury toll mounted. I was Assistant Secretary of Labor in the mid-1960's when Congress was developing the Motor Vehicle Safety Act, and I was deeply concerned.

It was clear to me and others that motor vehicle injuries and deaths could not be limited by regulating driver behavior. Nonetheless, we had an epidemic on our hands and we needed to do something about it. With the help of William Haddon, the first Administrator of the National Highway Traffic Safety Administration, recognized that automobile fatalities were caused not by the initial collision, when the automobile strikes some object, but by the second collision, in which energy from the first collision is transferred to the interior of the car, causing the driver and occupants to strike the steering wheel, dashboard, or other structures in the passenger compartment. The second collision is the agent of injury to the hosts (the car's occupants).

Efforts to make automobiles crashworthy follow examples used to control infectious disease epidemics. Reduce or eliminate the agent of injury. Seat belts, padded dashboards, and air bags are all specifically designed to reduce, if not eliminate, injury caused by the agent of automobile injuries, energy transfer to the human body during the second collision. In fact, we've done nothing.
So that the center would have substantive information to study and analyze, this bill also requires importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms [BATF] on the disposition of ammunition. Currently, importers and manufacturers of ammunition are not required to do so.

Clearly, it will take intense effort on all of our parts to reduce violent crime in America. We must confront this epidemic from several different angles, recognizing that there is no simple solution.

I ask unanimous consent that the text of this bill be printed in the RECORD at this time.

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

S. 120

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that:

(1) there is no reliable information on the amount of ammunition available;

(2) importers and manufacturers of ammunition are not required to keep records to report to the Federal Government on ammunition imported, produced, or shipped;

(3) the rate of bullet-related deaths in the United States is unacceptably high and growing;

(4) three calibers of bullets are used disproportionately in crime: 9 millimeter, .25 caliber, and .32 caliber bullets;

(5) injury and death are greatest in young males, and particularly young black males;

(6) epidemiology can be used to study bullet-related death and injury to evaluate control options;

(7) bullet-related death and injury has placed increased stress on the American family resulting in increased welfare expenditures under title IV of the Social Security Act;

(8) bullet-related death and injury have contributed to the increase in Medicaid expenditures under title XIX of the Social Security Act;

(9) bullet-related death and injury have contributed to increased supplemental security income benefits under title XVI of the Social Security Act;

(10) a tax on the sale of bullets will help control bullet-related death and injury;

(11) there is no central responsible agency for trauma, there is relatively little funding available for the study of bullet-related death and injury, and there are large gaps in research programs to reduce injury;

(12) current laws and programs relevant to the loss of life and productivity from bullet-related trauma are inadequate to protect the citizens of the United States; and

(13) increased research in bullet-related violence is needed to better understand the causes of such violence, to develop options for dealing with such violence, and to identify and overcome barriers to implementing effective controls.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to increase the tax on the sale of 9 millimeter, .25 caliber, and .32 caliber bullets

"(9) for any person to manufacture, transfer, or import armor piercing ammunition, except that this paragraph shall not apply to—

(A) the manufacture or importation of such ammunition by a State or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

(B) the sale or importation for testing or for experimenting authorized by the Secretary; and

"(10) for any manufacturer or importer to sell or deliver .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary; and

"(B) the sale or delivery by a manufacturer or importer of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(C) of ammunition for firearms other than destructive devices, or armor piercing .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $1,000 per year; or

"(D) of firearms other than destructive devices or armor piercing .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $1,000 per year; or

"(E) for experimenting authorized by the Secretary; and

"(F) of firearms other than destructive devices or armor piercing .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $500 per year;.

SEC. 6. Section 923(a)(1) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(l) Licensed importers and licensed manufacturers shall mark all .25 and .32 caliber and 9 millimeter ammunition and packages containing ammunition for distribution, in the manner prescribed by the Secretary by regulation."

SEC. 7. Section 923(a)(11)(A) of title 18, United States Code, is amended by—

(1) inserting ``, or .25 or .32 caliber or 9 millimeter ammunition after ``, or possession of armor piercing ammunition; and

(2) inserting `. . . or .32 caliber or 9 millimeter ammunition, after ``, or armor-piercing handgun ammunition``.

SEC. 8. Section 923(a)(11)(A) of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding thereto the following new flush sentence:

"In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax for such ammunition under this section shall be 1,000 percent."

SEC. 9. Section 923(a)(11)(B) of the Internal Revenue Code of 1986 (relating to the prohibition of sale for use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1997.**
death and injury from nonbullet-related violence; to evaluate efforts to control bullet-related death and injury; and change in bullet-related death and injury through grants, contracts, cooperative agreements, and other means, by Federal, State, and private agencies, institutions, organizations, and individuals; (6) to maintain connections to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies on the technical management of data and the legal necessity to collect, evaluate, analyze, and disseminate information about the extent and nature of the bullet-related epidemic of death and injury as well as options for its control; (7) to make recommendations to the Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State and local agencies, organizations, and individuals about options for actions to eradicate or reduce the epidemic of bullet-related death and injury; (8) to provide training and technical assistance to the Bureau of Alcohol, Tobacco, and Firearms and other Federal, State, and local agencies regarding the collection and interpretation of bullet-related data; and (9) to research and explore bullet-related death and injury data and actions for its control.

FUNCTIONS.—The functions of the Program shall include—

(1) to summarize and to enhance the knowledge about the bullet-related epidemic of death and injury, and the characteristics of bullet-related death and injury;
(2) to conduct research and to prepare, with the assistance of State public health departments—
(A) statistics on bullet-related death and injury;
(B) studies of the epidemiology of bullet-related death and injury; and
(C) status of the factors, including legal, socioeconomic, and other factors, that bear on the control of bullets and the eradication of the bullet-related epidemic;
(3) to publish information about bullet-related death and injury and guides for the practical use of epidemiological information, including publications that synthesize information relevant to national goals of understanding the bullet-related epidemic and methods for its control;
(4) to identify socioeconomic groups, communities, and geographic areas in need of study, develop a strategic plan for research necessary to comprehend the extent and nature of bullet-related death and injury, and determine what options exist to reduce or eradicate such death and injury; (5) to provide for the conduct of epidemiologic research on bullet-related death and injury caused by the Commission and the Cooperative Agreements, and other means, by Federal, State, and private agencies, institutions, organizations, and individuals;
(6) to maintain connections to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies on the technical management of data and the legal necessity to collect, evaluate, analyze, and disseminate information about the extent and nature of the bullet-related epidemic of death and injury as well as options for its control;
(7) to make recommendations to the Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State and local agencies, organizations, and individuals about options for actions to eradicate or reduce the epidemic of bullet-related death and injury;
(8) to provide training and technical assistance to the Bureau of Alcohol, Tobacco, and Firearms and other Federal, State, and local agencies regarding the collection and interpretation of bullet-related data; and
(9) to research and explore bullet-related death and injury data and actions for its control.

(b) PURPOSE.—The Center shall conduct research into and provide leadership and coordination for—

(1) understanding and promotion of knowledge about the epidemiologic basis for bullet-related death and injury within the United States;
(2) evaluating technically sound approaches for controlling, and eliminating, bullet-related deaths and injuries;
(3) building the capacity for implementing the optimal use of the approaches for controlling death and disease from bullet-related trauma; and
(4) educating the public about the nature and extent of bullet-related violence.

(c) FUNCTIONS.—The functions of the Program shall be—

(1) to summarize and to enhance the knowledge about the bullet-related epidemic of death and injury, and the characteristics of bullet-related death and injury;
(2) to conduct research and to prepare, with the assistance of State public health departments—
(A) statistics on bullet-related death and injury;
(B) studies of the epidemiology of bullet-related death and injury; and
(C) status of the factors, including legal, socioeconomic, and other factors, that bear on the control of bullets and the eradication of the bullet-related epidemic;
(3) to publish information about bullet-related death and injury and guides for the practical use of epidemiological information, including publications that synthesize information relevant to national goals of understanding the bullet-related epidemic and methods for its control;
(4) to identify socioeconomic groups, communities, and geographic areas in need of study, develop a strategic plan for research necessary to comprehend the extent and nature of bullet-related death and injury, and determine what options exist to reduce or eradicate such death and injury; (5) to provide for the conduct of epidemiologic research on bullet-related death and injury caused by the Commission and the Cooperative Agreements, and other means, by Federal, State, and private agencies, institutions, organizations, and individuals;
(6) to maintain connections to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies on the technical management of data and the legal necessity to collect, evaluate, analyze, and disseminate information about the extent and nature of the bullet-related epidemic of death and injury as well as options for its control;
(7) to make recommendations to the Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State and local agencies, organizations, and individuals about options for actions to eradicate or reduce the epidemic of bullet-related death and injury;
(8) to provide training and technical assistance to the Bureau of Alcohol, Tobacco, and Firearms and other Federal, State, and local agencies regarding the collection and interpretation of bullet-related data; and
(9) to research and explore bullet-related death and injury data and actions for its control.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Center shall have an independent advisory board to assist in setting the policies for and directing the Program.

(2) MEMBERSHIP.—The advisory board shall consist of 13 members, including—
(A) 1 representative from the Centers for Disease Control;
(B) 1 representative from the Bureau of Alcohol, Tobacco, and Firearms;
(C) 1 representative from the Department of Justice;
(D) 1 member from the Drug Enforcement Administration;
(E) 3 epidemiologists from universities or nonprofit organizations;
(F) 1 criminologist from a university or nonprofit organization;
(G) 1 behavioral scientist from a university or nonprofit organization;
(H) 1 physician from a university or nonprofit organization;
(I) 1 statistician from a university or nonprofit organization;
(J) 1 engineer from a university or nonprofit organization;
(K) 1 public communications expert from a university or nonprofit organization.

(3) TERMS.—Members of the advisory board shall serve for terms of 5 years, and may serve more than 1 term.

(4) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer, employee, or partner of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5302 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(5) TRAVEL EXPENSES.—A member of the advisory board that is not otherwise in the Federal Government service shall, to the extent permitted by law in advance of the appropriations Acts, be paid actual travel expenses and per diem in lieu of subsistence expenses in accordance with section 5703 of title 5, United States Code, when the member is away from the member's usual place of residence.

(6) CHAIR.—The members of the advisory board shall select 1 member to serve as chair of the Center.

(7) CONSULTATION.—The Center shall conduct the Program required under this section in consultation with the Bureau of Alcohol, Tobacco, and Firearms and the Department of Justice.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1996, $2,500,000 for fiscal year 1997, and $5,000,000 for each of fiscal years 1998, 1999, and 2000 for the purpose of carrying out this section.

(g) REPORT.—The Center shall prepare an annual report to Congress on the Program's findings, the status of coordination with other agencies, its progress, and problems encountered with options and recommendations for their solution. The report for December 31, 1996, shall contain options and recommendations for the Program's mission and funding levels for the years 1996-2000, as needed.

TITLE II—INCREASE IN EXCISE TAX ON CERTAIN BULLETS

SEC. 201. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 481B of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following flush sentence:

"In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent.",

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4812 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new subsection:

(6) LAW ENFORCEMENT.—The last sentence of subsection 481B shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1995.

TITLE III—USE OF AMMUNITION

SEC. 301. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the semicolon the following sentence:

"Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at the licensee's place of business for such period and in such form as the Secretary, in consultation with the Director of the National Center for Injury Prevention and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), may by regulation prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

(2) by adding at the end thereof the following new paragraph:

"(6) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, disposition, sales, and other activity during the preceding year. The report shall be prepared on a form specified by the Secretary, in consultation with the Director of the National Center for Injury Prevention

CERTAIN BULLETS
and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.

(b) RECORD, as follows:

(i) The Secretary of the Treasury shall request the Centers for Disease Control to—

(1) In consultation with the Secretary, a study of the criminal use and regulation of ammunition.—The Secretary of the Treasury shall request the Centers for Disease Control to—

(2) submit to Congress, not later than July 31, 1993, recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

By Mr. GRAMM:

S. 121. A bill to guarantee individuals and families continued choice and control over their doctors and hospitals, to ensure that health coverage is permanent and portable, to provide equal tax treatment for all health insurance consumers, to control medical cost inflation through medical savings accounts, to reform malpractice litigation, to extend health coverage during the transition period. The transition period.

I. ENHANCE SECURITY FOR THOSE PRESENTLY INSURED BY MAKING PRIVATE INSURANCE PORTABLE AND PERMANENT:

Portability.

To enhance the capacity of American workers to change jobs without losing their health insurance coverage, existing law under COBRA (which allows individuals temporarily to continue their health insurance coverage after leaving their place of employment by paying their premiums directly) would be amended to provide two additional lower-cost options to keep their health insurance coverage during their transition between jobs. Workers could:

(A) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly; or

(B) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly, but with a lower premium reflect

(C) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly.

With these options, the typical monthly premium paid for a family of four would drop by as much as $1,000, with payments of $3,000 deductible and as much as 52% when switching to a $3,000 deductible. Also, premium payments made by families would now be treated in the manner described in title II of this bill.

In addition, individuals would be permitted to make penalty-free withdrawals from their Individual Retirement Accounts (IRAs) to pay for health insurance coverage during the transition period. The transition period of coverage would end once a person is in a position to get coverage from another employer.

Permanence:

Health insurance would be made permanent (belonging to the family or individual by these three reforms:

Those with Individual Coverage:

(A) No existing health insurance policy can be canceled or revoked because of an event occurring while the person covered by the policy. Insurance companies must offer each policy holder the option to purchase a new policy under the conditions stated in part B of this section with the terms to be negotiated between the buyer and seller of the policy.

(B) All individual health insurance policies written after the enactment of this legislation must be guaranteed renewable, and premiums cannot be increased based on the occurrence of illness.

Those with Group Coverage:

(A) Existing group policies must provide each member of the group the right to convert to an individual policy when leaving the group. This individual policy will be rated based on actuarial data, but cannot be canceled due to the state of health of those covered by the policy. In addition, any group policy holder (opportunities on employees' behalf) will have the right to purchase a new group policy under the conditions stated under part B of this section with the terms to be negotiated between the group's benefactor or representative and the seller of the group policy.

(B) All group policies issued after enactment of this legislation must be permanent and premiums cannot be increased based on the health of the members covered under the group policy. In addition, similar to part A of this section, policies must provide each member of the group the right to convert to an individual policy when leaving the group. However, the premium charges of the individual leaving the new group plan cannot be based on the individual's state of health and cannot be canceled except for nonpayment of premiums.

Those with Employer-provided Self-funded Coverage:

(A) Companies currently operating self-funded plans must make arrangements with one or more private insurers to offer individuals leaving the self-funded plan individual coverage. The individual policy will be rated based on actuarial data, but cannot be canceled due to the state of health of those covered by the policy.

(B) All self-funded plans created after enactment of this legislation must (like part A of this section) provide each member of the group the right to convert to an individual policy when leaving the group. However, the premium charge of the individual leaving the self-funded plan cannot be based on the individual's state of health and cannot be canceled except for nonpayment of premiums.

II. PROVIDE EQUAL TAX TREATMENT FOR THE SELF-EMPLOYED AND UNINSURED:

Self-employed workers and individuals without employer-provided health insurance will now be allowed to deduct from their taxable income their medical insurance coverage costs. The 25% deduction will be retroactively restored and phased up to 100% over the next five years. The tax deduction will apply to the individual purchase of conventional health insurance, HMO coverage, Medical Savings Account contributions, or any other premium eligible plan.

II-B. ESTABLISH MEDICAL SAVINGS ACCOUNTS TO PROMOTE COMPETITION AND REDUCE COSTS:

In combination with the purchase of a $3,000 deductible catastrophic insurance policy, contributions to the Medical Savings Account of up to $3,000 per year by either the employer or employee are deductible. The catastrophic policy will cover expenses such as physician services, hospital care, diagnostic tests, and other major medical expenses once the policy meets the $3,000 annual deductible. Tax-free withdrawals from the Medical Savings Account could be made to pay for qualifying out-of-pocket medical expenses which apply toward the insurance policy's deductible. If the funds in the Medical Savings Account are not spent so that as new deposits are made, the account grows beyond what it is deductible, the individual can invest excess tax-free in a long-term care package or withdraw the excess and treat it as income.

III. ENHANCE EFFICIENCY THROUGH PAPERWORK REDUCTION:

(A) Medical, Medicare, and all other Federal entities involved in the funding or delivery of health care shall standardize their health care forms and must reduce their total health care paperwork burden by 50 percent within two years of enactment of this legislation. The paperwork burden must be reduced by another 50 percent over the following three years, achieving a total paperwork reduction of 75 percent over a 5-year period.

(B) State agencies involved in the funding or delivery of health care, like federal entities, shall standardize their health care forms. Also like federal entities, within five years of enactment, state agencies shall reduce their total health care paperwork burden by 75 percent in order to remain eligible for federal health assistance.

IV. PROVIDE MEANINGFUL MEDICAL LIABILITY REFORM:

(A) Any claim of negligence not "substantially justified" or which has been improperly advanced will result in an automatic judgment against the plaintiff but not against the defendant who is liable for the legal fees incurred by the health care provider, as well as any losses as a result of being away from the practice.

(B) The liability of any malpractice defendant will be limited to the proportion of damages attributable to such defendant's conduct.

(C) A health care provider can negotiate limits on medical liability with the buyer of health care in return for lower fees.

(D) Non-economic damages cannot exceed $500,000 annually adjusted for inflation.

(E) Lawyer's contingency fees will be capped at 25 percent.

(F) Malpractice awards will be reduced for any collateral source payments to which the claimant is entitled, and the claimant will be required to accept periodic payment as opposed to lump sum on awards in excess of $500,000 annually adjusted for inflation.

(G) No malpractice action can be initiated more than two years after the date the alleged malpractice was committed or discovered, and no more than four years after the date of the occurrence.

(H) No punitive damages will be awarded against manufacturers of a drug or medical device if such drug or medical device has been approved by the Food and Drug Administration as safe and effective.

By Mr. MOYNIHAN:

S. 122. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

S. 124. A bill to amend the Internal Revenue Code of 1986 to increase the tax on hand gun ammunition, to impose the special occupational tax and registration requirements on importers
and manufacturers of handgun ammunition, and for other purposes; to the Congress:

LEGISLATION TO CONTROL Destructive AMMUNITION

Mr. MOYNIHAN. Mr. President, I introduced two measures to help fight the epidemic of bullet-related violence in America. The Real Cost of Destructive Ammunition Act and the Destructive Ammunition Prohibition Act of 1995. The purpose of these bills is to prevent from reaching the marketplace some of the most deadly rounds of ammunition ever produced.

Some of my colleagues may remember the Black Talon. It is a hollow-tipped bullet, singular among handgun ammunition in its capacity for destruction. Upon impact with human tissue, the bullet produces razor-sharp radial petal wounds that produce a devastating effect. It is the very same bullet that a crazed gunman fired at unsuspecting passengers on a Long Island Rail Road train last winter. That same month, it was also used to shoot a police officer, Jason E. White, Director of Emergency Medicine at Albert Einstein College of Medicine and Public Works.

I first learned of the Black Talon in a letter I received from Dr. E. Gallagher, Director of Emergency Medicine at the Metropolitan Hospital Trauma Center in the Bronx. Dr. Gallagher wrote that he has “never seen a more lethal projectile.” On November 3, 1993, I introduced a bill to tax the Black Talon at 10,000 percent. Nineteen days later, Olin Corporation, the manufacturer of the Black Talon, announced that it would withdraw sale of the bullet to the general public. Unfortunately, the 103rd Congress came to a close without the bill having won passage.

As a result, there is nothing in law to prevent the reintroduction of this pernicious bullet, nor is there any existing impediment to the sale of similar rounds to be produced by another manufacturer. So today, I introduce the bill to tax the Black Talon, and introduce for the first time a bill to prohibit the sale of the Black Talon to the public. Both bills would apply to any bullet with the same physical characteristics as the Black Talon. These bullets have no place in the armory of criminals.

It has been estimated that the cost of hospital services for treating bullet-related injuries is $3 billion per year, with the total cost to the economy of such injuries approximately $14 billion. We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, we are facing an unrelenting epidemic of violence in this country and it is disproportionately the result of deaths and injuries caused by bullet wounds. It is time we took meaningful steps to put an end to the mass shootings that occur daily as a result of gunshots. How better a beginning than to go after the most insidious culprits of this violence? I urge my colleagues to support these measures and to prevent these bullets from appearing on the market, and I ask unanimous consent that the bill be printed in the RECORD.

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

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the “Destructive Ammunition Prohibition Act of 1995”.

SECTION 1. DEFINITION.

Section 921(a)(17) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

“(D) The term ‘destructive ammunition’ means—

“(1) any jacketed, hollow point projectile that may be used in a handgun and the jacket of which is designed to produce, upon impact, sharp-tipped, barb-like projections that extend beyond the diameter of the unfired projectile.

SEC. 2. PROHIBITION.

Section 922(a) of title 18, United States Code, is amended—

(a) INCREASE IN MANUFACTURERS TAX.—

(1) IN GENERAL.—Section 4381 of the Internal Revenue Code of 1986 (relating to imposition of tax on firearms) is amended—

(A) by striking “Shells, and cartridges” and inserting “Shells and cartridges not taxable at 10,000 percent.”;

(B) by striking “ARTICLES TAXABLE AT 10,000 PERCENT.” and inserting “Any jacketed, hollow point projectile which may be used in a handgun and the jacket of which is designed to produce, upon impact, evenly-spaced sharp or barb-like projections that extend beyond the diameter of the unfired projectile.”;

(2) ADDITIONS TAXED TO THE GENERAL FUND.—Section 39(a) of the Act of September 2, 1937 (16 U.S.C. 669b(a)), commonly referred to as the “Pittman-Robertson Wildlife Restoration Act”, is amended by adding at the end the following new sentence:

“Any shell, and cartridges, and ‘Shells and cartridges not taxable at 10,000 percent.’”;

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after 1995.

(2) APPlicability.—The heading for chapter 73 in the table of chapters for subtitle F of such Code is amended to read as follows:

“Chapter 73—Handgun ammunition, machine guns, destructive devices, and certain other firearms.”

(c) CONFORMING AMENDMENTS.—

(1) CHAPTEr 53.—Chapter 53 of the Internal Revenue Code of 1986 (relating to registration of importers, manufacturers, and dealers) is amended—

(A) in the first sentence, by inserting “and handgun ammunition operations of an importer or manufacturer,” after “dealer in firearms,” and

(B) in the third sentence, by inserting “and handgun ammunition operations of an importer or manufacturer,” after “dealer”.

S. 124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the “Real Cost of Destructive Ammunition Act”.

SEC. 2. INCREASE IN TAX ON HANDGUN AMMUNITION.

(a) INCREASE IN MANUFACTURERS TAX.—

(1) IN GENERAL.—Section 4381 of the Internal Revenue Code of 1986 (relating to imposition of tax on firearms) is amended—

(A) by striking “Shells, and cartridges” and inserting “Shells and cartridges not taxable at 10,000 percent.”;

Bills to request the Administration of the Environmental Protection Agency to seek advice concerning environmental risks, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL RISK EVALUATION ACT

Mr. MOYNIHAN. Mr. President, near 2 years ago today I addressed the Senate about the impending “revolution” over the Nation’s approach to environmental protection. I noted that Federal environmental laws were being questioned and weakened, and that local governments were signaling that their resources are finite and that compliance with additional environmental laws while still adequately maintaining roads and buildings and providing social services and education was fast becoming unaffordable. At least not without Federal support.

I suggested that we might better use the results of risk assessments to help set environmental priorities and make decisions, and I quoted an editorial in the January 8, 1992, issue of Science...
alerting us to the "growing questioning of the factual basis for Federal command and control actions" largely due to concerns over regulatory costs.

I concluded that "the message is clear. State and local governments will hold the Congress and EPA more accountable in the future about obligating them to resources for federal requirements. They will want 'proof' that there is a problem and confidence that the legislated 'solutions' will solve it." And finally, I noted that "the Science editorial suggests that we are seeing the beginning of a revolt. How quickly times change. Less than 2 years later, the revolt is fully underway. Yet just 4 months before the Science editorial appeared, my colleagues from both sides of the aisle expressed incredulity when in September 1992 I held my first hearing as chairman of the Environment and Public Works Committee on S. 2132, the "Environmental Risk Reduction Act," a bill I introduced earlier in the 102d Congress. I believe I was witness when the Edward Hayes of the Ohio State University who testified for the city of Columbus, OH. He noted that the mayor of Columbus and other city leaders had set out to analyze with as much precision as possible the environmental impact of Federal environmental laws during recent years. They wanted to know what effect those changes would have on the city's budget. The findings were reported in "Environmental Legislation: The Increasing Costs of Regulatory Compliance to the City of Columbus." It turned out that new environmental initiatives were estimated to cost the city of Columbus an additional $1.6 billion over the next decade—an extra $856 per year of increased local fees or taxes for every household in the city by the year 2000. A followup study, "Ohio Metropolitan Area Cost Report for Environmental Compliance," showed a similar impact in eight other Ohio cities. As we have heard over the past few minutes, this is not a pattern that is repeated in other places. The social change has matured. Congress has changed, and the new Congress will experiment to find a more workable way of protecting the environment.

To use the right risk effort. I did so again, as I did in both the 102d and 103d Congresses, to introduce the "Environmental Risk Evaluation Act." The primary goal of this legislation is to place risk assessment in the proper perspective. It represents as it newly seems environmental legislation does not use science effectively precisely because it places too much emphasis on risk assessment. This perverse situation stems from the requirements in current environmental legislation, stated or implied, that the Environmental Protection Agency—EPA—must regulate environmental pollutants to "safe levels of exposure" and in so doing that EPA use science to determine what is "safe." The problem is simple: the premise is false, science cannot define "safe." Consider first the definition. Webster says "safe" is the feeling of absence of harm. Decisions about what is "safe" are based very much on personal or societal feelings, informed by science yes, but based on feelings. Next consider the nature of science. It is very much about uncertainty, because our knowledge is far from perfect and because new scientific evidence and assumptions often change our opinion that which we thought we knew.

Thus, to the extent they force agencies to use science to determine "safe" exposure levels, current environmental laws set EPA and other agencies up for failure. Risk managers have no incentive to take any action other than to err on the side of safety, which is not necessarily bad as a general policy, but in practice the belief is that it has led to layer upon layer of safety factors and excessive cost. This is because risk managers require the use of conservative assumptions in risk assessment models when the information needed to assess risk is missing or incomplete, as it invariably is, causing large costs to be incurred. The exposure levels estimated to be "safe." This weakens the citizens' faith in Government. There is a growing perception that many decisions are not based on common sense and that regulations cost too much. Risk assessments, which use scientific information, have become the outward and visible sign of the regulatory process. Those who question the philosophy underlying the current legislative and regulatory approach attack the risk assessment process, especially the assumptions used in place of knowledge about what we are exposed to and what are the resulting effects.

Given the benefit of our experience with EPA and with environmental legislation over the past 24 years, it is clear that we are asking the wrong question. Marc Landy and his colleagues first noted this in their book EPA: Asking the Wrong Questions. A better question is whether environmental regulations are "How much are the costs compared to the benefits?" rather than "What is the Safe level of exposure?" because it reflects the strengths and limits of science to inform decision-making and to set technically sound regulations. Far better too because it can increase the capacity of Government to govern in the eyes of the citizen. And far better it reflects the will of the people as evidenced by continued support for Government policies over time.

The Republican Contract With America sessions have good deal of support from the citizen, not least for now. Its call for transparency in the way regulations are set, including the methods and assumptions used in assessing risks and costs are in keeping with what I had in mind when I introduced "Environmental Risk Reduction Act" in the last two Congresses.
The bill I offer today addresses the risk assessment and cost/benefit assessment components of the decision-making process on its use for prioritizing, ranking, and evaluating the extent and duration of risk; and costs. It does not prescribe how to conduct risk and cost/benefit assessments because of the evolving nature of these fields of inquiry and because of my desire to avoid freezing technology.

I am introducing "The Environmental Risk Evaluation Act," to help us learn how best to practice the trades of environmental risk assessment and cost/benefit analyses. The bill will put into law the major findings of the 1990 "Reducing Risk" report by EPA's Science Advisory Board—SAB. I agree with former EPA Administrator William Reilly's belief that science can lend much needed coherence, order, and integrity to costly and controversial decisions.

America's environmental laws are a large and diverse lot. We have only two decades of experience on this subject, and we are still learning, feeling our way. The relative risk ranking and cost/benefit analyses called for in this bill provide some common ground for looking at our environmental laws. The bill also provides the public and Congress with access to the findings. The "Reducing Risk" report states that "relative risk data allows assessment techniques should inform--the public—judgment as much as possible." Not dictate it, but inform it.

All this will take time, decades perhaps. But let us take heart. Questions that seem difficult now can with a certain amount of effort yield to the scientific method. I urge my colleagues to support this bill and ask unanimous consent that it be printed in the RECORD.

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

SEC. 1. SHORT TITLE. This Act may be cited as the "Environmental Risk Evaluation Act of 1995."
and the approaches and methodology the Administrator will use, in carrying out the rankings and evaluations under this section. The report shall also include an evaluation by the Administrator of the need for the development of methodologies to carry out the ranking.

(B) **PERIODIC REPORT.**—

(i) **IN GENERAL.**—On completion of the rankings and evaluations conducted by the Administrator under this section, but not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Administrator shall report the findings of the rankings and evaluations to Congress and make the report available to the public.

(ii) **INFORMATION CONCERNING RANKINGS AND EVALUATIONS CONDUCTED BY THE ADMINISTRATOR.**—Each periodic report prepared pursuant to this subparagraph shall: (I) be a draft; (II) be submitted to the extent practicable, evaluate risk management decisions under Federal environmental laws, including title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.), that present inherent and unavoidable choices among competing risks, including risks of controlling microbial versus drinking contaminants in drinking water. Each periodic report shall address the policy of the Administrator concerning the most appropriate methods of weighing and analyzing the risks, and shall include a reconciliation concerning—

(i) the severity and certainty of any adverse effect on human health, the environment, or public welfare; and

(ii) whether the effect is immediate or delayed;

(iii) whether the burden associated with the adverse effect is borne disproportionately by a segment of the general population or spread evenly across the general population; and

(iv) whether a threatened adverse effect can be eliminated or remedied by the use of an alternative technology or a protection mechanism.

(d) **IMPLEMENTATION.**—In carrying out this section, the Administrator shall—

(1) consult with the appropriate officials of other Federal agencies and State and local governments, members of the academic community, representatives of regulated businesses and industries, representatives of citizen groups, and other knowledgeable individuals who have knowledge of the current state, and interpret scientific and economic information;

(2) make available to the public the information on which rankings and evaluations under this section are based; and

(3) establish methods for determining costs and benefits of environmental regulations and other Federal actions, including the valuation of natural resources and intergenerational costs and benefits, by rule after notice and opportunity for public comment.

(e) **REVIEW BY THE SCIENCE ADVISORY BOARD.**—Before the Administrator submits a report prepared under this section to Congress, the Administrator shall establish a science advisory board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4686), shall conduct a technical review of the report in a public session.

**By Mr. MOYNIHAN:**

S. 125. A bill to authorize the minting of coins to commemorate the 50th anniversary of the founding of the United Nations in New York City, New York; to the Committee on Banking, Housing, and Urban Affairs:

**THE UNITED NATIONS 50TH ANNIVERSARY COMMEMORATIVE COIN ACT OF 1995**

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to authorize the minting of gold and silver coins commemorating the 50th anniversary of the United Nations. It was October 23, 1945, that the United Nations Charter went into effect, as a majority of the 50 nations that had met at the San Francisco Conference earlier that year finally ratified the charter. The 51-member General Assembly first met at the following January 10 in London.

The ratification of the charter was a momentous occasion, a milestone in international relations. The charter begins, "We the Peoples of the United Nations."

The reference is clearly to our Constitution and to the still-revolutionary idea that a people is defined by belief, rather than blood. The charter provides authority to organize world trade, finance, and democratization. Under it the use of force assumes a collective aspect that seeks to deter aggression.

Measured against the lofty ambitions of its drafters, the charter has in reality fallen short too often, but measured against the bloody and lawless anarchy of the end of World War II, its accomplishments are clear. The charter is recognized today as the cornerstone of international law. If it cannot solve every problem, when there is substantial agreement among the Security Council it does provide a framework for the legal use of force against aggressors, as was the recent case with Iraq.

In observance of the 50th anniversary, I propose that Congress authorize the design and minting of gold and silver commemorative coins. No more than 100,000 gold coins would be minted, and no more than 500,000 $1 silver coins. This is a modest amount by current standards for commemorative coins, enough to satisfy numismatists and those around the world who support the United Nations and its ideals and would like to join in its commemoration. The number of coins is not so great as to overwhelm the market for them.

The surcharges on these coins will benefit the United Nations Association of the United States, whose educational programs such as the Model United Nations for both high school and college students are most successful. The U.N. Association is a worthy beneficiary.

Mr. President, the 50th anniversary of the United Nations deserves our observance. I ask my colleagues for their support, and I ask that the text of the bill be printed following my remarks.

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

S. 125

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "United Nations 50th Anniversary Commemorative Coin Act of 1995."

**SEC. 2. COIN SPECIFICATIONS.**

(a) **DENOMINATIONS.**—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 100,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 30.608 millimeters; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 38.1 millimeters; and

(C) contain 90 percent silver and 10 percent copper.

(b) **LEGAL TENDER.**—The coins minted under this Act shall be legal tender, as provided in section 5134 of title 31, United States Code.

(c) **NUMISMATIC ITEMS.**—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 3. SOURCES OF BULLION.**

(a) **GOLD.**—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

(b) **SILVER.**—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

**SEC. 4. DESIGN REQUIREMENTS.**

(a) **DESIGN REQUIREMENTS.**—

(1) **IN GENERAL.**—The design of the coins minted under this Act shall—

(A) be emblematic of the United Nations and the ideals for which it stands; and

(B) include the opening words of the United Nations Charter—"We the peoples."

(2) **DESIGNATION AND INSCRIPTIONS.**—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum."

(b) **SELECTION.**—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the United Nations Association of the United States of America and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) **QUALITY AND MINT FACILITY.**—The coins authorized under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) **PERIOD FOR ISSUANCE.**—The Secretary may issue coins minted under this Act only during the period beginning on January 6, 1995, and ending on December 31, 2002.

**SEC. 6. SALE OF COINS.**

(a) **SALE PRICE.**—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of:

(1) the face value of the coins; and

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) **BULK SALES.**—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.
Mr. MOYNIHAN: Mr. President, it is no secret that a serious re-examination of our intelligence needs is in order. Since the conclusion of the Cold War Act, I have endeavored to bring the shortcomings of the intelligence community to public light. Not to denigrate our intelligence efforts, but to improve them. Despite resistance to change, the End of the Cold War Act has been implemented. We have eliminated “Lookout Lists,” which excluded persons who merely expressed “unacceptable” opinions from entry into the United States. One aspect of the bill yet to be implemented brings me to the floor today: the transfer of the functions of the Central Intelligence Agency to the Department of State.

The scrutiny that has now visited the intelligence community in the aftermath of the exposure of Aldrich Ames, the man whose treason caused the deaths of at least 10 American agents, increases the likelihood that some long needed reassessments will be made. I do not relish these circumstances, for to a great extent the Ames case merely exposed the most fundamental defects of the CIA. While the Ames affair brings attention to the Directorate of Operations, it takes scrutiny away from the Directorate of Intelligence.

What of operations? Speaking before the Boston Bar Association in 1993, John le Carré, the man who provided us with a window into the world of a spy, questioned the contributions of spies to the winning of the cold war. In his remarks he stated:

“You see, it wasn’t the spies who won the cold war. I don’t believe that in the end the spies mattered very much at all. Their capsuled isolation and their remote theorizing actually prevented them from seeing, as late as 1987 or 8, what anybody in the streets could have told them:

“It’s over. We’ve won. The Iron Curtain is crashing down! The monolith we fought is a bag of bones! Come out of your trenches and smile!”

Even the victory, for them, was a cunning Bolshievick Trick.

And anyway, what had they got to smile about? It was a victory achieved by openness, not secrecy. By frankness, not intrigue. The Soviet Empire did not fall apart because the spooks had bugged the men’s room in the Kremlin or put broken glass in Mrs. Brezhnev’s bath, but because running a huge empire with codebooks, buried copies of documents in hot springs, and technologically-impossible.

Brezhnev’s bath, but because running a huge empire with codebooks, buried copies of documents in hot springs, and technologically-impossible.

The collapse of the Soviet Union was therefore the very denial of secrecy. Mr. le Carré is not alone. Recently William Pfaff in an article in the International Herald Tribune posed the question: “If [the] [spies] accomplish? He reached much the same conclusion as le Carré and added that “the useful information today is that supplied by area specialists, historians and ethnologists, and through conventional diplomatic observation and experience.”

If covert operations failed to have an impact as suggested by le Carré and Pfaff, what of our intelligence analysts? How did that serve us in the cold war? I believe I have fully laid out to the Senate on previous occasions my assessment and those of numerous respected individuals on the performance of the CIA in this regard. The defining failure of the CIA was their inability to predict the collapse of the Soviet Union.

In 1979, along with my daughter Maura, I visited China as a guest of George Bush, who was then Chief of our U.S. Liaison Office of Peking. By this time, I was persuaded the Soviet Union would break up along ethnic lines. In a “Letter From Peking” dated January 26, 1975, which I wrote and submitted to The New Yorker, the closing passage reads:

While it is agreed that few Marxist-Leninist predictions have come true in the twentieth century, it is important to notice that certain predictions about Marxist-Leninist regimes have proved durable enough. Lincoln Steffens returned from Moscow in the early years, pronouncing that he saw reigned the future, and he was right. Well, it was one future, and it has worked for a half century, and may have considerable time left. The future also breaks it up. Red China worked, too, and is likely to last even longer.

I believe this is the first time in my writing that I stated the belief then forming that the Soviet Union would not conquer the world, but rather, would one day break up along ethnic lines and may have considerable time left. The future also breaks it up. Red China worked, too, and is likely to last even longer.

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Mr. MOYNIHAN: Mr. President, it is no secret that a serious re-examination of our intelligence needs is in order. Since the conclusion of the Cold War Act, I have endeavored to bring the shortcomings of the intelligence community to public light. Not to denigrate our intelligence efforts, but to improve them. Despite resistance to change, the End of the Cold War Act has been implemented. We have eliminated “Lookout Lists,” which excluded persons who merely expressed “unacceptable” opinions from entry into the United States. One aspect of the bill yet to be implemented brings me to the floor today: the transfer of the functions of the Central Intelligence Agency to the Department of State.

The scrutiny that has now visited the intelligence community in the aftermath of the exposure of Aldrich Ames, the man whose treason caused the deaths of at least 10 American agents, increases the likelihood that some long needed reassessments will be made. I do not relish these circumstances, for to a great extent the Ames case merely exposed the most fundamental defects of the CIA. While the Ames affair brings attention to the Directorate of Operations, it takes scrutiny away from the Directorate of Intelligence.

What of operations? Speaking before the Boston Bar Association in 1993, John le Carré, the man who provided us with a window into the world of a spy, questioned the contributions of spies to the winning of the cold war. In his remarks he stated:

“You see, it wasn’t the spies who won the cold war. I don’t believe that in the end the spies mattered very much at all. Their capsuled isolation and their remote theorizing actually prevented them from seeing, as late as 1987 or 8, what anybody in the streets could have told them:

“It’s over. We’ve won. The Iron Curtain is crashing down! The monolith we fought is a bag of bones! Come out of your trenches and smile!”

Even the victory, for them, was a cunning Bolshievick Trick.

And anyway, what had they got to smile about? It was a victory achieved by openness, not secrecy. By frankness, not intrigue. The Soviet Empire did not fall apart because the spooks had bugged the men’s room in the Kremlin or put broken glass in Mrs. Brezhnev’s bath, but because running a huge empire with codebooks, buried copies of documents in hot springs, and technologically-impossible.

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did not hold than in the failure of the intelligence products to highlight the extent to which they were assumption-driven. Surely intelligence products could benefit from highlighting assumptions. However, a more rigorous scrutiny provided by greater openness would give an opportunity for facts, assumptions, and conclusions to be challenged.

Scientists have long understood that secrecy keeps mistakes secret. In the early 1960s, Jack Ruina, an MIT professor who had been head of the Defense Research Project Agency at the Department of Defense during the Kennedy administration, told me after visiting the Soviet Union that it was plain just wasn't working. In particular he noticed something which someone without scientific training might not have. The Soviets did not know who their best people were. Promising young scientists in Russia were locked in a room and had no knowledge about the activities of their colleagues in the same country. Anyone who has visited the fine research hospitals of New York can tell you, the free flow of ideas is vital to advancement. Openness of information is essential for great science.

"The secrecy is a disease. It causes hardening of the arteries of the mind. It hinders true scholarship and hides mistakes. William Pfaff has suggested that we ought not rely on spies, but rather take advantage of the problems that everyone who has visited the fine research hospitals of New York can tell you, the free flow of ideas is vital to advancement. Openness of information is essential for great science."

Yet the secrecy system is still in place. The information Security Oversight Office keeps a tally of the number of secrets classified each year. They reported that in 1993 the United States created 6,408,688 secrets. Absurd. While the government is spending a billion dollars a year to classify and declassify information, and the annual figure is increasing, the real story is that the government is in control of 6,408,688 secrets. Absurd.

By Mr. MOYNIHAN: S. 127. A bill to improve the administration of the Women’s Rights National Historical Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

**THE NATIONAL HISTORIC PARK ACT OF 1995**

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will add several important properties to the Women’s Rights National Historical Park in Seneca Falls, NY. In 1980 I introduced legislation to commemorate an idea, that of equal rights for women. It is commemorated in Seneca Falls because that is where in 1848 the Declaration of Sentiments was signed, stating that “all men and women are created equal” and that women should have equal political rights with men. From this beginning sprang the 19th amendment and all that other advances for women for this century and last.

With the historic park authorized in 1980, we began the planning, held a design competition for the visitors center, and paid for the construction. The park is now in operation and a tremendous success. Visitorship increased 50 percent in fiscal year 1993 to 30,000. However, the park is not complete. As can be expected when starting such a venture from zero, not all the important tasks that need to be done at the outset. Several remain in private hands or under the control of the Trust for Public Land, and this bill authorizes their addition to the park.

These properties include the last remaining parcel of the original Elizabeth Cady Stanton property, necessary so that the Stanton House can be restored to its original condition, and the Young House in Waterloo, important for safety, resource preservation, and preserving the historic scene at the McClinton House. The other two are the Baldwin property, which would provide a visitor contact facility, restrooms, and boat docking facilities, and a maintenance facility now being rented by the Park Service.

These additions to the Women’s Rights National Historical Park will add tremendously to the enjoyment and value of a visit. The National Park Service supports them, and in fact I understand that this legislation is the top priority for the North Atlantic Region. We must pass it promptly, for time is not a luxury; the Nies property is in the early stages of foreclosure. I urge my colleagues to support this bill, and to come to the Women’s Rights Park themselves. It is a trip well worth making.

I further ask that the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 127

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

**SECTION 1. COMPOSITION.**

The second sentence of section 1610(c) of Public Law 96–607 (16 U.S.C. 4101) is amended—

(1) by striking “initially”;

(2) by striking paragraph (7);

(3) by redesigning paragraphs (8) and (9) as paragraphs (7) and (8), respectively;

(4) in paragraph (7) (as redesignated), by striking “and” at the end;

(5) in paragraph (8) (as redesignated), by striking the period at the end and inserting “$1,500,000”;

(6) by adding at the end the following:

“(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in the project for development of a maintenance facility;

“(10) dwelling, 1 Seneca Street, Seneca Falls;

“(11) dwelling, 10 Seneca Street, Seneca Falls;

“(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

“(13) dwelling, 12 East Williams Street, Waterloo.”

**SEC. 2. MISCELLANEOUS AMENDMENTS.**

Section 1601 of Public Law 96–607 (16 U.S.C. 4101) is amended—

(1) in subsection (h)(5), by striking “ten years” and inserting “25 years”;

(2) in subsection (i)–

(A) by inserting “(1)” after “(i)”;

(B) by striking “$700,000” and inserting “$1,500,000”;

(C) by striking “$500,000” and inserting “$1,500,000”;

(D) by adding at the end the following:

“(2) in addition to the sums appropriated before the date of enactment of this paragraph for land acquisition and development to carry out this section, there are authorized to be appropriated for fiscal years beginning after September 30, 1994, $2,000,000.”

By Mr. MOYNIHAN: S. 128. A bill to establish the Thomas Cole National Historic Site in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

**THE THOMAS COLE NATIONAL HISTORIC SITE ACT OF 1995**

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill which would place the home and studio of Thomas Cole under the care of the National Park Service as a National Historic Site. Thomas Cole founded the American artistic tradition known as the Hudson River School. He painted landscapes of the American wilderness as it never had been depicted, untamed and majestic, the way Americans saw it in the 1830s and 1840s. His students and followers included Frederick Church, Alfred Bierstadt, Thomas Moran, and John Frederick Kensett.

No description of Cole’s works would do them justice, but let me say that...
their moody, dramatic style and subject matter were in sharp contrast to the pastoral European landscapes that Americans admired previously. The new country was just settled enough that some people had time and resources to devote to collecting art. Cole’s new style coincided with this growing interest, to the benefit of both.

Cole had begun his painting career in Manhattan, but one day took a steamboat up the Hudson for inspiration. It worked. The landscapes he saw set him on the artistic course that became his life’s work. He eventually moved to a house up the river in Catskill, where he turned boarded, owned, married, and raised his family. That house, known as Cedar Grove, remained in the Cole family until 1979, when it was put up for sale.

Three art collectors saved Cedar Grove from developers, and now the Thomas Cole Foundation is offering to donate the house to the Park Service. This would be the second site in the Park Service dedicated to interpreting the life and work of an American landscape painter. Olana, Church’s home, sits immediately across the Hudson, so we have the opportunity to provide visitors with two nearby destinations that show the inspiration for two of America’s foremost nineteenth century painters. Visitors could walk, hike, or drive to the actual spots where masterpieces were painted and see the landscape much as it was then.

Mr. President, the home of Thomas Cole is being offered as a donation. I believe we owe it to him, and to the many people who admire the Hudson River School and explore its origins, to accept this offer and designate it a National Historic Site. I regret that none of Thomas Cole’s work hangs in the Capitol, although two works by Bierstadt can be found in the stairwell outside the Speaker’s Lobby. Perhaps Cole’s greatest work is the four-part Voyage of Life, an allegorical series that depicts man in the four stages of life. It can be found in the National Gallery, along with two other Cole paintings. Another work of Cole’s that we would be advised to remember is The Course of Empire, which depicts the rise of a great civilization from the wilderness, and its return.

Last year the first major Cole exhibition in decades was held at the National Museum of American Art. The exhibition was all the evidence needed of Cole’s importance and the merit of adding his home to the list of National Historic Sites. I hope that this must happen soon. The house needs work, and will not endure many more winters in its present state.

I ask that my colleagues support this legislation, and that the text of the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD as follows:

SEC. 1. SHORT TITLE. This Act may be cited as the “Thomas Cole National Historic Site Act of 1995”.

SEC. 2. FINDINGS AND PURPOSES. (a) FINDINGS.—Congress finds that— (1) the heyday of landscape painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscapes and wilderness of America, particularly in the Hudson River Valley region in the State of New York; (2) Thomas Cole has been recognized as America’s premier landscape painter and allegorical painter in the mid-19th century; (3) the Thomas Cole House in Greene County, New York is listed on the National Register of Historic Places and has been designated as a National Historic Landmark; (4) within a 15 mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists survive intact; (5) the State of New York has established the Hudson River Valley Greenway to promote the preservation, public use, and enjoyment of artistic expression; and (6) the Secretary may consult with other appropriate Federal, State, and other entities in the Hudson Valley region in the development of the site.

(b) PURPOSES.—The purposes of this Act are— (1) to preserve and interpret the home and studio of Thomas Cole for the benefit, inspiration, and education of the people of the United States; (2) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression; (3) to coordinate the interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region in the development of the site; (4) to broaden understanding of the Hudson River Valley region and its role in American history and culture.

SEC. 3. DEFINITIONS. As used in this Act:

(1) HISTORIC SITE.—The term “historic site” means the Thomas Cole National Historic Site established by section 4.

(2) HUDSON RIVER ARTISTS.—The term “Hudson River artists” means artists who belonged to the Hudson River school of landscape painting.

(3) PLAN.—The term “plan” means the general management plan developed pursuant to section 6.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF THOMAS COLE NATIONAL HISTORIC SITE. (a) IN GENERAL.—There is established, as a unit of the National Park System, the Thomas Cole National Historic Site, in the State of New York.

(b) DESCRIPTION.—The historic site shall consist of the home and studio of Thomas Cole, comprising approximately 3.4 acres, located at 238 Spring Street, in the village of Catskill, New York, as generally depicted on the boundary map numbered TCH/8002, and dated March 1992.

SEC. 5. ACQUISITION OF PROPERTY. (a) REAL PROPERTY.—The Secretary is authorized to acquire lands, and interests in lands, within the boundaries of the historic site by donation, purchase with donated or appropriated funds, or condemnation.

(b) PERSONAL PROPERTY.—The Secretary may also acquire by the same methods as provided in subsection (a), personal property that is appropriate to the interpretation of the historic site, Provided, That the Secretary may acquire works of art associated with Thomas Cole and other Hudson River artists only by donation or purchase with donated funds.

SEC. 6. ADMINISTRATION OF SITE. (a) IN GENERAL.—The Secretary shall administer the historic site in accordance with the National Historic Preservation Act of 1966 and all laws generally applicable to the units of the National Park System, including the Act entitled “An Act To establish a National Park Service, and for other purposes”, approved August 25, 1916 (16 U.S.C. 1, 2-4), and the Act entitled “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes”, approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) COOPERATIVE AGREEMENTS.— (1) IN GENERAL.—To further the purposes of this Act, the Secretary may consult with and enter into cooperative agreements with the State of New York, the Thomas Cole Foundation, and other entities in the Hudson River Valley region and its role in American history and culture.

(2) TO PROVIDE FOR THE PRESERVATION, PUBLIC USE, AND ENJOYMENT OF THE LIVES AND WORKS OF THE HUNDR

SEC. 7. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated such sums as are necessary to carry out this Act.

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

S. 128. A bill to amend section 207 of title 18, United States Code, to tighten...
United States of America in Congress assembled, 

Mr. McCAIN. Mr. President, I ask unanimous consent that the text of the bill be ordered to be printed in the RECORD, as follows:

S. 129

Bill enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Government Reform Act of 1995.

SEC. 2. SPECIFIC RESTRICTIONS AND ANTI-CORRUPTION PROVISIONS APPLICABLE TO MEMBERS OF CONGRESS AND HIGHLY PAID CONGRESSIONAL EMPLOYEES.

(a) In General.—

(1) Appearances before agency.—(A) Section 207(d) of title 18, United States Code, is amended—

(i) by striking all that precedes paragraph (1);

(ii) by striking "a" and inserting "the" before paragraph (2); and

(iii) by inserting a period at the end of paragraph (2).

(2) Personal and family appearance before agency.—(A) Paragraph (2) of section 207(h) of title 18, United States Code, is amended by inserting after subsection (c) the following:

"and (ii) a Member of Congress; or"

(B) The first sentence of subsection 207(h)(1) of title 18, United States Code, is amended by inserting after "subsection (c)" the following:

"and subsection (d)(3)."

(3) Foreign agents.—Section 207(f) of title 18, United States Code, is amended by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) adding after paragraph (1) the following:

"(2) Special restrictions.—Any person who—

(A)(i) serves in the position of Vice President of the United States;

(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer, and who, after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department or agency in which such person served within 5 years before such termination, during a period beginning on the termination of service or employment as such officer or employee of such department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(B) knowingly after such service or employment—

(i) represents a foreign national (as defined in section 318(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b)) before any officer or employee of any department or agency in which such person served within 5 years before such termination, during a period beginning on the termination of service or employment as such officer or employee of such department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(ii) assists or advises a foreign national (as defined in section 318(b) of the Federal Election Campaign Act of 1971) with the intent to influence a decision of such officer or employee in carrying out his or her official duties; and

shall be punished as provided in section 216 of this title.

"(3) GIFTS FROM A FOREIGN GOVERNMENT OR FOREIGN POLITICAL PARTY.—Any person who—

(A)(i) serves in the position of President of the United States;

(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

(iii) is employed in a position in the Executive Office of the President whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

(iv) is a Member of Congress; or

(v) is employed in a position by the Congress at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995), and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

(B) after such service or employment terminates, receives a gift from a foreign government or foreign political party;

shall be punished as provided in section 216 of this title.

"(4) DEFINITIONS.—For purposes of this subsection—

(A) the term `foreign national' means—

(i) a government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended or a foreign political party as defined in section 1(f) of that Act;

(ii) a person outside of the United States, unless such person is an individual and a citizen of the United States, or unless such person is an individual who is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States;

(iii) a partnership, association, corporation, organization, or other combination of persons organized or operated under laws of or having its principal place of business in a foreign country;

and

(iv) a person any of whose activities are directed or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by an entity described in clause (i), (ii), or (iii); and

(B) the term `gift'—

(i) includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value greater than $20; and

(ii) does not include—

(A) modest items of food and refreshments offered other than as part of a meal;

(B) greetings cards and items of little intrinsic value which are intended solely for presentation;

(C) loans from banks and other financial institutions on terms generally available to the public;

(D) opportunities and benefits, including favorable rates and commercial discounts, available to the public; or

(E) travel subsistence, and related expenses in connection with the person's rendering of advice or aid to a government of a foreign country or foreign political party, if the Secretary of State certifies in advance that such activity is in the best interests of the United States.

(3) Trade negotiators.—Section 207(b)(1) of title 18, United States Code, is amended by—

(A) inserting `A' after "In general."

and

(B) adding at the end thereof the following:

"(i) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any
COLA after the date of enactment of the Ethics in Government Reform Act of 1996) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer.

(ii) is a Member of Congress or employed in a position at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1996) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer; or

(iii) is a Member of Congress or employed in a position at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1996) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer; or

(c) E XCEPTIONS.ÐSection 207(j) of title 18, United States Code, is amended by adding a subsection as follows:

``(8) Highly paid staffers.ÐFor any person described in paragraph (2), (3), (4), or (5), employed in a position at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1996) and is an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer, the intent to influence, communicating to or appearing before any employee of the executive or legislative branch, for a period of not less than one year, shall be 5 years.’’.

The revolving door between public and private employment has generated much of this anger and cynicism. But by putting a lock on this door for meaningful periods of time, we can send a message that those entering government employment should view it as a service to their country—not as another rung on the ladder to personal gain and profit. Some may suggest that by doing this we are seeking to alleviate meritless concerns of an overreacting public. The facts show that on this issue the public is right on target. For example, since 1974 according to the Center for Public Integrity, 47 percent of all former senior U.S. trade officials have registered with the Justice Department as lobbyists for foreign agents. In other words, nearly half of our former high-ranking trade representatives, who played active roles in our trade negotiations and have direct knowledge of confidential information of U.S. trade and business interests, are now lobbying on behalf of foreign agents who are representing interests that are in direct conflict with the United States. Whether you supported or opposed recent trade agreements such as the North American Free Trade Agreement or the General Agreement on Trade and Tariffs, one can only speculate as to how such revolving door practices influenced the outcome of those negotiations. And that is just our trade officials. Such revolving door problems are just as prevalent in the legislative branch. Former members of Congress who once chaired or served on committees with jurisdiction over particular industries or special interests are now representing those interests as lobbyist to former colleagues on behalf of those industries or special interests. Former committee staff directors are using their contacts and knowledge of their former colleagues to secure lucrative positions in lobbying firms and associations with a client list that is provided to those committees. How can we blame our constituents for looking upon this institution with cynicism and disdain when they hear about a former member or lobbyist who is now providing lobby services to a company or association that is funding their political campaigns? But the admiration and esteem has been replaced with perceptions of an institution that meets the concerns and demands of special interests to the exclusion of the interests of the American people. Mr. President, one can read many messages coming from the electorate during the 1992 and 1994 elections. Some might argue that those messages were calls for fiscal responsibility, or for ensuring that our communities are safer and our families healthier. We can have an endless discussion about those issues. But I do not think there could have been a clearer message from the last two elections that Americans feel that our public servants are not necessarily fed up with Republicans or Democrats, but that they are fed up with a system here in Washington that both parties are forced to operate within.

The revolving door between public and private employment has generated much of this anger and cynicism. But by putting a lock on this door for meaningful periods of time, we can send a message that those entering government employment should view it as a service to their country—not as another rung on the ladder to personal gain and profit. Some may suggest that by doing this we are seeking to alleviate meritless concerns of an overreacting public. The facts show that on this issue the public is right on target. For example, since 1974 according to the Center for Public Integrity, 47 percent of all former senior U.S. trade officials have registered with the Justice Department as lobbyists for foreign agents. In other words, nearly half of our former high-ranking trade representatives, who played active roles in our trade negotiations and have direct knowledge of confidential information of U.S. trade and business interests, are now lobbying on behalf of foreign agents who are representing interests that are in direct conflict with the United States. Whether you supported or opposed recent trade agreements such as the North American Free Trade Agreement or the General Agreement on Trade and Tariffs, one can only speculate as to how such revolving door practices influenced the outcome of those negotiations. And that is just our trade officials. Such revolving door problems are just as prevalent in the legislative branch. Former members of Congress who once chaired or served on committees with jurisdiction over particular industries or special interests are now representing those interests as lobbyist to former colleagues on behalf of those industries or special interests. Former committee staff directors are using their contacts and knowledge of their former colleagues to secure lucrative positions in lobbying firms and associations with a client list that is provided to those committees. How can we blame our constituents for looking upon this institution with cynicism and disdain when they hear about a former member or lobbyist who is now providing lobby services to a company or association that is funding their political campaigns?
of the House Foreign Affairs Committee registering as a lobbyist on behalf of a foreign country? How can we ensure that the trade agreements we enter into are indeed fair when individuals who have recently represented the United States are now on the other side of the bargaining table? Or how about the chairman of a House subcommittee with jurisdiction over the Rural Electrification Administration retiring last year to head the National Rural Electric Cooperative Association. Are our constituents to believe that this former chairman has no special influence or influence with his former committee that may benefit his new employer?

It seems that since the election last November that the print media has been filled with announcements of government officials leaving the public sector to work for lobbying firms. One recent article announced that a staff assistant leaving her position on the House Subcommittee on Energy and Power will be working for the government relations, i.e. lobbying, department of the American Public Power Association. Another one announced that a recently retired former member of the House Ways and Means Subcommittee on Select Revenue Measures is joining a Washington lobbying firm. According to this announcement, he will specialize in tax policy. Mr. President, the problem of revolving door lobbying is quite clear, and in our review, so is the solution.

The bill we are introducing today will strengthen the post-employment restrictions that are already in place. There is currently a one year ban on former members of Congress lobbying the entire Congress as well as senior congressional staff lobbying their former employing entity. Members and senior staff are also prohibited from lobbying on behalf of a foreign entity for one year. Our bill will prohibit members of Congress and senior staff from lobbying the entire Congress for two years, and their former committees for the entire duration. The one year ban on lobbying on behalf of a foreign entity will become a lifetime ban. In early 1993, President Clinton issued a strong executive order which bars senior executive branch officials from lobbying their former agencies for five years, and prohibits employees of the Executive Office of the President from lobbying on a matter they had substantial involvement in for five years. It also includes a lifetime ban on lobbying on behalf of a foreign entity. Our bill codifies these regulations for the executive branch, and also imposes a two year ban on political appointees and senior executive branch staff from lobbying other executive branch officials. Finally, our bill will also ban on the lobbying of foreign trade officials either lobbying on behalf of a foreign entity, or advising for compensation a foreign entity on how best to lobby the U.S. government.

This bill is targeted in two ways: First, it only affects legislative and executive branch staff members who earn over 80,000 dollars a year. I hope that we will address that issue as soon as possible. But there is another very important step that this Congress needs to take if we are to recapture the trust of the American electorate and extinguish the firestorm of cynicism and skepticism with which the public views their government. We must clamp down on the widespread custom of entering public service and then trading knowledge and influence gained during that service for personal wealth or gain. Mr. President, there are those who will argue that our proposal will make it more difficult for the federal government to recruit and attract quality employees. These critics ask, why should a well-educated and knowledgeable individual enter government service if that individual will have difficulty using that service to attain prosperous employment after they leave the federal government? And this question, Mr. President, brings us to the heart of this debate, more than anything else, is what we as individual Senators believe the meaning of public service should be.

Quite frankly, I find this sort of suggestion, that we almost need to "bribe" or "lure" people into public service, a telling example of why the American people have lost faith in us. It is also an insult to the thousands of government employees who are in public service for the right reasons. The principal reason why an individual would accept employment as a United States Senator, as an assistant secretary in the Commerce Department or as a negotiator in the Office of the U.S. Trade Representative, should not be to use that service as stepping stone to personal wealth and gain. The principal reason should be a wish to represent the citizens of your state, or to improve our economic base or to pry open foreign markets for our domestic products. Mr. President, we are not here to outlaw the profession of lobbying. Not only would that be unconstitutional, but I do not think it would be addressing the true flaws of our political system. Lobbying is merely an attempt to represent an individual's employment opportunity if they are seeking to use their past employment with the federal government to gain special access or influence with the government in return for personal gain. Mr. President, we are not here to outlaw the profession of lobbying. Not only would that be unconstitutional, but I do not think it would be addressing the true flaws of our political system. Lobbying is merely an attempt to present the views and concerns of a particular group and there is nothing inherently wrong with that. In fact, lobbyists, whether they are representing Common Cause or Wall Street, can present important information to public representatives that may not otherwise be available. But there are important steps that we should take to ensure that lobbyists do not hold any special advantage or influence with the officials they are lobbying. We should improve our lobbying disclosure laws to make them more accurate and available information as to who is lobbying us and who they represent. We should make sure that lobbyists are no longer able to buy Members of Congress expensive meals and all-expense paid vacation trips. We came close to passing strong gift ban legislation last year, and I hope that we can address that issue as soon as possible. But there is another very important step that this Congress needs to take if we are to recapture the trust of the American electorate and extinguish the firestorm of cynicism and skepticism with which the public views their government. We must clamp down on the widespread custom of entering public service and then trading knowledge and influence gained during that service for personal wealth or gain.

Mr. President, I am reminded of our former majority leader, Senator Mitchell, who characterized the meaning of government service at a reception that was given in his honor last fall. Senator Mitchell said: "Public service gives work a value and a meaning greater than mere reward. For it does not guarantee wealth, or popularity or respect. It's difficult and often frustrating. But when you do something that will
change the lives of people for the better, then it is worth all of the difficulty and all of the frustration.”

In conclusion, Mr. President, I would like to again commend Senator McCain for his leadership on this issue. I strongly believe that there is no more noble endeavor than to serve in government. But we need to take immediate action to restore the public's confidence in their government, and to rebuild the lost trust between members of Congress and the electorate. Passing this legislation and curbing the practice of revolving door lobbying is a forceful first step in this much-needed direction. We need to enact legislation that will finally reform the way we finance congressional campaigns and that will level the playing field between incumbents and challengers. We need to enact comprehensive lobbying reform legislation, so that our constituents know exactly whose interests are being represented. And overdue, Mr. President, is the need to act on legislation that will reform the way Congress deals with the thousands of gifts and other perks that are offered to Members each year from individuals, lobbyists and associations that seek special access and influence on Capitol Hill.

The notion of public service has been battered and tarnished in recent years. Serving in government is an honorable profession and it deserves to be perceived as such by the people we represent.

By Mr. LIEBERMAN (for himself, Mr. JEFFORDS, Mr. MOYNIHAN, and Mr. LUTENBERG):

S. 130 A bill to amend title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

THE POVERTY DATA CORRECTION ACT

Mr. LIEBERMAN. Mr. President, I rise to introduce a bill which will improve the quality of our information on persons and families in poverty, and which will make more equitable the distribution of Federal funds. The Poverty Data Correction Act of 1995 is co-sponsored by Senators EFFORDS, MOYNIHAN, and LUTENBERG. This bill requires the Bureau of the Census to adjust for differences in the cost of living, on a State-by-State basis, when providing information on persons or families in poverty.

The current method for defining the poverty population is woefully antiquated. The definition was developed in the late 1960's based on data collected in the late 1950's and early 1960's. The assumptions used then about what proportion of a family's income is spent on food is no longer valid. The data used to calculate what it costs to provide for the minimum nutritional needs, not to mention what minimum nutritional needs are, no longer applies. Nearly everyone agrees that it is time for a new look at what constitutes poverty. And, I am pleased to be able to report that the National Academy of Science, through its Committee on National Statistics, is studying this issue.

But there is a more serious problem with our information on poverty than old data and outdated assumptions. In calculating the number of families in poverty, the Census Bureau has never taken into account the dramatic differences in the cost of living from state to state. Recent calculations from the academic community show that the difference can be as much as 50 percent. Let's say that the poverty level is $15,000 for a family of four. That is, it takes $15,000 to provide the basic necessities for the family. In some States, where the cost of living is high, it really takes $18,750 to provide those basics. In other States, where the cost of living is low, it takes only $11,250 to provide those necessities. But when the Census Bureau counts the number of poor families, they don't take those differences into account.

But this is more than just an academic problem of definition. These Census numbers are used to distribute millions of Federal dollars. Chapter 1 of the elementary and Secondary Act allocates Federal dollars to school districts based on the number of children in poverty. States like Connecticut, where the cost of living is high, get fewer Federal dollars than they deserve because cost differences are ignored. Other States, where the cost of living is low, get more funds than they deserve.

It is important that we act now to correct this inequity. This bill provides a mechanism for that correction. Thank you Mr. President, I ask unanimous consent that the full text of this bill be included in the record.

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

S. 130

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

SECTION 1. SHORT TITLE. This Act may be cited as the “Poverty Data Correction Act of 1995”.

SEC. 2. REQUIREMENT.

(a) In General—Chapter 5 of title 13, United States Code, is amended by adding after subchapter V the following:

"Subchapter VI—Poverty Data"

SEC. 197. CORRECTION OF SUBNATIONAL DATA RELATING TO POVERTY.

(a) Any data relating to the incidence of poverty produced or published by or for the Census Bureau shall be corrected for differences in the cost of living, and data produced for State and sub-State areas shall be corrected for differences in the cost of living for at least all States of the United States.

(b) Data under this section shall be published in 1995 and at least every second year thereafter.

SEC. 198. DEVELOPMENT OF STATE COST-OF-LIVING INDEX AND STATE POVERTY THRESHOLDS.

(a) To correct any data relating to the incidence of poverty produced or published by or for the Census Bureau shall—

(1) develop or cause to be developed a State cost-of-living index which ranks and assigns an index value to each State using data on wage, housing, and other costs relevant to the cost of living; and

(2) multiply the Federal Government’s State cost-of-living and State poverty threshold index value for each State’s cost of living to produce State poverty thresholds for each State.

(b) The State cost-of-living index and resulting State poverty thresholds shall be published prior to September 30, 1996, for calendar year 1995 and shall be updated annually for each subsequent calendar year.

(c) CONFORMING AMENDMENT. The table of subchapters of chapter 5 of title 13, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—POVERTY DATA"

SEC. 197. Correction of subnational data relating to poverty.

SEC. 198. Development of State cost-of-living index and State poverty thresholds.”

By Mr. LIEBERMAN:

S. 131 A bill to specifically exclude certain programs from provisions of the Electronic Funds Transfer Act; to the Committee on Banking, Housing, and Urban Affairs.

THE ELECTRONIC FUNDS TRANSFER ACT

Mr. LIEBERMAN. Mr. President, I rise to introduce the Electronic Benefits Regulatory Relief Act of 1994. This bill is also cosponsored by Senators BREUCK, DOMENICI, FEINSTEIN, PRESL, and HATFIELD. When passed, this bill will eliminate one of the major barriers to making the banking system more accessible to those receiving government benefits like Aid to Families with Dependent Children or Food Stamps. If this bill is not passed, we will have missed an opportunity to reduce the cost of government services, and an opportunity to make the delivery of government services, more efficient and humane.

This legislation is necessary to reverse a regulation issued by the Federal Reserve Board. That ruling, issued last March, said that the Electronic Benefit Transfer [EBT] cards issued by States are subject to the same liability limits as ATM or credit cards. On the surface that seems reasonable—a card is a card and there seems little reason to differentiate between cards to withdraw government benefits from a bank and cards to withdraw earnings or savings from a bank. But, as is often the case with regulations, what appears on the surface isn't necessarily the whole story.

With the simple extension of this regulation to EBT cards, the Federal Reserve Board, with the support of this Subcommittee, could have expanded a social benefits legislation, extended the Electronic Funds Transfer Act into a realm it was not intended to cover, and created for states a new liability of unpredictable size. This bill seeks to reestablish the legislative intent governing...
Food Stamps, the legislative intent of the Electronic Funds Transfer Act, and at the same time limit a State's exposure to liability if they choose EBT over checks and coupons. 

Electronic Benefit Transfer Cards are simply an extension of current technology into the delivery of government benefits. Instead of receiving checks or coupons, recipients receive an EBT card. With that card they can access the cash benefits whenever and wherever they choose. They can withdraw as little as five dollars, or as much as the system will allow in a single transaction. Recipients can use their card at the supermarket, at the gas pump, or at the way millions of Americans now use credit or debit cards to pay for food. 

EBT cards offer recipients greater protection from theft than current methods of payment. Without the associated pin number, the EBT card is useless. Checks are easily stolen and forged. Food Stamp coupons, once stolen, can be used by anyone and can even be used to buy drugs on the black market.

EBT cards can provide recipients access to a banking system that is frequently criticized for shunning them. It is often the case that the only way a recipient can get his or her check cashed is by paying an exorbitant fee to some non-banking facility. Several Senators have introduced or supported bills requiring banks to cash government checks. Their goal was to provide these individuals access to the services most Americans enjoy. Those bills will be unnecessary when EBT cards replace checks. EBT cards can be used at a number of locations at any hour of the day or night and no fee is charged to the recipient for transactions.

The action by the Federal Reserve will stop all of these benefits from happening. State and local governments have indicated that if Regulation E is enforced they would go forward with EBT. John Michaelson, the director of social services in San Bernardino County, CA, points out that while San Bernardino County was selected as the pilot site for the California EBT development, that project will not go forward as long as Regulation E applies. Similarly, Governor Carlson of Minnesota recently wrote to me indicating that the plans to expand EBT statewide in Minnesota will be halted by the application of Regulation E. Letters of support for this legislation have come from Governor Pete Wilson of California, Governor David Walters of Oklahoma, Governor Mike Sullivan of Wyoming, Governor Edwin W. Edwards of Louisiana, Governor Arne H. Carlson of Minnesota, the National Association of State Treasurers, the American Public Welfare Association, the National Association of Counties the National Governors Association, and the Electronic Funds Transfer Association. I ask unanimous consent that these letters, along with the letter from Mr. Michaelson, be printed in the RECORD immediately following my statement.

The dilemma that faces States is that simply switching from checks and coupons to EBT cards, because of Regulation E, creates a new liability. Stolen benefit checks and coupons are not replaced except in extreme circumstances. Regulation E requires that all but $50 of any benefits stolen through an EBT card must be replaced. The effect of the Federal Reserve's action is that the simple act of changing the method of delivery imposes on the States a liability of unknown magnitude.

This action by the Federal Reserve is inconsistent with the legislative intent that created the benefit programs. The legislation for both Food Stamps and Aid to Families with Dependent Children—the two largest programs included in EBT—are quite clear in specifying that lost or stolen benefits will be replaced only in extreme circumstances. We should not allow that legislation to be changed through regulation.

This action is also inconsistent with the legislative intent of the Electronic Funds Transfer Act. The EFTA is about the relationship between an individual and his or her bank. It has been described in that relationship because of the dramatic disparity in power between the individual and the bank. In EBT, any relationship between the bank and the individual is mediated by the State. The State sets up a single account, which all recipients drain. If there is a mistake, either in the bank's favor or the recipient's, the bank goes to the State, and it is the State's responsibility to contact the individual. It is difficult to accept that the same disparity in bargaining power exists between the State and the bank.

The differences between EBT and other electronic transfers were carefully documented in a letter from Dr. Alice Rivlin, deputy director of OMB, to the Board of Governors of the Federal Reserve. I ask unanimous consent that Dr. Rivlin's letter be included in the RECORD at this point.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET.

Mr. William W. Wiles,
Secretary, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR MR. WILES: This letter responds to the proposal, published for comment on February 8, 1993, to revise Regulation E to cover electronic benefit transfer (EBT) programs. Please refer to Docket No. 0-796. This letter contains our endorsement of the EBT Steering Committee proposal for modifying Regulation E to provide access to funds by eligible beneficiary is a right guaranteed by law and is not conditioned on any prior abuses. Eligibility is based on need.
Improper withdrawals can only be re-
couped in a way that protects economic in-
terest of beneficiary. For example, reduc-
tions of future benefits are strictly limited to 10 percent per month in AFDC.
If benefits are fraudulently withdrawn or if an adverse action, extensive administrative apparatus supports the appeal at no cost to the beneficiary.

OMB RECOMMENDATIONS

The Federal Reserve Board has requested comment on proposed modifications to Regulation E for EBT beyond those proposed should be considered. OMB specific recom-

mendations are enclosed.

We recommend that the Board create some exceptions in Regulation E for EBT pro-
grams. In summary, we believe the Board has authority under the EFTA to prescribe certain exceptions for any class of electronic funds transfer that would effectuate the purposes of the EFTA. We believe that the Steering Committee proposal, taken together with existing protections in individual program requirements, establish the rights, liabilities, and responsibilities of participants in EBT programs and are pri-

marily directed to protecting and enhancing the rights of individual beneficiaries.

We join with the Federal Reserve Board in its protective measure to protect the right of individuals in this emerging technology. We look forward to continued progress on this governmentwide initiative.

Sincerely,
ALICE M. RIVLIN,
Deputy Director.

Opponents of this action argue that by exempting EBT cards from the elec-
tronic Funds Transfer Act discrimi-

nates against the poor. This argument misses two important differences be-

 tween EBT and ATM cards. First, ATM access is a service that banks give with dis-
cretion, and can withdraw. States cannot deny recipients access to benef-

its. If there is abuse of the system, the State's only alternative is to operate dual systems, thus decreasing the effi-
ciency gains of EBT. Second, EBT ex-

tends to recipients greater protection of their benefits than checks or cou-
pions. If stolen, the card can't be used without the pin number. And, recipi-

ents are less likely to have all their cash stolen. With checks they must re-

ceive all the cash at once, and usually pay a fee for cashing the check. With EBT cards they can withdraw only what they need, and transaction costs are covered by the contract between the State and the bank.

Others suggest that the concern with fraud if EBT is covered by Regulation E under current law is the larger problem of the recipients. This is so. It only says that they are like everyone else—
a small portion will participate in fraudulent activities to the expense of all the rest. One of the major criminal problems with ATM cards, according to the Secret Service, is fraud involving Regulation E protection. An individual can sell his or her ATM card, and as long as the price is greater than $50, everyone wins but the bank. The Se-
et Service knows this type of fraud occurs. It is very difficult for States to pursue when a fraud case crosses state lines. States rightly fear that similar fraud will occur with EBT.

Earlier this month the Vice Presi-
dent issued the first report from the EBT task force and called for nation-

wide implementation. Without passage of this legislation, that goal will never be reached. When the Federal Reserve was considering this issue, 40 governors wrote in opposition. The National As-
sociation of State Auditors, Comptrol-
ers, and Treasurers; The American Public Welfare Association, the Na-
tional Association of Counties, the Na-
tional Conference of State Legislatures, and the National Governors' As-
nociation wrote jointly to Vice Presi-
dent Gore and to Chairman Greenspan opposing the application of Regulation E to EBT.

The Federal Reserve has made a mis-
take. We in Congress now need to act to ensure that benefits cards can be-

come a reality. I urge my colleagues to enact this bill promptly.

I ask unanimous consent that a copy of the bill and letters be printed in the RECOR
D.

There being no objection, the mate-
rials ordered to be printed in the RECOR
D, as follows:

S. 131

Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in Con
gress assembled,

SECTION 1. ELECTRONIC BENEFIT TRANSFERS.

Section 904(d) of the Electronic Fund
Transfer Act (15 U.S.C. 1693) is amended—
(1) by inserting `(d)'; and
(2) by adding at the end the following new para
graph:

"(d) The disclosures, protections, re-

sponsibilities, and remedies created by this title or any rules, regulations, or orders is-
ued by the Board in accordance with this title, do not apply to electronic funds trans-
fer programs established under State or local law, or administered by a State or local government, unless payment under such pro-
gram is made directly into a consumer's ac-
count held by the recipient.

(2) Paragraph (A) does not apply to em-
ployment related payments, including sala-
ries, pension, retirement, or unemploy-
ment benefits established by Federal, State, or local governments.

(3) Nothing in subparagraph (A) alters the protections established by any Federal, State, or local law, or preempts the applica-
tion of any State or local law.

(4) For purposes of subparagraph (A), an elec-
tronic benefit transfer program is a pro-
gram under which a Federal, State, or local government agency distributes needs-tested benefits by establishing accounts to be paid directly to the recipient, such as through automated teller machines, or 
point-of-sale terminals. A program estab-
lished for the purpose of enforcing the sup-
port obligations of absent parents to their children and the custodial parents with whom the children are living is not an elec-
tronic benefit transfer program.".

GOVERNOR PETE WILSON,
September 15, 1994.

Hon. JOSEPH LIEBERMAN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR JOE LIEBERMAN: I am writing to give
my support to your proposed legislation to exempt EBT programs from the Electronic Funds Trans-
fer Act, Specifically from the Federal Re-
serve's Regulation E.

California could not assume the unknown fis-
cial liability that accompanies subjecting EBT programs to Regulation E, which in-
cludes a requirement to replace lost or sto-
len benefits. The State has begun develop-
m ent of a pilot EBT project, but Regulation E greatly increases our potential liability, jeopardizing our ability to meet federal cost neutrality requirements and making EBT development for federal benefits impossible. Thus, we are opposing further development within our state.

I recognize EBT as a tool to help the states provide efficient and effective social welfare services, and I am working with you to resolve the concerns raised by the application of Regulation E to EBT pro-
grams.

Sincerely,
PETE WILSON.

STATE OF OKLAHOMA,
Office of the Governor,

Hon. JOSEPH LIBERMAN,
Chairman, Governmental Affairs Committee
on Regulation and Governmental Informa-
tion, U.S. Senate, Hart Senate Office Build-
ing, Washington, DC.

DEAR SENATOR LIBERMAN: I am writing in sup-
port of your legislation to exempt elec-
tronics benefits transfer (EBT) from the Elec-
tronic Funds Transfer Act (EFTA).

The prompt passage of this legislation is needed to ensure that EBT becomes a reality in Oklahoma.

Electronic benefits transfer is the future of government benefit distribution. The advan-
tages for recipients and government entities have been studied and are compelling. Implementation of Regulation E in March 1997, will be an irresponsible act in light of the conse-
quences anticipated in liability costs to the states. If Regulation E is imple-
mented, the nationwide costs for replacing food stamps is estimated in excess of $800 million a year. Estimates are not available for the numerous implications anticipated for EBT distribution. Current federal regulations provide ample protection to the consumer recipients, in addition to the known advantages of receiving benefits elec-
tronically.

Oklahoma is leading a multi-state south-
west regional team in procuring an EBT sys-
tem to distribute food stamps and money payments. This month, the Oklahoma De-
partment of Human Services will publish a Request for Information to be distributed to potential bidders to inform them of our unique approach to procurement, and to pro-
vide the opportunity to comment on the pro-
posed system design. We plan to publish a Request for Bids in September 1994. The pending implementation of Regulation E has been studied and validated. The pending legislation is needed to ensure that benefits cards can be-

come a reality. I urge my colleagues to enact this bill promptly.

Sincerely,

DAVID WALTERS.

STAYE OF WYOMING,
Office of the Governor,

Hon. JOSEPH LIBERMAN,
Chairman, Government Affairs Committee
on Regulation and Government Information,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIBERMAN: We are writing to you to express full support for your lead-
ing efforts in proceeding with legislation to ex-
empt electronic benefits transfer (EBT) from the Elec-
tronic Funds Transfer Act (EFTA), including exemption from the Regulation E (Reg E) provision.

Wyoming is developing an off-line smart card system solution to deliver state and fed-
eral benefits. Wyoming's first phase is to
conduct a federally approved combined Food Stamp and WIC Supplemental Food Program Demonstration Pilot. As this approach uses off-line distributive technology in contrast to traditional on-line magnetic stripe banking technology, it is analogous to the government/recipient relationship in the public sector. This assumption is false because public assistance recipients are entitled to benefit and must be served. Banks market their services for profit. They get to choose the customers they serve.

Second, customers of government benefit programs are given a card to access and manage their benefits, but they do not own the account and cannot deposit additional resources into the account. Further, banks charge fees to cover the costs of maintaining bank accounts, including complying with Regulation E. Finally, Congress set up benefit programs like Food Stamps, AFDC and WIC to achieve a public safety net to assure health and welfare for all citizens. States will never be able to apply Regulation E to these programs like Food Stamps, AFDC and WIC to achieve a public safety net to assure health and welfare for all citizens. States will never be able to apply Regulation E to these programs like Food Stamps, AFDC and WIC to achieve a public safety net to assure health and welfare for all citizens.

As you know, the Federal Reserve Board recently ruled that welfare programs using electronic benefit issuance are subject to the consumer protection process of Regulation E under the Electronic Funds Transfer Act. Welfare programs have been exempted from Regulation E since 1987. Under the new Federal Reserve Board ruling, as of March, 1997, the regulation will be applied.

Minnesota cannot accept the unknown liability inherent in applying Regulation E to benefit programs. The cost of replacing benefits should a card become lost or stolen would fall strictly on the state under this rule, even for the share of the benefit which is federally funded.

Your legislation, if enacted, would permit Minnesota and other states to move forward with development of Electronic Benefit Transfer (EBT) systems which will help state and federal government improve service delivery of welfare benefits to the client.

Warmest regards,

ARNE H. CARLSON, Governor.

NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS AND TREASURERS,


Hon. JOSEPH I. LIEBERMAN, Chairman, Subcommittee on Regulation and Government Information, Committee on Governmental Affairs, S. Senate, Hart Senate Office Building, Washington DC.

DEAR SENATOR LIEBERMAN: I am writing in support of your legislation to exempt electronic benefit transfer (EBT) from Electronic Transfer Funds Act (EFTA). This legislation is needed to ensure the future electronic delivery of governmental entitlement benefits in Louisiana.

Electronic benefits transfer as a method of distribution of government benefits has proven to be viable and secure. Although entitlement programs have been granted exemption from Regulation E until 1997, this regulation threatens the development and growth of EBT because of anticipated liability to the states. Estimated costs to the states could exceed $1.5 billion a year if Regulation E is implemented in March 1997. Louisiana is participating in a joint venture with three other states in the southwest region in procuring an EBT system to distribute AFDC and food stamp benefits. Proposals from bidders will be solicited in September 1994. The directive of EBT is an investment that is responsible administratively in addition to being beneficial to recipients. Your efforts in securing the future of EBT are appreciated.

Sincerely,

EDWIN W. EDWARDS.
Loss of EBT as a viable means of delivering welfare benefits—the bill will remove the Regulation E roadblock to nationwide EBT by making it financially possible for Governors to proceed with EBT to the benefit of clients and federal, state, and local governments.

We recognize that there may be other ways to address these problems but all of these solutions would result in some unknown new cost because they would create some level of new entitlement to benefit replacement. Until Governors have a commitment from the federal government to assume the costs of any new EBT entitlement benefits, your bill’s exemption approach is the only solution that we can support.

Sincerely,

GOV. MEL CARNAHAN,
Chair, Human Resources Committee

DEAR SENATOR LIEBERMAN: The National Association of Counties (NACo) strongly supports your legislation to exempt electronic benefits transfer (EBT) from Regulation E of the Electronic Funds Transfer Act. EBT/EFT offers numerous advantages to both the issuing agency and the recipient. Government agencies will save substantial administrative and production costs, as well as costs associated with fraud. Recipients will have the benefit of a secure delivery system, and a more dignified method of receiving benefits.

Progress toward wider use of EBT has been slowed, however, by the Federal Reserve Board’s decision March 1997 to apply Regulation E of the Electronic Funds Transfer Act to EBT programs. This Federal Reserve decision essentially changed federal social policy by replacing state entitlements with the electronic funds transfer. A new entitlement benefit—a new delivery system that customers are demanding but are reserving initiating a system until the issue of liability under Regulation E of the EFTA is resolved. For many counties, the application of Regulation E would effectively make initiating an electronic delivery system economically unfeasible through the violation of the cost neutrality requirement.

It is also the position of NACo that the consumer rights of welfare and Food Stamp recipients, which appears to be the major concern of the Federal Reserve Board of Governor’s and the driving force behind their push for Regulation E’s application, are protected under extensive federal rules in the authors’ current ATM/POS infrastructure in order to facilitate the electronic delivery of federal and state benefits nationwide. However, as Dale Brown, Director of the Maryland state Department of Social Services, and state benefits nationwide. However, as Dale Brown, Director of the Maryland state Department of Social Services, suggested, the benefits are not to the states.

NACo on 202-942-4260 should you have any questions.

Sincerely,

LARRY E. NAKE,
Executive Director.
Brown estimates that Maryland could inherit a potential liability of several million dollars. EFTA members include government agencies, EFT processors and networks, card issuers and manufacturers, as well as financial institutions. With a significant increment in costs due to benefit replacement, EBT would no longer be a viable venture for these stakeholders.

EBT would be pleased to work with you to help pass this legislation. In addition, we offer our assistance in crafting language that would further protect recipients whose benefits have been lost or stolen, while minimizing the opportunities for fraud that currently threaten fledgling EBT programs across the country.

We are grateful for your thoughtful analysis and interest in such a significant issue. If EBT can be of any help in this matter please do not hesitate to call at 703-435-9800.

Sincerely,
H. KURT HELWIG
Acting President & CEO
Director, Government Relations

DEPARTMENT OF PUBLIC
SOCIAL SERVICES,
April 15, 1994.

Mr. WILLIAM LUDWIG,
Administrator, Food and Nutrition Service,
Alexandria, VA.

DEAR BILL: For more than 4 years San Bernardino County has attempted to bring a Electronic Benefit Transfer (EBT), not only for our County, but to the entire State of California. Now, as we submit the attached Request for Proposal (RFP), after coming many hurdles and after finally being named as the EBT Pilot County for California, yet another mountain stands in our way. That mountain is the Federal Reserve Board's ruling that Regulation E does apply to EBT.

The San Bernardino County Board of Supervisors and I have made EBT a high priority. Besides being a cost-effective use of new technology, it is the best of all worlds (an occurrence not often seen in today's world of government bureaucracy). EBT holds the promise of being more cost effective than our current Food Stamp distribution system, it is also less costly for grocers and is generally viewed favorably by recipients for a number of reasons, not the least of which is having to access their benefits only as they number of reasons, not the least of which is having to access their benefits only as they need.

To make this important initiative practicable to require such an accounting was arrived at only after a great deal of debate and discussion with all affected parties. However, an immediate resolution to the Regulation E cost-sharing issue could resolve this and allow us to move forward. As always, I and my staff will make ourselves available to discuss what we think will be helpful in our pursuit of EBT for San Bernardino County and, therefore, California.

Sincerely,

J. JOHN F. MICHAELSON,
Director

By Mr. MOYNIHAN (for himself and Mr. INOUYE):
S. 132. A bill to require a separate, unclassified statement of the aggregate amount of budget outlays for intelligence activities. The second sentence on intelligence activities. I stress that Congress has failed to satisfy this statute because, although the Executive may have an opinion as to the desirability of disclosing the aggregate intelligence budget, the Supreme Court decided in United States v. Richardson, (1984 U.S. 166, 178 n. 11) that "it is clear that Congress has plenary power to exact any reporting and accounting it considers appropriate in the public interest." Thus it falls to us to provide a proper accounting of the disbursements of Government funds spent on intelligence activities.

The framers of the Constitution were no strangers to intelligence work. In the quiescence in carrying out certain functions of the State. During the Revolutionary War the Colonies formed Committees of Safety which were charged with intelligence and counterintelligence, and separate Committees of Correspondence which were responsible for securing communication between the Colonies and their allies in Europe. At the end of the War, George Washington submitted a bill for reimbursement of $27,617 for intelligence expenses incurred during the war. No small sum at that time.

The first part of the Statement and Account Clause, "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law," was part of an early draft of the Constitution. The second part of the clause was proposed in the final week of the Constitutional Convention (September 14, 1787) by George Mason, who sought an annual account of expenditures. The debate focused on how often was practical to require such an account, not whether full disclosure was desirable. James Madison argued that if the Constitution were to "Require too much," the difficulty would beget a habit of doing nothing." He then proposed to substitute "from time to time" for "annually," which was then adopted. Thus we have "and a regular Statement and Account of the Receipts and Expenditures of all Public Money shall be published from time to time."

Obviously such an ambiguous formulation of the clause gives Congress a good deal of flexibility. This was exercised from time to time to conceal military and intelligence activities when deemed necessary. Clearly it is not possible to state this in some other way. However, it is also clear that secrecy was not intended to be the norm. The clarity with which Madison understood this is expressed in a letter he wrote to Jefferson in 1793, "Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad."

I do not think that Justice Douglas overstated the case in his dissenting opinion in United States v. Richardson where he stated that the cost of our military secret at which Article I, Section 9, Clause 7 was aimed." Since World War II and throughout the cold war we have chosen not to publish the intelligence budget.

We have won the cold war. The Soviet Union no longer exists. One then might ask, whom are we keeping the aggregate intelligence figure from? In fact, we are not keeping it from anyone and this bill will only codify what in fact has been public knowledge for several years now.

Intelligence budget figures are regularly disclosed. Often the information is leaked to the press, or inferred by close scrutiny of budget figures, and in a few cases numbers will slip out accidentally. Tim Weiner, who reports such matters for the New York Times, called the intelligence budget figure the worst-kept secret in the capital. The latest episode occurred only 2 months ago when the House Appropriations Committee mistakenly published the President's fiscal year 95 intelligence budget request. Not just the aggregate amount, mind, but a detailed account of the requested budgets for the CIA, National Foreign Intelligence Program (NFIP), and Tactical Intelligence and Related Activities (TIARA). This detail underscores the point that if only if a smaller amount of truly sensitive information were classified, the information could be held more securely. The aggregate intelligence budget clearly is not in that category, for we now see that the figure will be published from time to time.

While we are waiting we might do well to consider how much like the barbarians we have become. James Q. Wilson, the eminent political scientist who has provided many insights into...
the study of bureaucracy and its various adversarial modes, holds that organizations come to resemble the organizations they are in conflict with. This is the Iron Law of Emulation. Not an encouraging situation considering our adversary was the Kremlin for so long. We now have an opportunity to reverse some of the emulation of the closed society that was the Soviet Union by shedding some light on our own vast secrecy system.

This is vitally important given that the 104th Congress which convenes today will carefully consider and debate our budget priorities. We cannot afford to fund all we might want to. In fact Mr. President, we are broke. And so publishing the aggregate amount of intelligence expenditures becomes necessary for a truly informed public debate. We then could weigh the importance of Head Start Programs in Topokia and consider the need for agents in Tabriz. Such a debate is already difficult enough given the indications of a recent Harvard study which asked voters their impressions of the largest Federal expenses today. Apparently there is the idea that foreign aid is the second largest expense and consumes over a quarter of our budget. In fact the National Budget Office tells us that foreign aid amounts to only two percent of the budget. Clearly there is enough disinformation going around. It is time for us to set the record straight when it comes to the process of urban archaeology. Others will be restored to show how real families lived at different periods in the building's history. At a nearby site there will be interpretive programs to better explain the larger experience of gaining a foothold on America in the Lower East Side of New York.

There are also plans for programmatic ties with Ellis Island and its precursor, Castle Clinton. And the Lower East Side Tenement Museum will play an active role in the immigrant community around it, further integrating the past and present immigrant experience on the Lower East Side.

This bill designates the Tenement Museum a national historic site. It authorizes the Secretary of the Interior to acquire the site or to enter into cooperative agreements with the museum. Such agreements could include technical or financial assistance to help restore, operate, maintain, or interpret the site. Agreements can also be made with the Statue of Liberty/Ellis Island and Castle Clinton to help with the interpretation of life as an immigrant. It will be a productive partnership.

Mr. President, I believe the Tenement Museum provides an outstanding opportunity to preserve and present an important stage of the immigrant experience and the move for social change throughout the turn of the century. I know of no better place than 97 Orchard Street to do so, and no other place in the National Park system doing so already. I look forward to the realization of this grand idea, and I ask my colleagues for their support.

I ask that the bill be printed in the RECORD.

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

S. 133

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower East Side Tenement Museum National Historic Site Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Lower East Side Tenement Museum at 97 Orchard Street is an outstanding survivor of the vast number of humble buildings that housed immigrants to New York City during the greatest wave of immigration in American history;

(2) the Museum is well suited to represent a profound social movement involving great numbers of exceptional but courageous people;

(3) no single identifiable neighborhood in the United States absorbed a comparable number of immigrants;

(4) the Lower East Side Tenement Museum is dedicated to interpreting immigrant life on the Lower East Side and its importance to American history, within a neighborhood long associated with the immigrant experience in America; and

(5) the National Park Service found the Lower East Side Tenement Museum to be nationally significant, suitable, and feasible for inclusion in the National Park System.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure the preservation, maintenance, and interpretation of this site and its surrounding neighborhood, the themes of early tenement life, the housing reform movement, and tenement architecture in the United States;

(2) to ensure the continuation of the Museum at this site, the preservation of which is necessary for the continued interpretation of the nationally significant immigrant phenomenon associated with the New York City's Lower East Side, and its role in the history of immigration to the United States; and

(3) to enhance the interpretation of the Castle Clinton National Historic Monument and Ellis Island National Historic Site through cooperation with the Museum.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) HISTORIC SITE.—The term "historic site" means the Lower East Side Tenement Museum designated as a national historic site by section 4.

(2) MUSEUM.—The term "Museum" means the Lower East Side Tenement Museum at 97 Orchard Street, New York City, in the State of New York, and related facilities owned or operated by the Museum.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF HISTORIC SITE.

To further the purposes of this Act and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, and objects, and to establish a national historical park," approved August 21, 1935 (16 U.S.C. 461 et seq.), the Lower East Side Tenement Museum at 97 Orchard Street, in the city of New York, State of New York, is designated as a national historic site.
The agreement.

between the Secretary and the other parties to properties except by mutual agreement be-

ments may also contain provisions thatÐ

ments and repairs.

store the historic site, including the making of preservation-related capital improve-

ments, siblings, wife, and children.

Secretary shall, to the extent practicable,

ments, including the making of preservation-related capital improve-

ments and repairs.

SEC. 5. ACQUISITION OR COOPERATIVE AGREEMENT.

(a) IN GENERAL.—The Secretary may—

(1) acquire the historic site with donated or appropriated funds; or

(2) enter into a cooperative agreement with the Lower East Side Tenement Museum to carry out this Act.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The agreement for the purpose of conducting visitors through the properties and interpreting the portions to the public; and

(2) prohibit changes or alterations in the properties except by mutual agreement between the Secretary and the other parties to the agreement.

SEC. 6. LAND ACQUISITION.

The Secretary may acquire properties owned, occupied, or used by the Museum, or assist the Museum in acquiring properties that the Museum may need or may be able to use, through the use of appropriated funds, donation, or purchase with donated funds.

SEC. 7. APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. MOYNIHAN:

S. 134. A bill to provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, and for other purposes; to the Committee on Energy and Natural Resources.

THE HYDE PARK ACT OF 1995

Mr. MOYNIHAN Mr. President, I rise to introduce a bill which would authorize the Secretary of the Interior to purchase land that belonged to President Roosevelt and his family members at the time of his death. His estate at Hyde Park, New York, that were owned by Franklin D. Roosevelt or his family, at the time of his death, as depicted on the map entitled "Roosevelt Family Estate" and dated November 19, 1993.

(1) LIMITATIONS.—

(A) RESIDENTIAL PROPERTY.—The Secretary may only acquire those residential properties that lie in a cooperative agreement with the Hyde Park Association, or the Roosevelt National Historic Site, or to mark, restore, and interpret, and re-

(S) STATE LANDS.—Lands and interests in land depicted on the map referred to in subsection (a) that are owned by the State of New York, or a political subdivision of the State, may only be acquired by donation.

(3) Priority.—In acquiring lands and interests in land pursuant to this section, the Secretary shall, to the extent practicable, give priority to acquiring the tract of lands commonly known as the "Open Park" in Hyde Park, New York.

In the acquisition of lands and interests in land pursuant to this section, the Secretary shall, to the extent practicable, give priority to acquiring the tract of lands commonly known as the "Open Park" in Hyde Park, New York.

By Mr. HATCH: S. 135. A bill to establish a uniform Federal process for protecting property owners' rights guaranteed by the fifth amendment; to the Committee on the Judiciary.

THE PROPERTY RIGHTS LITIGATION RELIEF ACT OF 1995

Mr. HATCH. Mr. President, I am pleased today to introduce the "Property Rights Litigation Relief Act of 1995." This Act is designed to protect private property from Federal Government action, and to provide aggrieved property owners with constitutional property rights case law. It also resolves the constitutional conflict that exists between the Federal district courts and the Court of Federal Claims over fifth amendment "takings" cases. The bill is a refinement of a proposal I placed in the CONGRESSIONAL RECORD on October 7, 1994.

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The private ownership of property is essential to a free society and is an integral part of our Judeo-Christian culture and the Western tradition of liberty and limited government. Private ownership of property and the sanctity of property rights reflects the distinction in our culture between a preexisting civil society and the State that is consequently established to promote order. Private property creates the social and economic organizations that counterbalance the power of the State by providing an alternative source of power and prestige to the State itself.

While government is properly understood to be instituted to protect liberty within an orderly society and such liberty is commonly understood to include the right of free speech, assembly, religious exercise and other rights, such as those enumerated in the Bill of Rights, it is all too often forgotten that the right of private ownership of property is also a critical component of liberty. To the 17th century English political philosopher John Locke, who greatly influenced the Founders of our Republic, the very role of government is to protect property: "The great and chief end therefore, on Men uniting into Commonwealths, and putting themselves under Government, is the preservation of their property." [J. Locke, Second Treatise ch. 9, §124, in J. Locke, Two Treatises of Government (1690)]. The Framers of our Constitution likewise viewed the function of government as including the protection of liberty through the protection of property interests. James Madison, termed the "Father of the Constitution," unhesitatingly endorsed this Lockeian...
viewpoint when he wrote in The Federalist No. 54 that, "(government) is instituted no less for the protection of property, than of the persons of individuals." Indeed, to Madison, the private possession of property was viewed as a natural and individual right both to be protected against government encroachment and to be protected by government against other. To be sure, the private ownership of property was not considered absolute. Property owners could not exercise their rights as a nuisance that harmed their neighbors, and government could use, by way of condemnation, its "despotic power" of eminent domain to seize property for public use. Justice, it became to be believed, required compensation for the property taken by government. The earliest example of a compensation requirement is found in chapter 28 of the Magna Carta of 1215, which reads, "No con
table or other bar bill of ours shall take corn or other provisions from anyone without immediately tendering money therefor unless he can have postponed therefrom by permission of the seller." But the record of English and colonial compensation for taken property was spotty at best, although it has been argued by some historians and legal scholars that compensation for takings of property became recognized as customary practice during the American colonial period. [See W. Stoeback, "A General Theory of Eminent Domain," 47 Wash. L. Rev. 53 (1972)]. Nevertheless, by American independence the compensation requirement was considered a necessary restraint on arbitrary governmental seizures of property. The Vermont Constitution of 1777, the Massachusetts Constitution of 1780, and the Northwest Ordinance of 1787, recognized that compensation must be paid whenever property was taken for public use or for public exigencies. And although accounts of the 1791 congressional debate over the Bill of Rights provide no evidence of the government's use and just compensation requirement for takings of private property was eventually included in the fifth amendment, James Madison, the author of the fifth amendment, reflected the views of other supporters of the new Constitution who feared the example to the new Congress of uncompensated seizures of property for building of roads and forgiveness of debts by radical state legislatures. Consequently, the phrase "[nor] shall private property be taken for public use, without just compensation" was included within the fifth amendment to the Constitution.

THE MODERN THREAT TO PROPERTY RIGHTS

Despite this historical pedigree and the constitutional requirement for the protection of property rights, the last century has witnessed an explosion of federal regulation of society that has jeopardized the private ownership of property with the consequent loss of individual liberty. Indeed, the most recent estimate of the direct (that is, not counting indirect costs such as higher consumer prices) cost of Federal regulation was $857 billion for 1992. Today, the cost to the society probably is approaching $1 trillion. According to economist Paul Craig Roberts, the number of laws Americans are forced to endure has risen a staggering 3000 percent since the turn of the century. Every day the Federal Register grows by an incredible 200 pages, containing new rules and obligations imposed on the American people by supposedly their government. Furthermore, even the very concept of private property is under attack. Indeed, certain environmental activists have termed private property an "outmoded concept" which presents an "impediment" to the Federal Government's resolution of society's problems. It is this type of thinking that has led regulators, in the rush of governmental social engineering, to ignore individual rights. Here are just a few of the hundreds—if not thousands—of examples that occur daily: Ocic Mills, a Florida builder, and his son were sent to prison for 2 years for violating the Clean Water Act for placing sand on a quarter-acre lot he owned; Under this same Act, a small Oregon school district faced a Federal lawsuit for dumping clean fill to build a baseball-soccer field for its students and had to spend thousands of dollars to remove the fill; Ronald Angelocchi was jailed for violating the Clean Water Act for dumping several truckloads of dirt in the backyard of his Michigan home to help a family member who had acute asthma and allergies aggravated by plants in the backyard; and A retired couple in the Poconos, after obtaining the necessary permits to build their home was informed by the Army Corps of Engineers—4 years later—that they built their home on wet land and had to spend thousands of dollars to restore most of the land to its natural state. [See B. Bovard, Lost Rights, 35 (1994); N. Marzulla, "The Government's War on Property Rights," Defenders of Property Rights (1994)].

CURRENT PROTECTION OF PROPERTY RIGHTS FALL SHORT

Judicial protection of property rights against the regulatory state has been both inconsistent and ineffective. Physical invasions and government seizures of property have been fairly easily recognized by Justice Oliver Wendell Holmes in Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922). J ust how do courts determine when regulation amounts to a taking? Holmes' answer, "If regulation goes too far it will be recognized as a taking," 260 U.S. at 415, is nothing more than an ipse dixit. In the 73 years since Mahon, the Court has never set forth any set formula for determining how far is too far, preferring to engage in ad hoc factual inquiries, such as the three-part test made famous by Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978), which "balances the economic impact of the regulation on property and the character of the regulation against specific restrictions on investment-backed expectations of the property owner." Despite the valiant attempt by the recent case of Dolan v. City of Tigard, No. 93±518 (June 24, 1994), takings analysis is basically incoherent and confusing and applied by lower courts hap hazardly. The incremental, fact-specific approach that courts now must employ in the absence of adequate statutory language to vindicate property rights has led to the following three-part test which has been ineffective and costly. There is, accordingly, a need for Congress to clarify the law by providing "bright line" standards and an effective remedy. As Chief Judge Loren A. Smith of the Court of Federal Claims, the court responsible for administering takings claims against the United States, opined in Bowles v. United States, 31 Fed. Cl. 37 (1994), "[J]udicial decisions are far less sensitive to societal problems than the law and policy made by the political branches of our great constitutional system. At best courts sketch the outlines of individual rights, they cannot hope to fill in the portrait of wise and just social and economic policy."

This incoherence and confusion over the substance of takings claims is matched by the muddle over jurisdiction of property rights claims. The "Tucker Act," which waives the sovereign immunity of the United States for claims against the Federal Claims jurisdiction to entertain mone tary claims against the United States, actually complicates the ability of a property owner to vindicate the right to just compensation for a government action that has caused the taking. The Tucker Act, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and
brought by the same plaintiff. Section 1500 is so poorly drafted and has brought so many hardships, that Justice Stevens in Keene Corporation v. United States, 113 S.Ct. 2035, 2048 (1993), has called for its repeal or amendment.

The Property Rights Litigation Relief Act addresses these problems. In terms of classifying the substance of takings claims, it first clearly defines the "public use" element of property that legislation is subject to the Act's takings analysis. In this way a "floor" definition of property is established by which the Federal Government may not eviscerate. This Act also establishes the elements of a takings claim by codifying and clarifying the holdings of the Lucas and Dolan cases. For instance, Dolan's "rough proportionality" test is interpreted to apply to all exaction situations whereby an owner's otherwise lawful right to use property is exacted as a condition for granting a Federal permit. And a distinction is drawn between a noncompensable mere diminution of value of property as a result of Federal regulation and a compensable "partial" taking, which is defined as any agency action that diminishes the fair market value of the affected property by the lesser of either 20 percent or more, or $10,000 or greater. The result of drawing these "bright lines" will not end specific litigation, which is endemic to all law suits, but it will ameliorate the ever increasing ad hoc and arbitrary nature of takings claims.

The Act also resolves the jurisdictional confusion over takings claims. Because property owners should be able fully to recover for a taking in one court, the Tucker Act is amended giving both the district courts and the Court of Federal Claims concurrent jurisdiction to hear all claims relating to property rights. Furthermore, to resolve any further jurisdictional ambiguity, section 3500 of the Tucker Act is repealed.

Finally, I want to respond to any suggestion that may arise that this Act will impede Government's ability to protect the environment or promote health and safety through regulation. This legislation does not emasculate the government's ability to prevent individuals or businesses from polluting. It is well established that the Constitution only protects a right to reasonable use of property. All property owners are subject to prior restraints on the use of their property, such as nuisance laws which prevents owners from using their property in a manner that interferes with others. The government has always been able to prevent harmful or noxious uses of property without being obligated to compensate the property owner. The limitation on the use of property inheres in the title itself. In other words, the restrictions must be based on background principles of State property and nuisance law already extant. The Act codifies this principle in a nuisance exception to the requirement of the Government to pay compensation.

Nor does the Act hinder the Government's ability to protect public health and safety. The Act simply does not obstruct the Government from acting to prevent imminent harm to the public safety or health or diminish what would constitute a public nuisance. Again, this is made clear in the provisions of the Act that exempts nuisance from compensation. What the Act does is force the Federal Government to pay compensation to those who are singled out to pay for regulations that benefits the entire public. In other words, it does not prevent regulation, but fulfills the promise of the fifth amendment, which the Supreme Court in Armstrong v. United States, 364 U.S. 40, 49 (1960), opined is "to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole."

I invite all Senators to join me in sponsoring this legislation.

By Mr. THURMOND:

S. 136. A bill to amend title 1 of the United States Code to clarify the effect and application of legislation; to the Committee on the Judiciary.

THE EFFECT AND APPLICATION OF LEGISLATION

ACT OF 1995

Mr. THURMOND. Mr. President, I introduce S. 136 today and ask unanimous consent to have it printed in the RECORD.

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

S. 136

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

SECTION 1. CLARIFICATION OF THE EFFECT AND APPLICATION OF LEGISLATION.

(a) IN GENERAL.—Chapter 1 of title 1 of the United States Code is amended by adding at the end thereof the following:


"Any Act of Congress enacted after the effective date of this section—

(1) shall be prospective in application only;

(2) shall not create a private claim or cause of action; and

(3) shall not preempt the law of any State, unless a provision of the Act specifies otherwise by express reference to the paragraph of this section intended to be negated."

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 1 of title 1, United States Code, is amended by adding at the end thereof the following:

"7. Rules for application and effect of legislation."

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

Mr. President, I rise today to introduce an act to clarify the application and effect of legislation in order to reduce uncertainty and confusion which is often caused by congressional enactments. This act would provide that unless future legislation specified otherwise, new enactments would be applied prospectively, would not create private rights of action, and would not preempt existing State law. This would significantly reduce unnecessary litigation and court costs, and would benefit both the public and the judicial system.

The purpose of this legislation is quite simple. Many congressional enactments do not expressly state whether legislation is to be applied retroactively, whether it creates private rights of action, or whether it preempts existing State law. The failure or inability of the Congress to address these issues in each piece of legislation results in unnecessary confusion and litigation and contributes to the high cost of litigation in this country.

In the absence of action by the Congress on these critical threshold questions of retroactivity, private rights of action and preemption, the outcome is left up to the courts. The courts are frequently required to resolve these matters without any guidance from the legislation itself. Although these issues are generally raised early in the litigation, a decision that the litigation can proceed generally cannot be appealed until the entire cause of action is determined. In the lower courts this may result in unnecessary confusion and litigation and contribute to the high cost of litigation in this country.

In the same way, the issues of whether new legislation creates a private right of action or preempts State law are frequently presented in courts around the country, yielding expensive litigation and conflicting results.

The bill I am introducing today would eliminate this problem by providing a presumption that, unless future legislation specifies otherwise, new legislation is not to be applied retroactively, does not create a private right of action, and does not preempt State law. Of course, my bill does not in any way restrict the Congress on these important issues. The Congress may override this presumption by simply referring to this act when it wishes legislation to be retroactive, create
new private rights of action or preempt existing State law.

My act will eliminate uncertainty and provide rules which are applicable when the Congress fails to specify its position on these important issues in legislation it passes. Although it is difficult to obtain statistics on this issue, one U.S. Senate District in my State informs me that he spends up to 10 to 15 percent of his time on these issues. Regardless of the precise figure, it is clear that this legislation would save litigants and our judicial system millions and millions of dollars by avoiding much uncertainty and litigation which currently exists over these issues.

Mr. President, if we are truly concerned about reducing the costs of litigation and relieving the backlog of cases in our courts, we should help our judicial system to spend its limited resources, time and effort on resolving the merits of disputes, rather than deciding these preliminary matters.

I sent the bill to the desk and ask unanimous consent that it be printed in the Rules in its entirety immediately following my remarks.

By Mr. BRADLEY (for himself, Mr. CAMPBELL, Mr. COATS and Mr. ROBY).

S. 137. A bill to create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills; to the Committee on Rules and Administration.

Mr. BRADLEY. Mr. President, we begin this Congress with two obligations: first, to change the way we do business, and, second, to cut government spending. Reforms that have been bottled up for years in partisan finger-pointing need to be released and must become our first priorities. Both the Congress and White House must learn to say no: no to unnecessary programs, no to those Members who would build monuments to themselves, and a firm no to special interest spending, every angle to slip special provisions into the tax code that benefit a wealthy few and cost every other American millions. For decades, Presidents of both parties have insisted that the deficit would be lower if they had the power to say no. In sponsoring this legislation, I urge our colleagues in both the Senate and House of Representatives to pass a line item veto bill that covers spending in both appropriations and tax bills. Line item veto by requiring separate enrollment in appropriations and tax bills. Any line item veto that covers spending in both appropriations and tax bills. Any line item veto that fails to give the President the ability to prevent additional loopholes from entering the tax code only does half the job.

Although I did not support the line item veto when I initially joined the Senate, I watched for twelve years as the deficit quintupled, shameless pork barrel projects persisted in appropriations and tax bills, and our Presidents again and again denied responsibility for the decisions that led to these projects. However, in 1992, I decided that it was time to change the rules. Rather than simply joining one of the appropriations line item veto bills then in existence, I felt that we needed to be honest with the fact that for each example of unnecessary, special interest pork barrel spending through an appropriations bill, there are similar examples of such spending buried in tax bills. The tax code provides special exceptions from taxes that total over $400 billion a year, more than the entire federal deficit. For every $2.48 million earmarked in an appropriations bill, to teach civilian marksmanship skills, there is a $300 million special tax exclusion allowing wealthy taxpayers to rent their homes for two weeks without having to report any income. For every $150,000 appropriated for acoustical pest control studies in Oxford, Mississippi, there is a $2.9 billion special tax exemption for ethanol fuel production. As a member of the Finance Committee, I have seen an almost endless stream of requests for preferential treatment through the tax code, including special depreciation schedules for the movie industry, a special tax exemption from fuel excise taxes for cropducers, and tax credits for clean-fuel vehicles.

In singling out these pork barrel projects, I do not mean to pass judgment on their merits. However, because these provisions single out narrow subclasses for benefit, the rest of us must pay more in taxes. Therefore, I have developed an alternative that would authorize the President to veto specific spending in appropriations bills but also in the tax code. If the President had the power to excise special interest spending, but only in appropriations we would simply find the special interest lobbyists who work appropriations turning themselves into tax lobbyists, pushing for the same spending in the tax code. Spending is spending whether it comes in the form of a government check, or in the form of a special exception from the tax code. Tax spending does not, as some pretend, simply allow people to keep more of what they have earned. It gives them a special exception from the rules that oblige everyone to share in the responsibility of our national defense and protecting the young, the aged, and the infirm. The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and let the President do that so that we can bring down tax rates fairly, for everyone. Therefore, Mr. President, I urge all of our colleagues, particularly those in leadership positions in the Senate and House of Representatives, to pass a line item veto bill that includes both appropriations and tax provisions.

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

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

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

The particular legislation that I am introducing today is identical to a bill I introduced in the 103d Congress and is modeled on a bill my colleague Senator HOLLINGS has introduced in several Congresses. I want to thank and commend Senator HOLLINGS for working so hard to develop a workable line item veto strategy, one that goes beyond political demagoguery to the real question of how to limit spending. This bill will require that each line item in any appropriations bill and any bill affecting revenues be enrolled as a separate provision of the National Economic Commission, so that the President can sign the full bill or single out individual items to sign and veto. It differs from other bills in that it avoids obvious constitutional obstacles and in that it applies to special exceptions from the tax code as well as appropriated spending.

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

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

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

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

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 138. A bill to amend the Act commonly referred to as the "Johnson Act" to limit the authority of States to regulate gambling devices on vessels; to the Committee on Commerce, Science, and Transportation.

LEGISLATION AMENDING THE "JOHNSON ACT" RELATING TO CRUISE SHIPS

Mrs. BOXER. Mr. President, today Senator FEINSTEIN and I are introducing legislation to make a technical amendment to the law passed by the 102d Congress to allow gambling on U.S.-flag cruise ships and to allow States to permit or prohibit gambling on ships involved in intrastate cruises only.

This bill is essential to restoring California's cruise ship industry which has lost more than $250 million in tourist revenue last year and hundreds of jobs. Many California cruise ship companies have bypassed second and third ports of call within California. Ships which used to call at Catalina and San Diego after departing Los Angeles en route to Mexico no longer make those interim stops. According to industry estimates, San Diego alone has lost more than 104 cruise ship port calls last year—66 percent of its cruise ship business. The State's share of the global cruise market dropped from 10 percent to 7 percent at the same time growth in the cruise ship business overall has climbed 10 percent a year.

Historically, gambling has been prohibited aboard U.S.-flag cruise ships, putting them in a competitive disadvantage in the growing and lucrative cruise ship business where foreign-flagged vessels calling at U.S. ports have not had such restriction. In order to level the playing field, Congress in 1992 amended the Johnson Act, the 1931 law outlawing the transportation of gambling devices from State to State, to allow gambling on U.S.-flag cruise ships. At the same time, Congress provided that States could pass their own laws allowing or prohibiting gambling on intrastate cruises.

The California Legislature, in an effort to prohibit gambling-on-cruise ships, subsequently passed legislation prohibiting ships with gambling devices from making multiple ports of call within the State. The legislature also was concerned that without such action to expressly prohibit gambling on intrastate cruises, the State could be required to permit certain gambling enterprises operating under the Indian Gaming Act. Some Indian tribes contended that if the State permitted casino gambling on the high seas between State ports of call, then it should also permit full-fledged casino gambling within the State. California's efforts to prohibit gambling "cruises to nowhere" have had the effect of prohibiting gambling on cruise ships traveling between California ports, even if part of an interstate or international journey. In effect, a cruise ship traveling from San Diego could no longer open its casinos, even in international waters. But if the ship bypassed San Diego and sailed directly to a foreign port, it could open its casinos as soon as it was in international waters.

My legislation would resolve this problem by allowing a cruise ship with gambling devices to make multiple ports of call in one state and still be considered to be on an interstate or international voyage for purposes of the Johnson Act. If the ship reaches out-of-State or foreign port within 3 days, the legislation should alleviate California's concern regarding the Indian gaming law by removing such voyages from its jurisdiction and it should allow the cruise ship industry to continue to make multiple ports of call in the State.

Gambling operations still would only be permitted in international waters. The effect would expand only the nongambling aspects of cruise ship tourism by permitting more ports of call within the State. California is the only State affected by this bill because it is the only State which responded to the 1992 changes to the Johnson Act and enacted a State law to prohibit gambling.

Specifically, my legislation adds a new subparagraph to the Johnson Act, providing that a State prohibition does not apply on a voyage or segment of a voyage that: first, begins and ends in the same State; second, is part of a voyage to another State or country; and third, reaches the other State or country within 3 days after leaving the State in which it begins. The legislation does not affect a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii.

I urge my colleagues to support this legislation to overcome this serious impediment to California's tourism industry, the top industry of the State. I also urge prompt consideration of this bill in order to forestall further loss of jobs and revenue to California in the coming cruise ship season.

S. 138

BE IT ENACTED

SEC. 1. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Subsection (b)(2) of section 5 of the Act of January 2, 1931 (commonly referred to as the "Johnson Act") (64 Stat. 1135, chapter 1194; 15 U.S.C. 1175), is amended by adding at the end of the following new subparagraph:

"(C) Exclusion of certain voyages and segments.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if such voyage or segment includes or consists of a segment—

"(i) that begins and ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which such segment begins.

Mrs. FEINSTEIN. Mr. President, I am pleased to cosponsor Senator BOXER's legislation that is critical to the ports of California. Ports are a vital component of the infrastructure of those States located along the coasts of this country. Commercial cruises are an important contributor to the well-being of our ports, and are critical to the economies of a number of port cities in California.

In 1993, the Johnson Act was amended to allowing gaming on U.S.-flag cruise ships with the proviso that States could regulate gambling on the high seas. Since that time, California has passed a law prohibiting gambling on intrastate cruises for reasons that were in fact unrelated to the cruise industry. Because of California's coast line is so long, cruise ships with onboard gaming are unable to make

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Mr. ROBB as original sponsors of this legislation.

I list Mr. CAMPBELL, Mr. COATS, and Mr. ROBB as original sponsors of this legislation.
In recent years, Congress has approved measures that require State and local governments to provide certain services and meet certain standards. At the same time it has approved this legislation, Congress has neglected to provide adequate federal funds for States and localities to meet these mandates. What is needed—what is fundamental to our notion of responsibility—is that the Federal Government ensure that the costs of mandates are reasonably capable of being met by other levels of government. Assuming that the State and local governments have the funds to foot their own bills is no substitute for responsible policy.

The costs of existing mandates are staggering. In the State of Maine, the two most intrusive and expensive mandates are the Safe Drinking Water Act and Clean Water Act. It is estimated that the citizens of my state will be forced to pay $1.5 billion to comply with these two mandates alone. While the intentions of these laws are not malicious—the effects of these unfunded mandates are devastating to local communities.

The Combined Sewer Overflow (CSO) mandate contained in the Clean Water Act will cost the communities of Maine more than $960 million to correct. In the City of Lewiston, $35 million will buy a small improvement in water quality, which will spend $10 million for the same limited end. The CSO requirement in Augusta, Maine may cost as much as $100 million and would produce an average sewer bill of more than $1,500 annually for 30 years. Finally, the residents of Oakland, Maine will see their water rates increase by 174 percent in 1995—all as a result of the Act.

My bill directly addresses the essence of the problem. It would prohibit the Government from imposing requirements on States and local governments that did not include funding to meet the costs. Quite simply, it would end unfunded mandates. This legislation represents a comprehensive and straightforward effort on the part of the Federal Government to live up to its responsibility to provide resources for programs it requires States and municipalities to implement.

Mr. President, the impression exists among many State and local officials that the Federal Government, no longer satisfied with simply bankrupting itself, is determined to bankrupt their governments. We know that is not our goal, and we can take a simple step to make that clear: end unfunded mandates. We have it within our prerogative to do so. And I hope that Congress will see fit now to end these unfair requirements.

I urge my colleagues to join me in cosponsoring this vital legislation. The American people demand responsibility and accountability, and we must recommit ourselves to the task of accomplishing it.

By Mrs. KASSEBAUM (for herself, Mr. BENNETT and Mr. BROWN):
still be Federal funds with Federal strings.

With this legislation, the States will use their own money, and will carry the full responsibility for designing and operating a system which provides a safety net for low-income individuals and families. This draws a clear distinction between the role of the Federal Government and the States—a distinction which makes sense for two reasons:

First, giving states both the power and the responsibility for welfare—with their own money—will create powerful incentives for finding more effective ways to assist families in need. Nearly half the states already are experimenting with welfare reforms. This would give them broad freedom to test new ideas.

Second, I do not think Washington can reform welfare in any meaningful, lasting way. The reality is that we cannot write a single welfare plan that makes sense for five million families in fifty different and very diverse states.

Washington does not have a magic answer for the far worse failures of Governors and State legislators. Medicaid's design has also encouraged Governors and State legislators to experiment with welfare reforms. This would give them broad freedom to test new ideas.

In this case, I believe proximity does matter, perhaps powerfully so. One of the most important factors in whether families succeed or fail is their connection to a community—a network of support. For some families, this is found in relatives or friends. For others, it might be a caring caseworker, a teacher or principal, a local church, a city or county official. These human connections are not something we can legislate, and they are not something that money can buy.

True welfare reform will require a renewal of local and state responsibilities—families and children in need. I believe we can make welfare work.

As a result, Medicaid is now a baffling maze of inconsistent standards and ad hoc variations from State to State. The system sometimes leads to illogical, or even unfair, results. Some States will cover an infant up to 185 percent of poverty, while leaving his penniless father with no coverage at all. While most people believe that Medicaid is the welfare problem. The poor, in reality it covers only half of those Americans living in poverty.

Medicaid's design has also encouraged the Federal Government to heap costly benefit and eligibility mandates on the States. These mandates have added fuel to Medicaid costs that were already burning out of control. Medicaid costs doubled between 1989 and 1992, and have become the fastest-growing component of State budgets. The share of State revenue devoted to Medicaid has jumped from 9 percent in 1960 to nearly 20 percent today, and is expected to double again by the end of the decade.

In addition, Medicaid is virtually the only source of long-term care protection in a society that is aging faster than at any time in its history. While elderly and disabled Americans consume only 12 percent of Medicaid beneficiaries, they consume nearly 70 percent of all Medicaid costs. These 9 million Americans represent an irreducible—and rapidly growing—group of patients whose medical expenses are often too low to be covered by the day-to-day realities of making welfare work.

In this case, I believe proximity does matter, perhaps powerfully so. One of the most important factors in whether families succeed or fail is their connection to a community—a network of support. For some families, this is found in relatives or friends. For others, it might be a caring caseworker, a teacher or principal, a local church, a city or county official. These human connections are not something we can legislate, and they are not something that money can buy.

True welfare reform will require a renewal of local and state responsibilities for children and families in need. I believe we can make welfare work.
the State in fiscal year 1997 under the programs shall be made under subsection (a) for a quarter if a State fails to comply with the requirements of section 2b) for the preceding quarter.

(e) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations acts for the Federal Government to provide the payments described in subsection (a).

SEC. 4. TERMINATION OF CERTAIN FEDERAL WELFARE PROGRAMS.

(a) TERMINATION. (1) AFDC.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"SEC. 418. The authority provided by this part shall terminate on October 1, 1996."

(2) J OBS.—Part F of title IV of the Social Security Act (42 U.S.C. 661 et seq.) is amended by adding at the end the following new section:

"SEC. 419. The authority provided by this part shall terminate on October 1, 1996."

(3) S PECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end the following new section:

"(q) The authority provided by this section shall terminate on October 1, 1996."

(4) F OOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following new section:

"SEC. 25. TERMINATION OF AUTHORITY.

(a) The authority provided by this section shall terminate on October 1, 1996."

(b) REFERENCES IN OTHER LAWS.—(1) IN GENERAL.—Any reference in any law, regulation, document, paper, or other record of the United States to any provision that has been terminated by reason of the amendments made in subsection (a) shall, unless the context otherwise requires, be considered to be a reference to such provision, as in effect immediately before the date of the enactment of this Act.

(2) STATE PLANS.—Any reference in any law, regulation, document, paper, or other record of the United States to a State plan that has been terminated by reason of the amendments made in subsection (a), shall, unless the context otherwise requires, be considered to be a reference to such plan as in effect immediately before the date of the enactment of this Act.

SEC. 5. FEDERALIZATION OF THE MEDICAID PROGRAM.

Beginning on October 1, 2001—

(1) each State with a State plan approved under title XIX of the Social Security Act as in effect immediately before the date of the enactment of this Act shall be relieved of financial responsibility for the Medicaid program under such title of such Act,

(2) the Secretary of Health and Human Services shall assume such responsibilities and continue to conduct such program in a State in any manner determined appropriate by the Secretary that is in accordance with the provisions of title XIX of the Social Security Act, and

(3) all expenditures for the program as conducted by the Secretary shall be paid by Federal funds.

SEC. 6. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.

The Secretary of Health and Human Services shall, within 90 days after the date of enactment of this Act, submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.