

H. Con. Res. 92. Concurrent resolution providing for an adjournment of the two Houses.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations, with amendments:

H.R. 2002. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. No. 104-126).

By Mr. THURMOND, from the Committee on Armed Services, with an amendment:

S. 922. An original bill to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 104-127).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 227. A bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes (Rept. No. 104-128).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Evan J. Wallach, of Nevada, to be a Judge of the United States Court of International Trade.

Terence T. Evans, of Wisconsin, to be United States Circuit Judge for the Seventh Circuit.

James M. Moody, of Arkansas, to be United States District Judge for the Eastern District of Arkansas.

Michael R. Murphy, of Utah, to be United States Circuit Judge for the Tenth Circuit.

Donald C. Pogue, of Connecticut, to be a Judge of the United States Court of International Trade.

Joseph H. McKinley, Jr., of Kentucky, to be United States District Judge for the Western District of Kentucky.

Ortrie D. Smith, of Missouri, to be United States District Judge for the Western District of Missouri.

William K. Sessions III, of Vermont, to be United States District Judge for the District of Vermont.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. THURMOND, from the Committee on Armed Services:

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. John P. Otjen, 000-00-0000, United States Army.

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. James R. Clapper, Jr., 000-00-0000, United States Air Force.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

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

S. 1121. A bill to amend title 23, United States Code, to improve the control of outdoor advertising in areas adjacent to the Interstate System, the National Highway System, and certain other federally assisted highways, and for other purposes; to the Committee on Environment and Public Works.

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

S. 1122. A bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGAMAN:

S. 1123. A bill to limit access by minors to cigarettes through prohibiting the sale of tobacco products in vending machines and the distribution of free samples of tobacco products in Federal buildings and property accessible by minors; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON:

S. Con. Res. 23. A concurrent resolution expressing the sense of the Congress in affirmation of the National Voter Registration Act of 1993, commonly known as the Motor Voter Act; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1121. A bill to amend title 23, United States Code, to improve the control of outdoor advertising in areas adjacent to the Interstate System, the National Highway System, and certain other federally assisted highways, and for other purposes; to the Committee on Environment and Public Works.

BILLBOARD CONTROL LEGISLATION

• Mr. JEFFORDS. Mr. President, today I am introducing a bill that will strengthen the Federal law that regulates billboards on our Nation's highways and scenic byways. My bill will close the loophole in the 1965 Highway Beautification Act that permits billboards in unzoned areas, a fact that clearly violates the spirit of the 1965 act.

I have been a strong supporter of strict billboard controls even since I represented Rutland County as a Vermont State senator. During my tenure as a State senator, I served as vice chair of the special committee that wrote Vermont's law banning billboards from our Federal highways and rural routes, and as state attorney gen-

eral, I successfully defended the law in the Federal courts.

New billboards are being constructed along the U.S. Federal aid interstate and primary highways at record rates. In fact, based on estimates by the Congressional Research Service, one billboard is erected every 30 minutes all year long—a total of 15,000 to 16,000 annually—along Federal aid highways.

Currently, the Highway Beautification Act allows new billboards to be constructed in zoned and unzoned commercial and industrial areas. In theory, this limits billboards to areas with substantial bona fide commercial or industrial activity. In practice, however, this means that wherever there is any industrial or commercial use—for example, a single gas station—several billboards may be erected. Many of these signs have messages that are not even related to the adjacent business.

Mr. President, by bill will close this legal loophole by only allowing billboards to be constructed in those areas that are zoned for commercial or industrial use.

Mr. President, my bill will also require that the Federal Highway Administration keep track of the number of billboards on our Nation's highways. In 1991, the Congressional Research Service estimated that there were between 425,000 and 450,000 billboards in existence on Federal aid roads, but admitted that no one really knew how many billboards were along these roads.

Right now States are only required to report to the Federal Government the number of illegal and nonconforming billboards on their roads. Decent public policy cannot be made in the absence of information. My bill will require that States and the Federal Highway Administration track the number of conforming billboards along Federal aid highways and scenic byways.

Finally, Mr. President, my bill will prohibit the removal of trees and other types of vegetation for the sole purpose of improving billboard visibility. The idea that publically owned trees, many planted with public beautification funds, should be destroyed to enrich billboard owners is ludicrous. What is worse is that many of these billboards are nonconforming and are required by law to be removed anyway.

Mr. President, my bill will move the 1965 Highway Beautification Act closer to its original intent of preserving the public's investment in our highways by protecting scenic areas and natural resources and giving Congress the information it needs to make well-informed public policy. I urge my colleagues to become cosponsors of this legislation.●

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

S. 1122. A bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes; to the Committee on the Judiciary.

THE CRIMINAL COPYRIGHT IMPROVEMENT ACT OF 1995

• Mr. LEAHY. Mr. President, I am pleased to introduce on behalf of Senator Feingold and myself, the Criminal Copyright Improvement Act of 1995. This bill would close a significant loophole in our copyright law and encourage the continued growth of the National Information Infrastructure by insuring better protection of the creative works available online.

This bill reflects recommendations and hard work of the Department of Justice. I want to commend the Department for recognizing the need for prompt action on this important problem.

Bruce Lehman, Commissioner of Patent and Trademark and chair of the Working Group on Intellectual Property Rights of the President's Information Infrastructure Task Force, recognizes the critical role of copyright protection as we move forward with the NII. The preliminary draft of the report of the working group, explained:

The potential of the NII will not be realized if the information and entertainment products protectable by intellectual property laws are not protected effectively when disseminated via the NII. Owners of intellectual property rights will not be willing to put their own interests at risk if appropriate systems—both in the U.S. and internationally—are not in place to permit them to set and enforce the terms and conditions under which their works are made available in the NII environment. Likewise, the public will not use the services available on the NII and generate the market necessary for its success unless access to a wide variety of works is provided under equitable and reasonable terms and conditions, and the integrity of those works is assured. All the computers, telephones, fax machines, scanners, cameras, keyboards, televisions, monitors, printers, switches, routers, wires, cables, networks and satellites in the world will not create a successful NII, if there is not content. What will drive the NII is the current moving through it.—Intellectual Property and the National Information Infrastructure, July, 1994, p. 6.

The copyright Act, which is grounded in the copyright clause of the Constitution, assures that “contributors to the store of knowledge [receive] a fair return for their labors.” Harper & Row The Nation Enterprises, 471 U.S. 539, 546 (1985). I am mindful, however, that when we exercise our power to make criminal certain forms of copyright infringement, we should act with “exceeding caution” to protect the public's First Amendment interest in the dissemination of ideas. *Dowling v. United States*, 473 U.S. 207, 221 (1985).

For a criminal prosecution under current copyright law a defendant's willful copyright infringement must be for purposes of commercial advantage or private financial gain. Not-for-profit or noncommercial copyright infringement is not subject to criminal law enforcement, no matter how great the loss to the copyright holder. This presents an enormous loophole in criminal liability for willful infringers who can use digital technology to make exact copies of copyrighted software and

other digitally encoded works, and then use computer networks for quick, inexpensive and mass distribution of pirated, infringing works. This bill would close this loophole.

United States v. LaMacchia, 871 F. Supp. 535 (D. Mass. 1994), is an example of the problem this criminal copyright bill would fix. In that case, an MIT student set up computer bulletin board systems on the Internet. Users posted and downloaded copyrighted software programs. This resulted in an estimated loss to the copyright holders of over one million dollars over a 6-week period. Since the student apparently did not profit from the software piracy, the Government could not prosecute him under criminal copyright law and instead charged him with wire fraud. The district court described the student's conduct “at best . . . as irresponsible, and at worst as nihilistic, self-indulgent, and lacking in any fundamental sense of values.”

Nevertheless, the Court dismissed the indictment in *LaMacchia* because it viewed copyright law as the exclusive remedy for protecting intellectual property rights. The Court expressly invited Congress to revisit the copyright law and make any necessary adjustments, stating:

Criminal as well as civil penalties should probably attach to willful, multiple infringements of copyrighted software even absent a commercial motive on the part of the infringer. One can envision ways that the copyright law could be modified to permit such prosecution. But, “[i]t is the legislature, not the Court which is to define a crime, and ordain its punishment.”

This bill would ensure redress in the future for flagrant, willful copyright infringements in the following ways: First, serious acts of willful copyright infringement that cause significant loss to the copyright holders would be subject to criminal prosecution.

The bill would add a new offense prohibiting willful copyright infringement by reproduction or distributing copyrighted material with a total retail value of \$5,000 or more. Under the new offense, it would be a misdemeanor to make even a single copy of a copyrighted work with a total retail value of between \$5,000 and \$10,000, and a felony if the total retail value of the infringed upon item or items was over \$10,000.

These monetary thresholds, combined with the scienter requirement, would insure that criminal charges would only apply to willful infringements, not merely casual or careless conduct, that result in a significant level of harm to the copyright holder's rights. De minimis, not-for-profit violations, including the distribution of pirated copies of works worth less than \$5,000, would not be subject to criminal prosecution.

Second, the bill would increase the monetary threshold for the existing criminal copyright offense, which makes it a misdemeanor to commit any willful infringement for commercial advantage or private financial

gain, and a felony if 10 or more copies of works with a retail value of over \$2,500 are made during a 180-day period. The bill would increase the monetary threshold in this offense from \$2,500 to \$5,000 for felony liability.

Third, the bill would expressly prohibit willfully infringing a copyright by assisting others in the reproduction or distribution, including by transmission of an infringed work. This would further ensure coverage of activities such as those of alleged in *LaMacchia*.

Fourth, the bill would add a provision to treat more harshly recidivists who commit a second or subsequent felony criminal copyright offense. Specifically, repeat offenders would be punished by imprisonment for up to 10 years rather than 5 years for a first felony offense. Such a calibration of penalties takes an important step in ensuring adequate deterrence of repeated willful copyright infringements.

Fifth, the bill would extend the statute of limitations for criminal copyright infringement actions from 3 to 5 years, which is the norm for violations of criminal laws under Title 18, including those protecting intellectual property.

Finally, the bill would strengthen victims' rights by giving victimized copyright holders the opportunity to provide a victim impact statement to the sentencing court. In addition, the bill would direct the Sentencing Commission to set sufficiently stringent sentencing guideline ranges for defendants convicted of intellectual property offenses to deter these crimes.

Technological developments and the emergence of the National Information Infrastructure in this country and the Global Information Infrastructure worldwide hold enormous promise and present significant challenges for protecting creative works. Increasing accessibility and affordability of information and entertainment services are important goals that oftentimes require prudent balancing of public and private interests. In the area of creative rights, that balance has rested on encouraging creativity by ensuring rights that reward it while encouraging its public availability.

I look forward to continuing to work with the Department of Justice and other interested parties to make any necessary refinements to this bill to insure that we have struck the appropriate balance.

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

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

CRIMINAL COPYRIGHT IMPROVEMENT ACT OF 1995—SUMMARY

SEC. 1. SHORT TITLE.—The Act may be cited as the “Criminal Copyright Improvement Act of 1995.”

SEC. 2. CRIMINAL INFRINGEMENT OF COPYRIGHTS.—The bill adds a new definition for “financial gain” to 17 U.S.C. §101, and

amends the criminal copyright infringement provisions in titles 17 and 18. The bill also ensures that victims of criminal copyright infringement have an opportunity to provide victim impact statements to the court about the impact of the offense. Finally, the bill directs the Sentencing Commission to ensure guideline ranges are sufficiently stringent to deter criminal infringement of intellectual property rights, and provide for consideration of the retail value and quantity of the legitimate, infringed-upon items.

(a) Definition of Financial Gain. Current copyright law provides criminal penalties when a copyright is willfully infringed for purposes of "commercial advantage or private financial gain." The bill would add a definition of "financial gain." The bill would add a definition of "financial gain" to the copyright law, 17 U.S.C. §101, and clarify that this term means the "receipt of anything of value, including the receipt of other copyrighted works." This definition would make clear that "financial gain" includes bartering for, and the trading of, pirated software.

(b) Criminal Offenses. The requirement in criminal copyright infringement actions under 17 U.S.C. §506(a) that the defendant's willful copyright infringement be "for purpose of commercial advantage or private financial gain," has allowed serious incidents of copyright infringement to escape successful criminal prosecution.

For example, in *United States v. LaMacchia*, 871 F. Supp. 535 (D. Mass. 1994), the defendant allegedly solicited users of a computer bulletin board system on the Internet to submit copies of copyrighted software programs for posting on the system, and then encouraged users to download copies of the illegally copied programs, resulting in an estimated loss of revenue to the copyright holders of over one million dollars over a six week period. Absent evidence of "commercial advantage or private financial gain," the defendant was charged with conspiracy to violate the wire fraud statute, 18 U.S.C. §1343. The district court described the defendant's conduct as "heedlessly irresponsible, and at worst as nihilistic, self-indulgent, and lacking in any fundamental sense of values," but nevertheless dismissed the indictment on the grounds that acts of copyright infringement may not be prosecuted under the wire fraud statute.

The bill would add a new section 17 U.S.C. §506(a)(2) to prohibit willfully infringing a copyright by reproducing or distributing copyrighted material, which has a total retail value of \$5,000 or more. This monetary threshold, combined with the scienter requirement, insures that merely casual or careless conduct resulting in distribution of only a few infringing copies would not be subject to criminal prosecution. Criminal charges would only apply to willful infringements resulting in a significant level of harm to the copyright holder's rights. De minimis violations would not be covered.

By contrast to the offense in 17 U.S.C. §506(a)(1), which requires that 10 or more copies be made during a 180-day period for a felony penalty, the new proposed offense in §506(a)(2), does not contain a numerical threshold or requisite time period during which the infringement must occur. Instead, criminal sanctions would attach under §506(a)(2) if only a single copy were made of a copyrighted work with a total retail value of over \$5,000. The criminal offense would be a misdemeanor if the total retail value of the infringed-upon items was between \$5,000 and \$10,000, and a felony if the total retail value was over \$10,000.

Court decisions have indicated that intangible property, such as intellectual property rights, may not be protected under traditional theft or fraud statutes. See *Dowling v.*

United States, 473 U.S. 207 (1985) ("bootleg" phonorecords that infringed copyrights not subject to interstate transportation of stolen property statute); *United States v. Brown*, 925 F.2d 1301, 1308 (10th Cir. 1991) (intangible property such as source code not protected by interstate transportation of stolen property statute); *United States v. LaMacchia*, 871 F. Supp. 535 (D. Mass. 1994) (violation of copyright holder's rights cannot be prosecuted under wire fraud theory). The copyright statute may be the only remedy available to protect copyrighted works, such as computer programs, from infringement by electronic copying. This is exceptionally important because a copyright attaches, automatically, when an original work is fixed in a tangible medium. Thus, any work embodying source code or any other literary work may be protected against unauthorized reproduction by uploading or downloading, if at all, by the copyright statute.

Under the bill, unauthorized reproduction or electronic "theft" (which is, essentially, a reproduction and distribution) of source code or other items worth \$5,000 or more are subject to criminal penalties, and the theft of more valuable copyrighted material worth more than \$10,000 is punishable at felony level. In sum, since cases reflect that intellectual property rights may not be protected by general criminal statutes, the bill would amend the copyright law to ensure such protection exists.

The offenses under §506(a)(1) and (a)(2) would overlap. For example, someone selling 10 or more copies of a copyrighted work may violate both provisions if the value of those copyrighted works is \$5,000 or more. The key, however, is that the new provision in §506(a)(2) requires that the infringement involve, at a minimum, \$5,000, and felony provisions do not attach until the value of the copyrighted works reaches \$10,000. By contrast, any offense, regardless of value, involving private financial gain or commercial advantage constitutes at least a misdemeanor, and the crime reaches felony level under the bill once the retail value of the copyrighted material exceeds \$5,000.

The bill would also expressly prohibit willfully infringing a copyright by "assisting others" in the reproduction or distribution of an infringed work. This would make clear that individuals who aid and abet a criminal copyright violation could not escape criminal liability by claiming that they were not responsible for the reproduction or distribution because they merely enabled others to engage in such conduct.

(c) Limitation on Criminal Procedures. The bill would amend 17 U.S.C. §507(a) to extend the statute of limitations for criminal copyright infringement actions from three to five years. A five year statute of limitations is the norm for violations of criminal laws under Title 18, including those that relate to protecting intellectual property. See, e.g., 18 U.S.C. §2319A (Unauthorized fixation of and Trafficking in sound recordings) and §2320 (Trafficking in counterfeiting goods or services).

(d) Criminal Infringement of a Copyright. The bill would amend the penalty provisions in 18 U.S.C. §2319 to comport with the proposed amendments to 17 U.S.C. §506(a), and would also add a new subsection providing for a victim impact statement.

First, under current law, willful copyright infringement for commercial advantage or private financial gain is a felony punishable by up to five years' imprisonment only when the offense consists of the reproduction or distribution during a 180-day period of ten or more copies with a retail value of over \$2500. Willful infringements for commercial advantage, which do not satisfy the monetary threshold or quantity requirement during

the statutory time period, are misdemeanor offenses. The bill would modify the felony penalty provision for willful copyright infringement for commercial advantage or private financial gain to cover reproductions or distributions "by transmission" and to cover those individuals "assisting others in such reproduction or distribution." The bill would also change the monetary threshold from \$2,500 to \$5,000.

Second, the bill would provide a new penalty in 18 U.S.C. §2319(c) for the new offense in 17 U.S.C. §506(a)(2) of willfully infringing a copyright by reproduction or distribution of 1 or more copies of copyright works with a total retail value of \$5,000 or more. This new offense would be punishable by a fine and up to 5 years' imprisonment if the total retail value of the legitimate, infringed work exceeded \$10,000. If the value of the infringed work is between \$5000 and \$10,000, the offense would be a misdemeanor punishable by not more than 1 year and a fine.

The penalty structure under the bill is as follows:

Infringed work values	Under \$5,000	\$5,000–\$10,000	Over \$10,000
Willful infringement for commercial advantage/financial gain [17 U.S.C. §506(a)(1)].	Misdemeanor	Felony, if 10 or more copies within 180-day period.	Felony, if 10 or more copies within 180-day period.
Willful infringement by reproduction or distribution of works with value over \$5,000 for any reason, including commercial advantage/financial gain [17 U.S.C. §506(a)(2)].	No criminal liability.	Misdemeanor	Felony.

Third, the bill would add a provision to treat more harshly recidivists who commit a second or subsequent felony offense under 18 U.S.C. 2319(a), which refers to 17 U.S.C. §506(a) Under the bill, such recidivists would be punished by up to ten years' imprisonment and a fine.

Finally, the bill would add new subsection §2319(e), requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(e) Unauthorized Fixation and Trafficking of Live Musical Performances. The bill would add new subsection 18 U.S.C. §2319A(d) requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders, of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(f) Trafficking in Counterfeit Goods or Services. The bill would add new subsection 18 U.S.C. §2320(d) requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury

and loss suffered, including the estimated economic impact of the offense on that victim.

(g) Directive to Sentencing Commission. The Sentencing Commission currently takes the view that criminal copyright infringement and trademark counterfeiting are analogous to fraud-related offenses, and that appropriate sentences are to be calculated according to the retail value of the infringing items, rather than of the legitimate copyrighted items which are infringed. This may understate the harm. The bill would direct the Sentencing Commission to ensure that applicable guideline ranges for criminal copyright infringement and violations of 18 U.S.C. §§ 2319, 2319A and 2320 are sufficiently stringent to deter such crimes and provide for consideration of the retail value and quantity of the legitimate, infringed-upon items.●

By Mr. BINGAMAN:

S. 1123. A bill to limit access by minors to cigarettes through prohibiting the sale of tobacco products in vending machines and the distribution of free samples of tobacco products in Federal buildings and property accessible by minors; to the Committee on Environment and Public Works.

LEGISLATION BANNING TOBACCO VENDING MACHINES ON FEDERAL PROPERTY

Mr. BINGAMAN. Mr. President, 4 years ago, I introduced a bill to ban tobacco vending machines in Federal buildings and on Federal property accessible to children. Two years ago, I reintroduced the bill, and it passed the full Senate by voice vote as an amendment to the fiscal year 1994 Treasury-Postal Service appropriations bill. I rise today to reintroduce my bill for three simple reasons:

First, in 1993, after the Senate passed my amendment to ban tobacco vending machines on Federal property, the conferees failed to retain the legislative language, opting instead for the following statement in the fiscal year 1994 Treasury-Postal appropriations conference report:

... [elimination of the provision] does not signal a lack of concern for the health and safety of minors. The conferees agree that locating cigarette sales vending machines in areas accessible to minors poses a serious problem as their presence increases the availability of products which otherwise may be prohibited from sale to minors. Therefore, the conferees direct the Administrator to eliminate vending machines in areas which are accessible to minors.

Despite this directive, tobacco vending machines remain on federal property and many are fully accessible to children.

Second, more substantively, vending machines are extremely difficult to monitor. Not surprisingly, they are one of the chief sources of cigarette purchases among children and teenagers.

Third, finally, every State in the country has enacted a law to prohibit the sale or distribution of cigarettes to minors.

Mr. President, I would like to take a few moments to talk about each of the points I have listed.

As I mentioned, the congressional directive contained in the fiscal year 1994

Treasury-Postal Service appropriations bill was issued almost 2 years ago. In those 2 years, more than 2 million children and teens in this country took up smoking. One-third of them—more than 600,000 children—will later die of tobacco-related causes. Let me repeat that: more than 600,000 children will die because sometime over the past 2 years, they started to smoke. And we cannot even get a few cigarette vending machines out of some Federal buildings.

Mr. President, these statistics are not exaggerations. The facts are well known and widely acknowledged:

First, more than 420,000 people died each year from tobacco-related causes, making cigarette smoking the single most preventable cause of death and disability in the United States.

Second, every day, more than 3,000 children and teenagers start to smoke. More than two-thirds of all adult smokers had their first cigarette before the age of 14, and 90 percent began smoking by age 18.

Third, every year, minors consume 516 million packs of cigarettes, at least half of which are sold illegally to children and teens.

Five hundred sixteen million packs of cigarettes consumed by minors annually. Three thousand children starting to smoke every day. And every State in this country has a law prohibiting the sale of tobacco products to minors.

Clearly, something is not working. It is time for a new course of action. Some experts argue that the wisest, most effective course of action would be to take the tobacco industry up on its voluntary plan for reducing underage smoking and try to hold the industry to its commitment. Others argue that we should use this opportunity to give the Food and Drug Administration broader regulatory authority of tobacco products. The President is currently grappling with these tough issues, and we expect an announcement of his decision at any time.

For several years, I have sponsored legislation that would specifically give the FDA the authority to regulate nicotine-containing tobacco products. For a number of years, the Department of Health and Human Services has urged States and localities to take greater responsibility by, among other things, banning cigarette vending machines.

In recent years, other Federal officials, including President Clinton and former President Bush, have joined the Department's appeal to States and localities. In its Healthy People 2000 Report, the Public Health Service encourages Indian Tribal Councils to "similarly enforce prohibitions of tobacco sales to Indian youth living on reservations" because Indian nations are sovereign and exempted from State laws.

I agree with the Department's previous advice. I sincerely hope that over the next few days or weeks the President will take a tough stand on the issue of Federal regulation of tobacco

products. I hope he will go much farther than this modest bill. At the same time, I would caution the President and my colleagues in the Senate not to forget the powerful message that leading by example can convey.

Mr. President, over that past several years, while the Federal Government has been urging every other political body in the country to ban cigarette vending machines, pack after pack are loaded into—and purchased out of—vending machines every day in Federal buildings. Those buildings include the Senate and House Office Buildings and the Old Executive Office Building, next door to the White House.

It is long past time for the vending machines to go. It is time for the Federal Government to lead by example. I believe that if we expect States, localities, Indian Tribal leaders, schools, parents, and even the tobacco industry itself, to take steps to protect our children from tobacco, then we in the Federal Government should join the effort. We should lead the effort. We can begin with passage of this legislation, which I ask to be printed in the RECORD at the conclusion of my remarks. Thank you.

ADDITIONAL COSPONSORS

S. 304

At the request of Mr. SANTORUM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 413

At the request of Mr. DASCHLE, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 413, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under such Act, and for other purposes.

S. 428

At the request of Mr. ROTH, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 428, a bill to improve the management of land and water for fish and wildlife purposes, and for other purposes.

S. 448

At the request of Mr. GRASSLEY, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 448, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 560

At the request of Mr. DASCHLE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 560, a bill to amend section 6901 of title 31, United States Code, to entitle units of general local government to payments in lieu of taxes for non-taxable Indian land.

S. 833

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 833, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment.

S. 851

At the request of Mr. JOHNSTON, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 851, a bill to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program, and for other purposes.

S. 960

At the request of Mr. SANTORUM, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 960, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns, and for other purposes.

S. 1086

At the request of Mr. DOLE, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1086, a bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes.

S. 1117

At the request of Mr. DASCHLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1117, a bill to repeal AFDC and establish the Work First Plan, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. THURMOND, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week," and for other purposes.

SENATE RESOLUTION 149

At the request of Mr. AKAKA, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Wyoming [Mr. THOMAS], the Senator from Nebraska [Mr. EXON], the Senator from Massachusetts [Mr. KERRY], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Senate Resolution 149, a resolution expressing the sense of the Senate regarding the recent announce-

ment by the Republic of France that it intends to conduct a series of underground nuclear test explosions despite the current international moratorium on nuclear testing.

SENATE CONCURRENT RESOLUTION 23—RELATIVE TO THE NATIONAL VOTER REGISTRATION ACT OF 1993

Mr. SIMON submitted the following concurrent resolution; which was referred to the Committee on the Rules and Administration:

S. CON. RES. 23

Whereas section 4 of article I of the Constitution provides that the times, places, and manner of holding elections for Senators and Representatives shall be prescribed by State legislatures, subject to laws passed by the Congress;

Whereas the results of a recent study by the Congressional Budget Office indicate that the costs of implementing the National Voter Registration Act of 1993, commonly known as the Motor Voter Act, are far less than costs that would be considered unfunded mandates under the criteria of the Unfunded Mandates Reform Act of 1995; and

Whereas, States that have complied with the Motor Voter Act have, through such compliance, registered new voters in proportion to the demographics of those States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

- (1) the Congress is responsible for the ultimate protection of the voting process, which responsibility is to be exercised by making the voting process available to all persons who are eligible to become voters;
- (2) it is appropriate for the Congress to affirm that the National Voter Registration Act of 1993, commonly known as the Motor Voter Act, is an appropriate measure to ensure the full participation of the American electorate in voting;
- (3) any failure of a State to comply with the Motor Voter Act is illegal;
- (4) not later than November 5, 1995, the Governors of the States should comply with the Motor Voter Act; and
- (5) the actions of the Attorney General in seeking enforcement of the Motor Voter Act have the support of the Congress.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996 THURMOND (AND OTHERS) AMENDMENT NO. 2111

Mr. THURMOND (for himself, Mr. DOMENICI, Mr. LOTT, Mrs. HUTCHISON, Mr. BOND, Mr. THOMPSON, Mr. FRIST, and Mr. BINGAMAN) proposed an amendment to the bill (S. 1026) to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

AMENDMENT NO. 2111

On page 515, strike out line 7 and all that follows through page 570, line 10, and insert in lieu thereof the following:

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) STOCKPILE STEWARDSHIP.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of \$1,624,080,000, to be allocated as follows:

(1) For core stockpile stewardship, \$1,386,613,000, to be allocated as follows:

(A) For operation and maintenance, \$1,305,308,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$81,905,000, to be allocated as follows: Project 96-D-102, stockpile stewardship facilities revitalization, Phase VI, various locations, \$2,520,000.

Project 96-D-103, Atlas, Los Alamos National Laboratory, Los Alamos, New Mexico, \$8,400,000.

Project 96-D-104, processing and environmental technology laboratory (PETL), Sandia National Laboratories, Albuquerque, New Mexico, \$1,800,000.

Project 96-D-105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, \$6,600,000.

Project 95-D-102, Chemical and Metallurgy Research Building upgrades, Los Alamos National Laboratory, New Mexico, \$9,940,000.

Project 94-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, \$12,200,000.

Project 93-D-102, Nevada support facility, North Las Vegas, Nevada, \$15,650,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, \$6,200,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, \$17,995,000.

(2) For inertial fusion, \$230,667,000, to be allocated as follows:

(A) For operation and maintenance, \$193,267,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and land acquisition related thereto), \$37,400,000:

Project 96-D-111, national ignition facility, location to be determined.

(3) For Marshall Islands activities and Nevada Test Site dose reconstruction, \$6,800,000.

(b) STOCKPILE MANAGEMENT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of \$2,035,483,000, to be allocated as follows:

(1) For operation and maintenance, \$1,911,858,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$123,625,000, to be allocated as follows:

Project GPD-121, general plant projects, various locations, \$10,000,000.