sede a valid State or local law or a collective bargaining agreement that governs the return to work of employees taking leave under section 102(a)(1)(D).

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 102 to periodically report to the employer on the status and intention of the employee to return to work.

(b) MAINTENANCE OF HEALTH BENEFITS.—During any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any "group health plan" (as defined in section [5000(b)(1)] of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

SEC. 105. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such rules and regulations as are necessary to carry out this section, including rules and regulations concerning notice of foreseeable leave, service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—

(1) FILING.—Any person (including a class or organization, on behalf of any person) alleging an act that violates any provision of this title may file a charge respecting such violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) NOTIFICATION.—Not more than 10 days after the Secretary receives notice of a charge under paragraph (1), the Secretary—

(A) shall serve a notice of the charge on the person charged with the violation; and

(B) shall inform such person and the charging party as to the rights and procedures provided under this title.

(3) TIME OF FILING.—A charge shall not be filed more than 1 year after the date of the last event constituting the alleged violation.

(4) SETTLEMENT PRIOR TO DETERMINATION BY SECRETARY.—The charging party and the person charged with the violation under this section may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under subsection (c). Such an agreement shall be effective unless the Secretary determines, not later than 30 days after the notice of the proposed agreement is received, that the agreement is not generally consistent with the purposes of this title.

(c) INVESTIGATION AND COMPLAINT ON NOTICE OF A CHARGE.—

(1) INVESTIGATION.—Not later than 60 days after the Secretary receives any charge respecting a violation of this title, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) DISMISSAL.—If, after conducting an investigation under paragraph (1), the Secretary determines that there is no reasonable basis for the charge that is being investigated, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(3) COMPLAINT BASED ON CHARGE.—If, after conducting an investigation under paragraph (1), the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(4) SETTLEMENT WITH SECRETARY.—On the issuance of a complaint under paragraph (3), the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the complaint. Any such settlement shall not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) CIVIL ACTIONS.—If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not made a determination under paragraph (2) or (3);

(B) has dismissed the charge under paragraph (2); or

(C) has disapproved a settlement agreement under subsection (b)(4) or has not entered into a settlement agreement under paragraph (4) of this subsection;

the charging party may elect to bring a civil action under section 107. Such election shall bar further administrative action by the Secretary with respect to the violation alleged in the charge.

(6) COMPLAINT AND RELIEF ON INITIATIVE OF SECRETARY.—

(A) COMPLAINT.—The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 108.

(B) RELIEF.—On the issuance of a complaint under subparagraph (A), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or a restraining order. On the filing of any such petition, the court shall cause notice of the petition to be served on the respondent, and the court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as the court determines just and proper.

(d) RIGHTS OF PARTIES.—

(1) SERVICE OF COMPLAINT.—In any case in which a complaint is issued under subsection (c), the Secretary shall, not later than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) PARTIES TO COMPLAINT.—Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging such violation. Such election must be made prior to the commencement of a hearing.

(3) CIVIL ACTION.—The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 107.

(e) CONDUCT OF HEARING.—

(1) PROSECUTION BY SECRETARY.—The Secretary shall have the duty to prosecute any complaint issued under subsection (c).

(2) HEARING.—An administrative law judge shall conduct a hearing on the record with respect to any complaint issued under this title. The hearing shall be commenced not later than 60 days after the issuance of such complaint, unless the judge, in the discretion of the judge, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—

(1) IN GENERAL.—After a hearing conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 109.

(2) NOTIFICATION CONCERNING DELAY.—The administrative law judge shall inform the parties, in writing, of the reason for any delay in making such findings and conclusions if such findings and conclusions are not made within 60 days after the conclusion of such hearing.

(g) FINALITY OF DECISION; REVIEW.—

(1) FINALITY.—The decision and order of the administrative law judge under this section shall become the final decision and order of the Secretary unless, on appeal by an aggrieved party taken not later than 30 days after the entry of the order, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision.

(2) REVIEW.—Not later than 60 days after the entry of the final order of the Secretary under paragraph (1), any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) JURISDICTION.—On the filing of the record of an order under this subsection with the court, the jurisdiction of the court shall be exclusive and the judgment of the court shall be final, except that the judgment shall be subject to review by the Supreme Court of the United States on writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) POWER OF SECRETARY.—If an order of the Secretary is not appealed under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in such court a written petition praying that such order be enforced.

(2) JURISDICTION.—On the filing of a petition under paragraph (1), the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In such a proceeding, the order of the Secretary shall not be subject to review.

(3) DECREE OF ENFORCEMENT.—If, on appeal of an order under subsection (g)(2), the Unit-

ed States court of appeals does not reverse or modify such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 107. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations contained in this section, an eligible employee or any person, including a class or organization on behalf of any eligible employee, or the Secretary may bring a civil action against any employer (including any State employer) to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) NO CHARGE FILED.—Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 106(b).

(3) LIMITATIONS.—No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved a settlement agreement or has failed to disapprove a settlement agreement under section 106(b)(4) or 106(c)(4), as appropriate, if such action is based on a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 106(c)(3) or 106(c)(6), if such action is based upon a violation alleged in the complaint.

(4) ENFORCEMENT OF SETTLEMENT AGREEMENTS.—Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5) TIMING OF COMMENCEMENT OF CIVIL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no civil action may be commenced later than 1 year after the date of the last event that constitutes the alleged violation.

(B) EXCEPTION.—In any case in which—

(i) a timely charge is filed under section 106(b); and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 106(c)(4)) occurs later than 11 months after the date on which any alleged violation occurred;

the charging party may commence a civil action not later than 60 days after the date of such failure.

(6) AGENCIES.—The Secretary shall not bring a civil action against any agency of the United States.

(7) EXCLUSIVE JURISDICTION ON COMPLAINT.—On the filing of a complaint with the court under this subsection, the jurisdiction of the court shall be exclusive.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code; or

(2) in the judicial district in the State in which—

(A) the employment records relevant to such violation are maintained and administered; or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action by an eligible employee under subsection (a) shall be served on the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 108. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall keep and preserve records in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 106.

(d) SUBPOENA POWERS, ETC.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 109. RELIEF.

(a) INJUNCTIVE RELIEF.—

(1) CEASE AND DESIST.—On finding a violation under section 106, the administrative law judge shall issue an order requiring such person to cease and desist from any act or practice that violates this title.

(2) INJUNCTIONS.—In any civil action brought under section 107, the court may grant as relief against any employer (including any State employer) any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

(b) MONETARY DAMAGES.—

(1) IN GENERAL.—Any employer (including any State employer) that violates any provision of this title shall be liable to the injured party in an amount equal to—

(A) any wages, salary, employment benefits, or other compensation denied or lost to such eligible employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) an additional amount equal to the greater of—

(i) the amount determined under subparagraph (A), as liquidated damages; or

(ii) consequential damages, not to exceed 3 times the amount determined under such subparagraph.

(2) GOOD FAITH.—If an employer who has violated this title proves to the satisfaction of the administrative law judge or the court that the act or omission that violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, such judge or the court may, in the discretion of the judge or court, reduce the amount of the liability provided for under this subsection to the amount determined under paragraph (1)(A).

(c) ATTORNEY'S FEES.—A prevailing party in an action described under this section (other than the United States) may be awarded a reasonable attorney's fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs in the same manner as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) shall not accrue from a date that is later than 2 years prior to the date on which a charge is filed under section 106(b) or a civil action is brought under section 107.

SEC. 110. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—Except as otherwise provided in this section, the rights (including the rights under section 104, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this Act shall apply to—

(1) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and its employees; and

(2) any private elementary and secondary school and its employees.

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency and a private elementary and secondary school shall not be in violation of the Education of the Handicapped Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this Act.

(c) INTERMITTENT LEAVE FOR INSTRUCTIONAL EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which an employee employed principally in an instructional capacity by any such educational agency or school seeks to take leave under subparagraph (C) or (D) of section 102(a)(1) that is foreseeable based on planned medical treatment or supervision and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment or supervision; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(2) APPLICATION.—The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an employee who complies with section 102(e)(2).

(d) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any employee employed principally in an instructional capacity by any such educational agency or school:

(1) LEAVE MORE THAN 5 WEEKS PRIOR TO END OF TERM.—If the employee begins leave under section 102 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) LEAVE LESS THAN 5 WEEKS PRIOR TO END OF TERM.—If the employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) LEAVE LESS THAN 3 WEEKS PRIOR TO END OF TERM.—If the employee begins leave under paragraph (A), (B), or (C) of section 102(a)(1) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 104(a)(1)(B) (relating to the restoration of an employee to an equivalent position), in the case of a local educational agency or a private elementary and secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(f) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency or a private elementary and secondary school that has violated title I proves to the satisfaction of the administrative law judge or the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of such title, such judge or court may, in the discretion of the judge or court, reduce the amount of the liability provided for under section 109(b)(1) to the amount determined under subparagraph (A) of such section.

SEC. 111. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer that willfully violates this section shall be assessed a civil money penalty not to exceed $100 for each separate offense.

SEC. 112. REGULATIONS.

Not later than 60 days after the date of enactment of this title, the Secretary shall prescribe such regulations as are necessary to carry out this title (including regulations under section 106(a)).

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V—FAMILY LEAVE

"§ 6381. Definitions

"For purposes of this subchapter:

"(1) The term 'employee' means—

"(A) an 'employee', as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual described in clause (v) or (ix) of such section;

who has been employed for at least 12 months and completed at least 1,000 hours of service during the previous 12-month period.

"(2) The term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment, or continuing supervision, by a health care provider.

"(3) The term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"(4) The term 'parent' means the biological parent of the child or an individual who stood in loco parentis to a child when the child was a son or daughter.

"§ 6382. Leave requirement

"(a)(1) An employee shall be entitled, subject to section 6383, to 12 workweeks of leave during any 12-month period—

"(A) because of the birth of a son or daughter of the employee;

"(B) because of the placement of a son or daughter with the employee for adoption or foster care;

"(C) in order to care for the son, daughter, spouse, or parent of the employee who has a serious health condition; or

"(D) because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

"(2) The entitlement to leave under subparagraphs (A) and (B) of paragraph (1) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3) Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employing agency agree otherwise. Leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary, subject to subsection (e).

"(b) On agreement between the employing agency and the employee, leave under this section may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

"(c) Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

"(d)(1) If an employing agency provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.

"(2)(A) An employee may elect, or an employing agency may require the employee, to substitute for leave under subparagraph (A), (B), or (C) of subsection (a)(1) any of the accrued paid vacation leave, personal leave, or family leave of the employee for any part of the 12-week period of such leave under such paragraph.

"(B) An employee may elect, or an employing agency may require the employee, to substitute for leave under paragraph (1)(D) of subsection (a) any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for any part of the 12-week period of such leave under such paragraph, except that nothing in this Act shall require an employing agency to provide paid sick leave or paid medical leave in any situation in which such employing agency would not normally provide any such paid leave.

"(e)(1) In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner that is reasonable and practicable.

"(2) In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment or supervision, the employee—

"(A) shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse or parent of the employee; and

"(B) shall provide the employing agency with prior notice of the treatment or supervision in a manner that is reasonable and practicable.

"§ 6383. Certification

"(a) An employing agency may require that a claim for leave under subparagraph (C) or (D) of section 6382(a)(1), be supported by certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide a copy of such certification to the employing agency.

"(b) A certification under subsection (a) shall be sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the provider regarding the condition; and

"(4)(A) for purposes of leave under section 6382(a)(1)(C), an estimate of the amount of time that the eligible employee is needed to care for the son, daughter, spouse, or parent; and

"(B) for purposes of leave under section 6382(a)(1)(D), a statement that the employee is unable to perform the functions of the employee's position.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 6382(a)(1), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning any information certified under subsection (b) for such leave.

"(2) Any health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require that the employee obtain subsequent recertifications on a reasonable basis.

"§ 6384. Job protection

"(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave—

"(1) to be restored by the employing agency to the position of employment held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

"(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) Nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any seniority or employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than that to which the employee was entitled to on the date the leave was commenced.

"(d) As a condition to restoration under subsection (a), the employing agency may have a policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work.

"(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section 6382 to periodically report to the employing agency on the status and intention of the employee to return to work.

"§ 6385. Prohibition of coercion

"(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6386. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909) through the employing agency of the employee, the appropriate employee contributions.

"§ 6387. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Family and Medical Leave Act of 1991.".

(2) The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER V—FAMILY LEAVE AND TEMPORARY MEDICAL LEAVE

"6381. Definitions.
"6382. Leave requirement.
"6383. Certification.
"6384. Job protection.
"6385. Prohibition of coercion.
"6386. Health insurance.
"6387. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, subchapter V of chapter 63,".

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (hereinafter referred to in this title as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to leave;

(B) the potential costs, benefits, and impact on productivity of such policies on employers; and

(C) alternative and equivalent State enforcement of this Act with respect to employees described in section 110(a); and

(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report that may include legislative recommendations concerning coverage of businesses that employ fewer than 50 employees and alternative and equivalent State enforcement of this Act with respect to employees described in section 110(a).

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex officio members to be appointed not later than 60 days after the date of the enactment of this Act as follows:

(A) SENATORS.—One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) MEMBERS OF HOUSE OF REPRESENTATIVES.—One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—

(i) APPOINTMENT.—Two members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the majority leader of the Senate;

(III) the minority leader of the House of Representatives; and

(IV) the minority leader of the Senate.

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not later than 30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. On the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission.

(e) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out the duties of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTI-DISCRIMINATION LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State and local law that provides greater employee leave rights than the rights established under this Act or any amendment made by this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act or any amendment made by this Act shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family and medical leave rights to employees than the rights provided under this Act or any amendment made by this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act or any amend-

ment made by this Act shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act or any amendment made by this Act.

SEC. 404. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date of the enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I and II and this title shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date that occurs 12 months after the date of the enactment of this Act.

SEC. 405. REGULATIONS.

The Secretary shall prescribe such regulations as are necessary to carry out this title not later than 60 days after the date of the enactment of this Act.

Mr. MITCHELL. Mr. President, I am pleased to join my colleagues today in cosponsoring S. 5, the Family and Medical Leave Act.

Job protection during times of childbirth and family illness ought to be one of the most basic rights for working American families. Especially now with the economy in recession, job protection is even more important to the stability of American families.

To know that a worker has the flexibility to take care of a new born child or take care of an ailing parent without the fear of job loss ought not be remarkable. It ought to be a matter of course.

For that reason, enactment of a family and medical leave policy is a high priority for this Congress.

As we have all heard on many occasions, President Bush has advocated a kinder and gentler Nation.

Before an Illinois Republican Women's group in the fall of 1988, then Vice President Bush made his position clear. He said, and I quote,

> We also need to assure that women don't have to worry about getting their jobs back after having a child or caring for a child during a serious illness. That is what I mean when I talk about a gentler nation. That isn't fair the other way, and it's not right, and we've got to do something about that.

I agree. Unfortunately, between the time President Bush was running for the Presidency and the time he assumed office, the President changed his mind.

While we all from time to time have changed our minds about one subject or another, very rarely do we change our mind about the underlying premise of an issue.

I hope Congress can work together with the President this year to enact a basic assurance of job security for men and women during times of family crisis. For this is the basic premise of a family and medical leave policy.

We ought not force women to choose between their jobs and their families. Too many women have been forced to make a painful choice between the economic imperative of working to supplement their families' income and the anxiety of caring for a seriously ill child.

Too many women have had no job to return to after recuperating from bearing a child.

S. 5, the Family and Medical Leave Act would provide unpaid leave. Unpaid leave for birth, adoption, or care of a sick child. It would also provide unpaid leave for an employee's own serious medical illness or to care for an employee's seriously ill parent.

The United States is the only major industrialized country without a family or medical leave policy. In fact, most other industrialized countries provide some type of paid leave. But we are not talking about paid leave here, we are simply talking about unpaid leave, with the guarantee of a job to which to return.

This is an important bill for American women. It will offer women equal economic opportunity.

The number of women working today is greater than ever before.

Many of these women are working out of necessity. They need to work to raise their family's income to a level that will provide them with decent and safe housing, utilities, food, and other basic necessities. An increasing number of women are single parents who have no other option to provide for their families. But, the fact remains that fully 65 percent of married women are also in the work force.

When a family crisis occurs, such as when a child is diagnosed with a life-threatening illness like cancer and needs treatment immediately, in the absence of a national leave law, a job loss compounds the family crisis.

Protecting jobs for those who must take leave to care for their families in times of crisis is not unreasonable. It is humane.

Women earn less than men. Women comprise a disproportionate share of the poor and working poor.

While all families would benefit from the Family and Medical Leave Act, it is primarily American women who would reap the most benefit from enactment of a family leave policy.

I reject the argument that the Family and Medical Leave Act is an unprecedented mandate.

Congress has mandated a minimum wage. Congress has mandated employer contributions to ensure a minimum standard of living for the elderly and the disabled. Congress has mandated minimum standards to ensure a safe and healthy workplace for all Americans.

Congress enacted these laws to provide uniformity in the basic protections for American workers. A law providing job protection for family and medical leave would be no different.

Enactment of a family leave law will not alleviate the stress a family feels when faced with a serious illness of a child or loss in earnings when a family member takes leave. But it will alleviate the stress on the family when there is no job to return to.

Enactment of the Family and Medical Leave Act will ensure the most basic of protections for American families. It will offer women an equal economic opportunity.

I hope that my colleagues will join us in supporting S. 5 this year to ensure that no American is forced to choose between job and family.

Mr. PACKWOOD. Mr. President, the President's veto of the Family and Medical Leave Act in the last Congress and the subsequent failure of the House to override that veto, while disappointing, has not lessened our resolve to ensure that working people are able to care for their families and meet basic economic needs.

Existing family leave policies in this country are wholly inadequate to meet the needs of today's workers. That is why, today, we are reintroducing the Family and Medical Leave Act. We are sending a signal that we stand firmly behind our Nation's families and our commitment to enact a comprehensive and sound family leave policy.

The bill we are introducing today is simple justice. It is a reasonable and fair answer to the need to provide job security to employees without undue hardship on employers. A single mother shouldn't be forced to lose her job to take care of a dangerously ill child. A father should be able to count on returning to work after taking care of his family's emergency at home.

Fairness in the workplace will pay off for employers, too. Understanding the problems that families face will bring dividends in the way workers feel about their work. Instead of losing valuable productivity on the job, employers with leave policies in place report gains in productivity and retention of a loyal and experienced work-force.

The demographic revolution in the American work-force is having a profound effect on the lives of working men and women and their families. Today, more than half of the 45.6 million children in two-parent families have both parents in the work-force. The number of women working outside the home has increased 178 percent since 1950. More than one-half of all mothers with infants under 1 year of age now work outside the home. Two-thirds of mothers of children under the age of 3 work outside the home.

We are not strangers to these statistics. We have heard them here before. It is time we face up to the changing reality of our economy—single parents and two wage-earning parents dominate the work-force. It is time now to take action, to ensure that no longer will American workers have to face difficult choices as they seek to balance family and workplace responsibilities. The dual goals of family and work are important to our Nation's well-being. It is time we support working parents by providing flexible leave options which promote family stability and job security.

The Family and Medical Leave Act of 1991 will help ease the tremendous pressures parents face in balancing workplace and family responsibilities. It is essentially the same bill passed by the Senate on June 14 last year. That bill was the result of months of effort and was a carefully tuned compromise which sought to take into consideration the concerns of business and the needs of our Nation's working families.

This legislation requires companies of 50 or more employees to allow their permanent workers 12 weeks of unpaid leave per year for the birth of a baby or serious family illness. Data from my own State of Oregon, which has a family leave standard of 12 weeks, finds that businesses have had little trouble in complying with the standard.

Under this bill, only workers who have been on the job for 1 year or more and who have worked an average of half time or more during that year would be eligible for unpaid leave. Employees would be assured of reinstatement to the same or equivalent job upon their return, and would continue to receive health care coverage during their absence. The General Accounting Office estimates the cost of the bill to be no more than $188 million per year, most of which will result from the continuation of health insurance coverage for employees.

This bill is a reasonable approach. It seeks to meet the needs of families while helping businesses plan for workers taking leave. An estimated 95 percent of all firms, those with fewer than 50 employees, would be exempt from the bill's requirements. The Family and Medical Leave Act is not antibusiness. Indeed, many firms that already have leave policies in place report improved employee loyalty, reduced turnover and absenteeism, and enhanced productivity.

It seems clear that business owners and their employees will benefit mutually from an unpaid leave policy such as envisioned in this bill. I urge my colleagues and the Nation to rally behind this long overdue policy to help our Nation's families strike a balance between the needs of their loved ones and the demands of the workplace.

Mr. KENNEDY. Mr. President, I am pleased to join Senator DODD in cosponsoring the Family Leave Act of 1991. The bill is virtually identical to legislation that was passed in the last Congress by both the House and Senate but vetoed by the President.

It is unfortunate that Congress must again begin the long process toward enactment of this legislation that is critical to working families across the country. It is time for this long overdue measure to be enacted into law—and I hope that the 102d Congress will meet its responsibility.

Family and medical leave is a matter of simple workplace justice. No workers in America should have to choose between the job they need and the child they love. No Americans should lose their job because they must care for an elderly parent. Yet these are the choices that face working men and women every day, and I regret that President Bush's veto last year prevented us from remedying this injustice.

The structural changes occurring in the workplace require policies that recognize the increasing pressures on families. The entry of women in the workplace kept their family incomes from falling during the 1980's, but put more pressure on their families. The rising cost of long-term care for elderly parents requires more individual care from children who have less time to give such care, because they are juggling jobs and families of their own.

The strain that comes when a spouse or child is seriously ill is exacerbated by the stress of meeting increased personal needs and professional demands. Despite the basic changes in family life, employers have made few accommodations to help families meet these pressures.

This legislation is a major step forward for working families across the country. It is a humanitarian approach to changing family structures—and it makes sound economic sense. When workers lose their jobs for lack of family leave, we all pay the bill for unemployment compensation, food stamps, Medicaid, and other social costs.

The most important but most difficult loss to quantify is the loss of morale and productivity when workers are unable to meet their family responsibilities without fear of losing their jobs.

Other countries across the world recognize the need to provide family leave to workers. The United States stands alone with South Africa among industralized nations that deny such leave to working men and women to care for a sick parent or child. If we are serious about regaining our international competitiveness, then we must begin by correcting this basic injustice in our workplace.

The administration cannot have it both ways. If it is serious about helping families across the country, then it should support this legislation and help us enact it into law this year.

Mr. BRADLEY. Mr. President, it is unfortunate that the Family and Medical Leave Act is again before us. Last year, similar legislation passed the House and Senate but was then vetoed by President Bush. In June 1990, the House voted to override the President's veto but failed to achieve a two-third's majority. I hope we can be successful this year in overcoming the reservations of the President.

This compromise measure provides up to 12 weeks per year of unpaid job-protected leave for employees for medical reasons, and for parents upon the birth or adoption of a child, or to care for a seriously ill parent or child up to the age of 18. Businesses with less than 50 employees would be exempt from the bill.

The increasing numbers of mothers of childbearing age who have entered the work-force—as well as the growing number of older Americans in need of care—has made parental leave an issue of growing concern. Since 1947, the number of women in the Nation's work force has increased by 173 percent. Nationally, nearly 50 percent of mothers of children under the age of 1 are in the labor force.

Mr. President, as more and more families become two worker families, I am increasingly concerned that we find ways to reconcile the need to help families care for their families with the need for working parents to remain productive members of the work-force. I believe that the Family and Medical Leave Act addresses the concerns of working parents and provides appropriate job security for these families. Working parents should not be forced to choose between their jobs and caring for their families.

By Mr. DOLE (for himself, Mr. SIMPSON, Mr. DOMENICI, Mr. MURKOWSKI, and Mr. CHAFEE):

S. 6. A bill to amend the Federal Election Campaign Act of 1971 to provide a voluntary system of flexible fundraising targets for Senate elections, to increase public disclosure of activities of Senators, to reduce special interest influence in Senate elections, to increase competition in politics, and for other purposes; to the Committee on Rules and Administration.

COMPREHENSIVE CAMPAIGN FINANCE REFORM AND ETHICS ACT

Mr. DOLE. Mr. President, for good reason the whole world is watching the Persian Gulf these days, and those of us in the Senate are no exception. We spent all of last week debating this crisis issue, and now, as the U.N. imposed deadline approaches, we will continue to watch the Persian Gulf, and we will continue to pray for peace.

Meanwhile, we have plenty of work ahead of us this year on the domestic front. As momentous as the confronta-

tion in the Middle East is, there is still an American agenda that demands action; that is why on this first day open to legislation, I am introducing five bills—designated Senate bills 6, 7, 8, 9, and 10—all of them legislative initiatives that Senate Republicans believe are priority issues for the 102d Congress.

S. 6—CAMPAIGN FINANCE REFORM

Mr. President, today I am introducing Senate bill 6, the Comprehensive Campaign Finance Reform and Ethics Act of 1991.

If last year's elections taught us anything at all, it taught us it is time for reform: Incumbents are laughing all the way to reelection, while the cost of running for office is approaching the obscene.

This bill builds upon last year's Republican reform initiative by adding several new provisions—a provision on flexible fundraising targets, which were recommended by the Mitchell-Dole panel of campaign finance experts; a provision on ethics-in-government; and a provision requiring a partial ban on the roll-over of campaign funds.

ETHICS.

The Comprehensive Campaign Finance Reform and Ethics Act also contains a provision that will require the public disclosure of all congressional contacts with Federal agencies concerning enforcement matters.

Mr. President, if a Member or his staff intervenes with a Federal regulator, this intervention should be publicly disclosed. And if the intervention is publicly disclosed, it should be publicly defended.

Don't get me wrong. Members of Congress should go to bat on behalf of their constituents. That's their job. But if we do intervene with a Federal regulator on behalf of a constituent, we should be comfortable reading about the intervention on the front page of the newspapers. That is what a disclosure requirement is all about.

Mr. President, I ask unanimous consent that the full text of the Comprehensive Campaign Finance Reform and Ethics Act of 1991, and a section-by-section analysis, be included in the RECORD immediately after my remarks.

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

S. 6

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

SECTION 1. SHORT TITLE; AMENDMENT OF FECA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Campaign Finance Reform and Ethics Act of 1991".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

TITLE I—SENATE ELECTION FLEXIBLE FUNDRAISING TARGETS

SEC. 101. SENATE ELECTION FLEXIBLE FUNDRAISING TARGETS.

FECA is amended by adding at the end thereof the following new title:

"TITLE V—SENATE ELECTION FLEXIBLE FUNDRAISING TARGETS

"DEFINITIONS

"SEC. 501. For purposes of this title—

"(1) except as otherwise provided in this title, the definitions under section 301 shall apply for purposes of this title insofar as such definitions relate to elections to the office of United States Senator;

"(2) the term "bipartisan commission" means the commission appointed pursuant to section 506;

"(3) the term 'eligible candidate' means a candidate for the Senate who has made a filing under section 502 and who has not exceeded the limitations described in section 504;

"(4) the term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(5) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"VOLUNTARY ACCEPTANCE OF TARGETS.

"SEC. 502. A candidate for the Senate shall be eligible to receive the benefits described in section 503 if the candidate files with the Commission, at any time prior to the date of the general election, a statement that the candidate has not exceeded the fundraising targets under section 504 for any primary or runoff election and will not exceed such targets for the general election.

"BENEFITS TO ELIGIBLE CANDIDATES

"SEC. 503. REDUCED BROADCAST RATES.—An eligible candidate shall be entitled to the reduced broadcast rates under section 315(b) of the Communications Act of 1934.

"FUNDRAISING TARGETS

"SEC. 504. (a) GENERAL ELECTION TARGET.—An eligible candidate shall not accept contributions for a general election in excess of the lesser of—

"(1) $5,500,000; or

"(2) the greater of—

"(A) $950,000; or

"(B) $400,000 plus

"(i) 30 cents multiplied by the voting age population in the candidate's State not in excess of 4,000,000; and

"(ii) 25 cents multiplied by the voting age population of the candidate's State in excess of 4,000,000.

"(b) PRIMARY ELECTION TARGET.—An eligible candidate shall not accept contributions for a primary election in excess of the lesser of—

"(1) 67 percent of the general election target under subsection (a); or

"(2) $2,750,000.

"(c) RUNOFF ELECTION TARGET.—An eligible candidate shall not accept contributions for a runoff election in excess of 20 percent of the general election target under subsection (a).

"(d) EXEMPT CONTRIBUTIONS.—There shall not be counted against the fundraising targets of an eligible candidate contributions by—

"(1) an individual who at the time a contribution is made is a resident of the candidate's State; or

"(2) an individual not described in paragraph (1) who makes contributions of no more than $250 in the aggregate to any one candidate for an election.

"(e) INDEXING.—The amount otherwise determined under subsection (a) 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 the purposes of this section, the base period shall be the calendar year in which the first general election after the date of enactment of this Act occurs.

"ACTION BY THE COMMISSION

"SEC. 505. The Commission shall—

"(1) issue regulations implementing this title not later than 180 days after the date of enactment of this title; and

"(2) thereafter, provide to an eligible candidate an advisory opinion concerning the application of this title within 30 days after the date on which the eligible candidate submits a request for an advisory opinion.

"REPORT BY BIPARTISAN COMMISSION

"SEC. 506. (a) APPOINTMENT.—The majority leader and minority leader of the House of Representatives and the majority leader and minority leader of the Senate shall each appoint 2 persons to serve on a bipartisan commission to conduct the study and make the report required by subsection (b).

"(b) STUDY AND REPORT.—The bipartisan commission shall—

"(1) study the effects of this title on Senate election campaign spending and the cost of campaigns during the primary and general elections for the Senate in 1994 and 1996; and

"(2) report its findings to the majority leader and minority leader of the House of Representatives and the majority leader and minority leader of the Senate on or before November 7, 1997.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 507. There are authorized to be appropriated to the Commission and to the bipartisan commission such sums as are necessary to carry out this title.

"EFFECTIVE DATES

"SEC. 508. (a) IN GENERAL.—This title shall be effective with respect to candidates for the Senate in 1994, 1996, and 1998.

"(b) CONTRIBUTIONS RECEIVED PRIOR TO DATE OF ENACTMENT.—Contributions made to or received by an eligible candidate on or prior to the date of enactment of this title shall not be counted against the targets specified in section 504.

"(c) RELATIONSHIP TO OTHER TITLES.—The provisions of titles I through VI shall remain in effect with respect to Senate election campaigns affected by this title except to the extent that those provisions are inconsistent with this title."

TITLE II—ETHICS IN GOVERNMENT

SEC. 201. PUBLIC DISCLOSURE OF CONGRESSIONAL INTERVENTION IN ENFORCEMENT ACTIONS.

(a) UNWRITTEN CONTACTS.—

(1) IN GENERAL.—Each department and agency of the executive branch of the United States shall compile a monthly list of all unwritten communications from any Member, employee, or agent of the Congress received by the department or agency with respect to—

(A) potential or ongoing enforcement matters before the department or agency; and

(B) any proceedings in the department or agency relating to the award of contracts.

(2) DETAILS OF LIST.—The list required by this subsection shall include—

(A) the source of the contact;

(B) the stated purpose of the contact;

(C) any information or actions requested; and

(D) any other pertinent information.

(3) FILING LISTS.—Not later than the 15th of each month, each department or agency of the United States Government shall submit the list required by this subsection for the preceding month to the committees of the House of Representatives and the Senate with jurisdiction over the department or agency. Each committee receiving lists pursuant to this subsection shall submit the lists to the Congressional Record on January 1st and July 1st of each year for publication on the next day the record is printed.

(b) WRITTEN CONTACTS.—Each department and agency of the executive branch of the United States shall—

(1) create a public file containing all written communications from any Member, employee, or agent of the Congress received by the department or agency and any written responses by the department or agency to the written communications with respect to—

(A) potential or ongoing enforcement matters before the department or agency; and

(B) any proceedings in the department or agency relating to the award of contracts; or

(2) include the information described in paragraph (1) in an appropriate existing public file.

TITLE III—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Ban on Political Action Committees

SEC. 301. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office."

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof;

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; and

"(D) any committee jointly established by a principal campaign committee and any committee described in subparagraph (B) or (C) for the purpose of conducting joint fundraising activities."

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraphs (B) and (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

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

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect; and

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association,

to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000.

Subtitle B—Ban on Soft Money in Federal Elections

SEC. 311. BAN ON SOFT MONEY.

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

"(i) BAN ON SOFT MONEY.—(1) It shall be unlawful for the purpose of influencing any election to Federal office—

"(A) to solicit or receive any soft money; or

"(B) to make any payments from soft money.

"(2) For purposes of paragraph (1), the term 'soft money' means any amount—

"(A) solicited or received from a source which is prohibited under section 316(a);

"(B) contributed, solicited, or received in excess of the contribution limits under section 315; or

"(C) not subject to the recordkeeping, reporting, or disclosure requirements under section 304 or any other provision of this Act."

SEC. 312. RESTRICTIONS ON PARTY COMMITTEES.

(a) DISCLOSURE OF INFORMATION BY POLITICAL COMMITTEE.—(1) Subsection (c) of section 302 of FECA (2 U.S.C. 432(c)) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(6) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account."

(2) Subsection (b) of section 304 of FECA (2 U.S.C. 434(b)) is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(9) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account."

(b) ALLOCATION OF EXPENDITURES FOR MIXED ACTIVITIES.—Title III of FECA, as amended by section 301(a), is amended by adding at the end thereof the following new section:

"REQUIRED ALLOCATION OF CONTRIBUTIONS AND EXPENDITURES FOR MIXED ACTIVITIES BY POLITICAL PARTY COMMITTEES

"SEC. 325. (a) REGULATIONS REQUIRING ALLOCATION FOR MIXED ACTIVITIES.—Not later than 180 days after the date of the enactment of this section, the Commission shall issue regulations providing for a method for allocating the contributions and expenditures for any mixed activity between Federal and non-Federal accounts.

"(b) GUIDELINES FOR ALLOCATION.—(1) The regulations issued under subsection (a) shall—

"(A) provide for the allocation of contributions and expenditures in accordance with this subsection; and

"(B) require reporting under this Act of expenditures in connection with a mixed activity to disclose—

"(i) the method and rationale used in allocating the cost of the mixed activity to Federal and non-Federal accounts; and

"(ii) the amount and percentage of the cost of the mixed activity allocated to such accounts.

"(2) In the case of a mixed activity that consists of a voter registration drive, get-out-the-vote drive, or other activity designed to contact voters (other than an activity to which paragraph (3) or (4) applies), amounts shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than—

"(A) 33⅓ percent of the total amount in the case of the national committee of a political party; or

"(B) 25 percent of the total amount in the case of a State or local committee of a political party or any subordinate committee thereof.

"(3) In the case of a mixed activity that consists of preparing and distributing brochures, handbills, slate cards, or other printed materials identifying or seeking support of (or opposition to) candidates for both Federal offices and non-Federal offices, amounts shall be allocated on the basis of total space devoted to such candidates, except that in no event shall the amounts allocated to the Federal account be less than the percentages under subparagraph (A) or (B) of paragraph (2).

"(4)(A) In the case of a mixed activity by a national committee of a political party that consists of broadcast media advertising (or any portion thereof) that promotes (or is in opposition to) a political party without mentioning the name of any individual candidate for Federal office or non-Federal office, amounts allocated to the Federal account shall not be less than—

"(i) 50 percent of the total amount in the case of advertising in the national media market; and

"(ii) 40 percent in the case of advertising in other than the national media market.

"(B) In the case of a mixed activity by a State or local committee of a political party or any subordinate committee thereof that consists of broadcast media advertising (or any portion thereof) described in subparagraph (A), costs shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than 33⅓ percent of the total amount.

"(5) Overhead and fundraising costs of a political committee of a political party for each 2-calendar year period ending with the calendar year in which a regularly scheduled election for Federal office occurs shall be allocated to the Federal account on the basis of the same ratio which—

"(A) the aggregate amount of receipts and disbursements of such political committee during such period in connection with elections for Federal office, bears to

"(B) the aggregate amount of receipts and disbursements of such political committee during such period.

"(c) MIXED ACTIVITY.—(1) For purposes of this section, the term 'mixed activity' means an activity the expenditures in connection with which are required under this Act to be allocated between Federal and non-Federal accounts because such activity affects 1 or more elections for Federal office and 1 or more non-Federal elections.

"(2) Activities under paragraph (1) include—

"(A) voter registration drives, get-out-the-vote drives, telephone banks, and membership communications in connection with elections for Federal offices and elections for non-Federal offices;

"(B) general political advertising, brochures, or other materials that include any reference (however incidental) to both a candidate for Federal office and a candidate for non-Federal office, or that urge support for or opposition to a political party or to all the candidates of a political party;

"(C) overhead expenses; and

"(D) activities described in clauses (v), (x), and (xii) of section 301(8)(B).

"(d) ACCOUNTS.—For purposes of this section—

"(1) the term 'Federal account' means an account to which receipts and disbursements are allocated to elections for Federal offices; and

"(2) the term 'non-Federal account' means an account to which receipts and disbursements are allocated to elections other than non-Federal offices."

SEC. 313. PROTECTION FOR EMPLOYEES.

(a) CONTRIBUTIONS TO ALL POLITICAL COMMITTEES INCLUDED.—Paragraph (2) of section 316(b) of FECA (2 U.S.C. 441b(b)(2)) is amended by inserting "political committee," after "campaign committee,".

(b) APPLICABILITY OF REQUIREMENTS TO LABOR ORGANIZATIONS.—Section 316(b) of FECA (2 U.S.C. 441b(b)) is amended by adding at the thereof the following new paragraph:

"(8)(A) Subparagraphs (A), (B), and (C) of paragraph (2) shall not apply to a labor organization unless the organization meets the requirements of subparagraphs (B), (C), and (D).

"(B) The requirements of this subparagraph are met only if the labor organization provides, at least once annually, to all employees within the labor organization's bargaining unit or units (and to new employees within 30 days after commencement of their employment) written notification presented in a manner to inform any such employee—

"(i) that an employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration and get-out-the-vote campaigns;

"(ii) that no employee may be required actually to join any labor organization, but if a collective bargaining agreement covering an employee purports to require membership or payment of dues or other fees to a labor organization as a condition of employment, the employee may elect instead to pay an agency fee to the labor organization;

"(iii) that the amount of the agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's exclusive representation services to the employee's collective bargaining unit, including collective bargaining, contract administration, and grievance adjustment;

"(iv) that an employee who elects to be a full member of the labor organization and pay membership dues is entitled to a reduction of those dues by the employee's pro rata share of the total spending by the labor organization for political activities;

"(v) that the cost of the labor organization's exclusive representation services, and the amount of spending by such organization for political activities, shall be computed on the basis of such cost and spending for the immediately preceding fiscal year of such organization; and

"(vi) of the amount of the labor organization's full membership dues, initiation fees, and assessments for the current year; the amount of the reduced membership dues, subtracting the employee's pro rata share of the organization's spending for political activities, for the current year; and the

amount of the agency fee for the current year.

"(C) The requirements of this subparagraph are met only if, for purposes of verifying the cost of such labor organization's exclusive representation services, the labor organization provides all represented employees an annual examination by an independent certified public accountant of financial statements supplied by such organization which verify the cost of such services; except that such examination shall, at a minimum, constitute a 'special report' as interpreted by the Association of Independent Certified Public Accountants.

"(D) The requirements of this subparagraph are met only if the labor organization—

"(i) maintains procedures to promptly determine the costs that may properly be charged to agency fee payors as costs of exclusive representation, and explains such procedures in the written notification required under subparagraph (B); and

"(ii) if any person challenges the costs which may be properly charged as costs of exclusive representation—

"(I) provides a mutually selected impartial decisionmaker to hear and decide such challenge pursuant to rules of discovery and evidence and subject to de novo review by the National Labor Relations Board or an applicable court; and

"(II) places in escrow amounts reasonably in dispute pending the outcome of the challenge.

"(E)(i) A labor organization that does not satisfy the requirements of subparagraphs (B), (C), and (D) shall finance any expenditures specified in subparagraphs (A), (B), or (C) of paragraph (2) only with funds legally collected under this Act for its separate segregated fund.

"(ii) For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications expressly advocating the election or defeat of any clearly identified candidate for elective public office."

SEC. 314. RESTRICTIONS ON SOFT MONEY ACTIVITIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DENIAL OF TAX-EXEMPT STATUS FOR ACTIVITIES TO INFLUENCE A FEDERAL ELECTION.—An organization shall not be treated as exempt from tax under subsection (a) if such organization participates or intervenes in any political campaign on behalf of or in opposition to any candidate for Federal office."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any participation or intervention by an organization on or after September 1, 1991.

SEC. 315. DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax), as amended by section 314, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.—

"(1) IN GENERAL.—An organization shall not be treated as exempt from tax under subsection (a) if—

"(A) such organization devotes any of its operating budget to—

"(i) voter registration or get-out-the-vote campaigns; or

"(ii) participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office; and

"(B) a candidate, or an authorized committee of a candidate, has—

"(i) solicited contributions to, or on behalf of, such organization; and

"(ii) the solicitation is made in cooperation, consultation, or concert with, or at the request or suggestion of, such organization.

"(2) CANDIDATE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'candidate' has the meaning given such term by paragraph (2) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(2)).

"(B) MEMBERS OF CONGRESS.—The term 'candidate' shall include any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress unless—

"(i) the date for filing for nomination, or election to, such office has passed and such individual has not so filed, and

"(ii) such individual is not otherwise a candidate described in subparagraph (A)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act, but only with respect to solicitations or suggestions by candidates made after the date of the enactment of this Act.

SEC. 316. CONTRIBUTIONS TO CERTAIN POLITICAL ORGANIZATIONS MAINTAINED BY A CANDIDATE.

(a) CONTRIBUTIONS BY PERSONS IN GENERAL AND BY MULTICANDIDATE POLITICAL COMMITTEES.—(1) Section 315(a)(1)(A) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "candidate and his authorized political committees" and inserting "candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,".

(2) Section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) is amended by striking "candidate and his authorized political committees" and inserting "candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,".

(3) Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 301(c), is amended by inserting at the end thereof the following new paragraph:

"(10) For the purposes of paragraphs (1)(A) and (2)(A), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

"(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

"(B) for which that candidate has solicited a contribution."

(b) CONTRIBUTIONS BY NATIONAL BANKS, CORPORATIONS, AND LABOR ORGANIZATIONS.—(1) Section 316(b)(2) of the FECA (2 U.S.C. 441b(b)(2)) is amended by striking "candidate, campaign committee" and inserting "candidate, political organization (other than an authorized committee) maintained by a candidate, campaign committee,".

(2) Section 316(b) of FECA (2 U.S.C. 441b(b)), as amended by section 313(b), is amended by inserting at the end thereof the following new paragraph:

"(9) For the purposes of paragraph (2), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

"(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

"(B) for which that candidate has solicited a contribution."

(c) DATE OF APPLICATION.—The amendments made by subsections (a) and (b) shall apply to contributions described in sections 315 and 316 of FECA (2 U.S.C. 441a and 441b) made in response to solicitations made after January 14, 1991.

Subtitle C—Other Activities

SEC. 321. MODIFICATIONS OF CONTRIBUTION LIMITS ON INDIVIDUALS.

(a) INCREASE IN CANDIDATE LIMIT.—Subparagraph (A) of section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "$1,000" and inserting "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 316(a)(3), is amended by adding at the end thereof the following new paragraph:

"(11) For purposes of subsection (a)(1)(A)—

"(A) The term 'applicable amount' means—

"(i) $1,000 in the case of contributions by a person to—

"(I) a candidate for the office of President or Vice President or such candidate's authorized committees; or

"(II) any other candidate or such candidate's authorized committees if, at the time such contributions are made, such person is a resident of the State with respect to which such candidate seeks Federal office; and

"(ii) $500 in the case of contributions by any other person to a candidate described in clause (i)(II) or such candidate's authorized committees.

"(B) At the beginning of 1992 and each even-numbered calendar year thereafter, the Secretary of Labor shall certify in the same manner as under subsection (c)(1) the percent difference between the price index for the preceding calendar year and the price index for calendar year 1990. Each of the dollar limits under subparagraph (A) shall be increased by such percent difference and rounded to the nearest $100. Each amount so increased shall be the amount in effect for the calendar year for which determined and the succeeding calendar year."

SEC. 322. POLITICAL PARTIES.

(a) ITEMS NOT TREATED AS CONTRIBUTIONS OR EXPENDITURES.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clauses (x) and (xii), by inserting "national," after "the payment by a"; and

(B) in clause (xii), by inserting "general research activities," after "the costs of".

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clauses (viii) and (ix), by inserting "national," after "the payment by a"; and

(B) in clause (ix), by inserting "general research activities," after "the costs of".

(b) INCREASE IN LIMITS ON CONTRIBUTIONS TO POLITICAL PARTIES.—Section 315(a)(3) of FECA (2 U.S.C. 441a(a)(3)) is amended by striking "$25,000 in any calendar year" and inserting "$50,000 in any calendar year, ex-

cept that not more than $25,000 may be contributed in any calendar year to persons which are not political committees established and maintained by a national, State, or local political party."

SEC. 323. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For purposes of this subsection—

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate.

"(B) If a contribution is made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(C) No conduit or intermediary shall deliver or arrange to have delivered contributions from more than 2 persons who are employees of the same employer or who are members of the same trade association, membership organization, or labor organization.

"(D) No person required to register with the Clerk of the House of Representatives or the Secretary of the Senate under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), or an officer, employee or agent of such a person, may act as an intermediary or conduit with respect to a contribution to a candidate for Federal office."

SEC. 324. INDEPENDENT EXPENDITURES.

(a) ATTRIBUTION OF COMMUNICATIONS; REPORTS.—(1) Section 318 of FECA (2 U.S.C. 441d) is amended by adding at the end thereof the following new subsection:

"(c)(1) If any person makes an independent expenditure through a broadcast communication on any television or radio station, the broadcast communication shall include a statement—

"(A) in such television broadcast, that is clearly readable to the viewer and appears continuously during the entire length of such communication; or

"(B) in such radio broadcast, that is clearly audible to the viewer and is aired at the beginning and ending of such broadcast,

setting forth the name of such person and, in the case of a political committee, the name of any connected or affiliated organization.

"(2) If any person makes an independent expenditure through a newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising, the communication shall include, in addition to the other information required by this section—

"(A) the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.'; and

"(B) a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization, and the name of the president or treasurer of such organization.

"(3) Any person making an independent expenditure described in paragraph (1) or (2) shall furnish, by certified mail, return receipt requested, the following information, to each candidate and to the Commission, not later than the date and time of the first public transmission of the communication:

"(A) Effective notice that the person plans to make an independent expenditure for the purpose of financing a communication which expressly advocates the election or defeat of a clearly identified candidate.

"(B) An exact copy of the intended communication, or a complete description of the contents of the intended communication, including the entirety of any texts to be used in conjunction with such communication, and a complete description of any photographs, films, or any other visual devices to be used in conjunction with such communication.

"(C) All dates and times when such communication will be publicly transmitted."

(2) Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended by striking "Whenever" and inserting "Except as provided in subsection (c), whenever".

(b) DEFINITION OF INDEPENDENT EXPENDITURE.—Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended—

(1) by striking "(17) The term" and inserting "(17)(A) The term"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) For the purpose of subparagraph (A), an expenditure shall be considered to be made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, authorized committee, or agent, if there is any arrangement, coordination, or direction by the candidate or the candidate's agent prior to the publication, distribution, display, or broadcast of a communication, and it shall be presumed to be so made when it is—

"(i) based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or

"(ii) made by or through any person who is, or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees;

"(II) serving as an officer of the candidate's authorized committees; or

"(III) providing professional services to, or receiving any form of compensation or reimbursement from, the candidate, the candidate's committee, or agent."

(c) HEARINGS ON COMPLAINTS.—Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

"(13) Within 3 days after the Commission receives a complaint filed pursuant to this section which alleges that an independent expenditure was made with the cooperation or consultation of a candidate, or an authorized committee or agent of such candidate, or was made in concert with or at the request or suggestion of an authorized committee or agent of such candidate, the Commission shall provide for a hearing to determine such matter."

(d) EXPEDITED JUDICIAL REVIEW.—Section 310 of the FECA (2 U.S.C. 437h) is amended by adding at the end thereof the following new sentence: "It shall be the duty of the courts to advance on the docket and to expedite to the greatest possible extent the disposition of any matter relating to the making or alleged making of an independent expenditure."

TITLE IV—INCREASE OF COMPETITION IN POLITICS

Subtitle A—General Provisions

SEC. 401. SEED MONEY FOR CHALLENGERS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 311, is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of this Act, the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees) that in the aggregate do not exceed the lesser of—

"(A)(i) $150,000, in the case of a candidate for the House of Representatives; or

"(ii) $250,000, in the case of a candidate for the Senate; or

"(B) the aggregate qualified matching contributions received by the candidate and the candidate's authorized committees.

"(2) A contribution under paragraph (1) shall not be treated as an expenditure for purposes of subsection (d)(3).

"(3) For purposes of this subsection—

"(A) the term 'qualified matching contributions' means contributions made during the period of the election cycle preceding the primary election by an individual who, at the time the contributions are made, is a resident of the State in which the election with respect to which such contributions are made is to be held; and

"(B) the term 'eligible candidate' means a candidate for election, or nomination for election, to Federal office (other than President or Vice President) who does not hold Federal office."

SEC. 402. OPPOSITION RESEARCH FUND.

Section 315(i)(1) of FECA, as added by section 311, is amended by adding at the end thereof the following flush sentence:

"In addition to a contribution under the preceding sentence, the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees), in an aggregate amount not exceeding $50,000, for the sole purpose of conducting research into the voting and other public records of the candidate's opponent to determine the opponent's views on issues relevant to the election."

SEC. 403. CAMPAIGN FUNDS OF CANDIDATES.

(a) IN GENERAL.—Section 313 of FECA (2 U.S.C. 439a) is amended to read as follows:

"USE OF CAMPAIGN FUNDS

"SEC. 313. (a) Amounts received as contributions by a candidate for the Senate or the House of Representatives and the authorized committees of such a candidate that are surplus campaign funds may be—

"(1) transferred to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code;

"(2) refunded to contributors on a pro rata basis; or

"(3) paid into the Treasury of the United States and applied to the account to reduce the public debt described in section 3113(d) of section 31, United States Code.

"(b)(1) It shall be unlawful for a candidate or an authorized committee of a candidate or for any person acting as an agent of either to dispose of surplus campaign funds in any manner except as required by subsection (a).

"(2) It shall be unlawful for any person knowingly to accept or receive surplus cam-

paign funds for purposes or in a manner other than those specified in subsection (a).

"(c) The disposition of surplus campaign funds shall be reported on the post-election semiannual report that is filed pursuant to section 304 on or before July 31 of the year following the election for which the funds were raised.

"(d) For purposes of this section, the term 'surplus campaign funds' means the amount (if any) after a general election by which—

"(1) the contributions made to the candidate and the candidate's authorized committees with respect to the election cycle for such election, exceed

"(2) the sum of—

"(A) the expenditures made by such candidate or authorized committees with respect to such election cycle; and

"(B) in the case of a candidate for the House of Representatives, $50,000, and in the case of a candidate for the Senate, $100,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to surplus campaign funds existing on November 9, 1994, and thereafter.

SEC. 404. STATE AND LOCAL CAMPAIGN FUNDS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 201, is amended by adding at the end thereof the following new subsection:

"(k) It shall be unlawful for an individual who is a candidate for Federal office (or any authorized committee) to transfer campaign funds raised in connection with any campaign of such individual for State or local office for use in the campaign for such Federal office. The preceding sentence shall not apply to the extent such funds do not exceed $50,000 in the case of a candidate for the House of Representatives, or $100,000 in the case of a candidate for the United States Senate."

SEC. 405. TRUTH-IN-INCUMBENCY.

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

"(4) For purposes of paragraph (3), an expenditure by a State or local committee of a political party for a radio or television advertisement that—

"(A) is made for the purpose of publicizing the voting or other public record of an incumbent who is not a member of the political party of the committee that makes the expenditure;

"(B) does not indicate whether the incumbent is or will be a candidate for Federal office or whether a listener or viewer should vote against the incumbent; and

"(C) is made prior to the date on which a candidate of that party is nominated for election to the office held by the incumbent,

is not an expenditure in connection with the general election campaign of a candidate. This paragraph shall only apply to advertisements that are at least 1 minute in length."

SEC. 406. CANDIDATE EXPENDITURES FROM PERSONAL FUNDS.

(a) Section 315 of FECA (2 U.S.C. 441a), as amended by section 404, is amended by adding at the end thereof the following new subsection:

"(l)(1)(A) Not less than 15 days after a candidate qualifies for a primary election ballot under State law, the candidate shall file with the Commission, and each other candidate who has qualified for that ballot, a declaration stating whether the candidate intends to expend for the primary and general election an amount exceeding $250,000 from—

"(i) the candidate's personal funds;

"(ii) the funds of the candidate's immediate family; and

"(iii) personal loans incurred by the candidate and the candidate's immediate family in connection with the candidate's election campaign.

"(B) The declaration required by subparagraph (A) shall be in such form and contain such information as the Commission may require by regulation.

"(2) Notwithstanding subsection (a), if a candidate—

"(A) declares under paragraph (1) that the candidate intends to expend for the primary and general election funds described in such paragraph an amount exceeding $250,000;

"(B) expends such funds in the primary and general election an amount exceeding $250,000; or

"(C) fails to file the declaration required by paragraph (1),

the limitations on contributions under subsection (a), and the limitations on expenditures under subsection (d), shall be modified as provided under paragraph (3) with respect to other candidates for the same office who are not described in subparagraph (A), (B), or (C).

"(3) For purposes of paragraph (2)—

"(A) the limitation under subsection (a)(1)(A) shall be increased to $5,000; and

"(B) if a candidate described in paragraph (2)(B) expends more than $1,000,000 of funds described in paragraph (1) in the primary and general election—

"(i) the limitation under subsection (a)(1)(A) shall not apply;

"(ii) the limitation under subsection (a)(2) shall not apply to any political committee of a political party; and

"(iii) the limitation under subsection (d)(3) shall not apply.

The $5,000 amount under subparagraph (A) shall be adjusted each calendar year in the same manner as amounts are adjusted under subsection (a)(11)(B).

"(4) If—

"(A) the modifications under paragraph (3) apply for a convention or a primary election by reason of 1 or more candidates taking (or failing to take) any action described in subparagraph (A), (B), or (C) of paragraph (2); and

"(B) such candidates are not candidates in any subsequent election in the same election campaign, including the general election,

paragraph (3) shall cease to apply to the other candidates in such campaign.

"(5) A candidate who—

"(A) declares, pursuant to paragraph (1), that the candidate does not intend to expend funds described in paragraph (1) in excess of $250,000; and

"(B) subsequently changes such declaration or expends such funds in excess of that amount,

shall file an amended declaration with the Commission and notify all other candidates for the same office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending a notice by certified mail, return receipt requested.

"(6) Contributions to a candidate or a candidate's authorized committees may be used to repay any expenditure or personal loan incurred in connection with the candidate's election to Federal office by a candidate or a member of the candidate's immediate family only to the extent that such repayment—

"(A) is limited to the amount of such expenditure or the principal amount of such loan (and no interest is paid); and

"(B) is not made from any such contributions received after the date of the general election to which such expenditure or loan relates.

"(7) For purposes of this subsection, the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) any child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of a person described in subparagraph (B).

"(8) The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to ensure compliance with this subsection."

SEC. 407. LIMITATIONS ON GERRYMANDERING.

(a) REAPPORTIONMENT OF REPRESENTATIVES.—Section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress," approved June 18, 1929 (2 U.S.C. 2a), is amended—

(1) by striking subsection (c); and

(2) by adding at the end thereof the following new subsections:

"(c)(1) In each State entitled in the One Hundred Third Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to the second paragraph of the Act entitled 'An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting', approved December 14, 1967 (2 U.S.C. 2c), as in effect prior to the date of enactment of this subsection, there shall be established in the manner provided by the law of the State a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only by eligible voters from districts so established, no district to elect more than 1 Representative.

"(2) Such districts shall be established in accordance with the provisions of this Act as soon as practicable after the decennial census date established in section 141(a) of title 13, United States Code, but in no case later than such time as is reasonably sufficient for their use in the elections for the One Hundred Third Congress and in each fifth Congress thereafter.

"(d)(1) The number of persons in congressional districts within each State shall be as nearly equal as is practicable, as determined under the then most recent decennial census.

"(2) The enumeration established according to the Federal decennial census pursuant to article I, section II, United States Constitution, shall be the sole basis of population for the establishment of congressional districts.

"(e) Congressional districts shall be comprised of contiguous territory, including adjoining insular territory.

"(f) Congressional districts shall not be established with the intent or effect of diluting the voting strength of any person, group of persons, or members of any political party.

"(g) Congressional districts shall be compact in form. In establishing such districts, nearby population shall not be bypassed in favor of more distant population.

"(h) Congressional district boundaries shall avoid the unnecessary division of counties or their equivalent in any State.

"(i) Congressional district boundaries shall be established in such a manner so as to minimize the division of cities, towns, villages, and other political subdivisions.

"(j)(1) It is the intent of the Congress that congressional districts established pursuant to this section be subject to reasonable pub-

lic scrutiny and comment prior to their establishment.

"(2) At the same time that Federal decennial census tabulations data, reports, maps, or other material or information produced or obtained using Federal funds and associated with the congressional reapportionment and redistricting process are made available to any officer or public body in any State, those materials shall be made available by the State at the cost of duplication to any person from that State meeting the qualifications for voting in an election of a Member of the House of Representatives.

"(k) Nothing in this section shall oe construed to supersede any provision of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

"(l)(1) A State may establish by law criteria for implementing the standards set forth in this section.

"(2) Nothing in this section shall be construed as limiting the power of a State to strengthen or add to the standards set forth in this section, or to interpret those standards in a manner consistent with the law of the State, to the extent that any additional criteria or interpretations are not in conflict with this section."

"(m)(1) The district courts of the United States shall have exclusive jurisdiction to hear and determine any action to enforce subsections (c) through (l).

"(2) A person who meets a State's qualifications for voting in an election of a Member of the House of Representatives from the State may bring an action in the district court for the district in which the person resides to enforce subsections (c) through (l) with regard to the State in which the person resides.

"(3) Notwithstanding any other provision of this section, the district courts of the United States shall have authority to issue all judgments, orders, and decrees necessary to ensure that any criteria established by State law pursuant to this section are not in conflict with this section.

"(4) With the exception of actions brought for the relief described in paragraph (3), the district court for the purposes of this section shall be a three-judge district court pursuant to section 2284 of title 28, United States Code.

"(5) On motion of any party in accordance with section 1657 of title 28, United States Code, it shall be the duty of the district court to assign the case for briefing and hearing at the earliest practicable date, and to cause the case to be in every way expedited. The district court shall have authority to enter all judgments, orders and decrees necessary to bring a State into compliance with this Act.

"(6) An action to challenge the establishment of a congressional district in a State after a Federal decennial census may not be brought after the end of the 9-month period beginning on the date on which the last such district is so established.

"(7) For the purposes of this section, an order dismissing a complaint for failure to state a cause of action shall be appealable in accordance with section 1253 of title 28, United States Code.

"(8) If a district court fails to establish a briefing and hearing schedule that will permit resolution of the case prior to the next general election, any party may seek a writ of mandamus from the United States Court of Appeals for the circuit in which the district court sits. The court of appeals shall have jurisdiction over the motion for a writ of mandamus and shall establish an expedited briefing and hearing schedule for resolution of the motion. Such a motion shall not stay proceedings in the district court.

"(9) If a district court determines that the congressional districts established by a State's redistricting authority pursuant to this Act are not in compliance with this Act, the court shall remand the plan to the State's redistricting authority to establish new districts consistent with subsections (c) through (l). The district court shall retain jurisdiction over the case after remand.

"(10) If, after a remand under paragraph (9), the district court determines that the congressional districts established by a State's redistricting anthority under the remand order are not consistent with subsections (c) through (l), the district court shall enter an order establishing districts that are consistent with subsections (c) through (l) for the next general congressional election.

"(11) If any qnestion of State law arises in a case under this section that would require abstention, the district court shall not abstain. However, in any State permitting certification of such questions, the district court shall certify the question to the highest court of the State whose law is in question. Such certification shall not stay the proceedings in the district court or delay the court's determination of the question of State law.

"(12) With the exception of actions bronght for the relief described in paragraph (3), an appeal from a decision of the district court under this section shall be taken in accordance with section 1253 of title 28, United States Code. An appeal under this paragraph shall be noticed in the district court and perfected by docketing in the Supreme Court within thirty days of the entry of judgment below. Appeals brought to the Supreme Court under this paragraph shall be heard as soon as practicable.

"(13) For purposes of this section, the term "redistricting anthority" means the officer or public body having initial responsibility for the congressional redistricting of a State."

(b) CONFORMING AMENDMENTS AND REPEALER.—(1) The first sentence of section 1657 of title 28, United States Code, is amended by striking "chapter 153 or" and inserting "chapter 153, any action under subsection (m) through (l) of section 22 of the Act entitled 'An Act to provide for the fifteenth and subsequent censuses and to provide for apportionment of Representatives in Congress,' approved June 18, 1929 (2 U.S.C. 2a), or".

(2) Section 141(c) of title 13, United States Code, is amended by adding at the end thereof the following: "In circumstances in which this subsection requires that the Secretary provide criteria to, consult with, or report tabulations of population to (or if the Secretary for any reason provides material or information to) the pnblic bodies having responsibility for the legislative apportionment or districting of a State, the Secretary shall provide, without cost, such criteria, consultations, tabulations, or other material or information simultaneously to the leadership of each political party represented on such public bodies. For purposes of this subsection, the term 'political party' means any political party whose candidates for Representatives to Congress received, as the candidates of such party, 5 percent or more of the total number of votes received statewide by all candidates for such office in any of the 5 most recent general congressional elections. Snch materials may inclnde those developed by the Censns Bureau for redistricting purposes for the 1990 Census."

(3) The second paragraph of the Act entitled "An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting", approved December 14, 1967 (2 U.S.C. 2c), is repealed.

SEC. 408. ELECTION FRAUD, OTHER PUBLIC CORRUPTION, AND FRAUD IN INTERSTATE COMMERCE.

(a) ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.—(1) Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrands, or endeavors to deprive or to defrand, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, political subdivision, or Indian tribal government shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defrand, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially condncted election process in any primary, runoff, special, or general election—

"(1) throngh the procurement, casting, or tabulation of ballots that are materially false, fictitious, or frandulent or that are invalid, under the laws of the State in which the election is held;

"(2) throngh paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) throngh the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(c) Whoever, being a pnblic official or an official or employee of a State, political subdivision of a State, or Indian tribal government, in a circumstance described in subsection (d), deprives or defrands, or endeavors to deprive or to defrand, by any scheme or artifice, the inhabitants of a State or political snbdivision of a State of the right to have the affairs of the State, political subdivision, or Indian tribal government condncted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to

travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or any State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) An employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee or official on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and shall be entitled to all relief necessary to make such employee or official whole. Such relief shall include reinstatement with the same seniority status that the employee or official would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual shall not be entitled to relief under paragraph (1) if the individual participated in the violation of this section with respect to which relief is sought.

"(3) A civil action brought under paragraph (1) shall be stayed by a court upon the certification of an attorney for the Government, stating that the action may adversely affect the interests of the Government in a current criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 and shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that the person controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce."

(2)(A) The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(B) Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(C) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

(b) FRAUD IN INTERSTATE COMMERCE.—(1) Section 1343 of title 18, United States Code, is amended—

(A) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(B) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(2)(A) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(B) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

Subtitle B—Congressional Mass Mailings

SEC. 411. DEFINITIONS.

For the purposes of this title—

(1) the term "Commission" means the Commission on Congressional Mailing Standards of the House of Representatives; and

(2) the term "Sergeant at Arms" means the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 412. STATEMENT OF COSTS AND RELATED EXPENSES OF CONGRESSIONAL MASS MAILINGS.

(a) SENATE.—(1) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter.

(2) A statement described in paragraph (1) shall—

(A) separately identify the cost of postage and paper and other costs;

(B) distinguish the costs attributable to newsletters and all other mass mailings; and

(C) include the total cost per capita in the Senator's State.

(3) The Sergeant at Arms shall submit to the Committee on Rules and Administration of the Senate a compilation of the statements sent to Senators under paragraph (1).

(4)(A) A summary tabulation of the information contained in the statements sent to Senators under paragraph (1) shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate.

(B) The summary tabulation shall set forth for each Senator—

(i) the Senator's name;

(ii) the number of pieces of mass mail mailed during the quarter;

(iii) the total cost of such mail; and

(iv) the number of pieces and the cost of such mail divided by the population of the Senator's State.

(b) HOUSE OF REPRESENTATIVES.—(1) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Commission shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter.

(2) A statement described in paragraph (1) shall—

(A) separately identify the cost of postage and paper and other costs;

(B) distinguish the costs attributable to newsletters and all other mass mailings; and

(C) include the total cost per capita in the Member's congressional district.

(3) The Commission shall submit to the Committee on House Administration of the House of Representatives a compilation of the statements sent to Members under paragraph (1).

(4)(A) A summary tabulation of the information contained in the statements sent to Members under paragraph (1) shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House of Representatives.

(B) The summary tabulations shall set forth for each Member—

(i) the Member's name;

(ii) the number of pieces of mass mail mailed during the quarter;

(iii) the total cost of such mail; and

(iv) the number of pieces and cost of such mail divided by the population of the Member's congressional district.

SEC. 413. RESTRICTIONS ON FRANKED CONGRESSIONAL MASS MAILINGS EXCEEDING APPROPRIATED FUNDS.

Section 3216(c) of title 39, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) If at any time during a fiscal year the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the Senate during that year have exhausted the amount appropriated for use by the Senate,

no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the Senate during the remainder of that fiscal year unless additional funds are appropriated for use by the Senate and paid to the Postal Service.

"(B) If at any time during a fiscal year the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the House of Representatives during that year have exhausted the amount appropriated for use by the House of Representatives, no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the House of Representatives during the remainder of that fiscal year unless additional funds are appropriated for use by the House of Representatives and paid to the Postal Service.".

SEC. 414. EXTENSION OF TIME PERIOD WHEN FRANKED MASS MAILINGS ARE PROHIBITED.

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking clause (i) and inserting the following:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II) by striking "fewer than 60 days immediately before the date" and inserting "during the year"; and

(2) in subparagraph (C) by striking "fewer than 60 days immediately before the date" and inserting "during the year".

SEC. 415. REPORTING AND PUBLICATION OF FRANKED MASS MAILINGS.

Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register such mass mailings annually with the Secretary of the Senate. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

"(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Member shall register such mass mailings annually with the Clerk of the House of Representatives. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

SEC. 416. TRANSFERS OF OFFICIAL MAIL COSTS.

(a) PROHIBITION OF TRANSFERS TO CANDIDATES.—(1) During any fiscal year in which appropriations for official mail costs of the Senate are allocated among offices of the Senate, no such office may transfer any of its allocation to the office of a Member of the Senate who is a candidate for Federal office.

(2) During any fiscal year in which appropriations for official mail costs of the House of Representatives are allocated among offices of the House of Representatives, no such office may transfer any of its allocation to the office of a Member of the House of Representatives who is a candidate for Federal office.

(b) REPORTING AND PUBLICATION.—(1)(A) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report to the Sergeant at Arms—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms pursuant to subparagraph (A) shall be published quarterly in the CONGRESSIONAL RECORD and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of enactment of this Act, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during the portion of fiscal year 1991 preceding such date of enactment shall report to the Sergeant at Arms the information described in paragraph (A) with respect to such transfers, and such information shall be published in the CONGRESSIONAL RECORD.

(2)(A) Each office of the House of Representatives that transfers or receives a transfer of an official mail cost allocation to or from another office of the House of Representatives shall report to the Commission—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Commission pursuant to subparagraph (A) shall be published quarterly in the CONGRESSIONAL RECORD and included in the quarterly report of the Clerk of the House of Representatives.

(c) AMENDMENT OF STANDING RULES OF THE SENATE.—(1) Rule XL of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"7. (a) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report on the date of the transfer or receipt of the transfer to the Sergeant at Arms and Doorkeeper of the Senate—

"(1) the name of the office to which the transfer is made or from which the transfer was received;

"(2) the amount of the transfer;

"(3) the amount of the allocation made to the office for the fiscal year;

"(4) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

"(5) the amount of the allocation remaining available to the office for the fiscal year.

"(b) The information reported to the Sergeant at Arms pursuant to subparagraph (a) shall be published quarterly in the CONGRESSIONAL RECORD and included in the semiannual Report of the Secretary of the Senate."

(2) Not later than 30 days after the date of enactment of this Act, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms the information described in paragraph 7(a) of Rule XL of the Standing Rules of the Senate with respect to such transfers, and such information shall be published in the Congressional Record.

(3) This subsection is enacted—

(A) as an exercise of the rulemaking power of the Senate; and

(B) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 417. USE OF OFFICIAL EXPENSE ACCOUNTS AND OTHER SOURCES OF FUNDS FOR MASS MAILINGS.

Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by striking subparagraph (A).

TITLE V—BROADCAST DISCOUNT RATES

SEC. 501. BROADCAST DISCOUNT.

(a) FINDINGS.—The Congress finds that—

(1) in the 45 days preceding a primary election, and in the 60 days preceding a general election, candidates for political office need to be able to buy, at the lowest unit charge, nonpreemptible advertising spots from broadcast stations and cable television stations to ensure that their messages reach the intended audience and that the voting public has an opportunity to make informed decisions;

(2) since the Communications Act of 1934 was amended in 1972 to guarantee the lowest unit charge for candidates during these important preelection periods, the method by which advertising spots are sold in the broadcast and cable industries has changed significantly;

(3) changes in the method for selling advertising spots have made the interpretation and enforcement of the lowest unit charge provision difficult and complex;

(4) clarification and simplification of the lowest unit charge provision in the Communications Act of 1934 is necessary to ensure compliance with the original intent of the provision; and

(5) in granting discounts and setting charges for advertising time, broadcasters and cable operators should treat candidates for political office at least as well as the most favored commercial advertisers.

(b) AMENDMENT OF COMMUNICATIONS ACT.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by section 501, is amended—

(1) in subsection (b)(1)(A), by striking "class and";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting immediately after subsection (b) the following new subsections:

"(c) During any period specified in subsection (b)(1)—

"(1) a licensee shall not preempt the use of a broadcasting station by a legally qualified candidate for public office who has purchased such use pursuant to subsection (b)(1);

"(2) a licensee shall not deny the use of a broadcasting station by a legally qualified candidate for public office who seeks to purchase reasonable amounts of time in, around, or adjacent to any programs aired by the station; and

"(3) a licensee shall certify, under penalty of perjury, that the charges made for the use of a broadcasting station by a legally qualified candidate for public office are at the lowest unit charge of the station for the same amount of time for the same period.

"(d) The Commission shall monitor compliance with this section with timely auditing of licensees' records relating to use, and requests for use, of broadcast stations by candidates.".

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Federal Election Commission Enforcement Authority

SEC. 601. ELIMINATION OF REASON TO BELIEVE STANDARD.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by striking the first sentence and inserting the following: "Except as otherwise provided in subparagraph (B), if the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities determines, by an affirmative vote of 4 of its members, that an allegation of a violation or from pending violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986 states a claim of violation that would be sufficient under the standard applicable to a motion under rule 12(b)(6) of the Federal Rules of Civil Procedure, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such vote shall occur within 90 days after receipt of such complaint."

SEC. 602. INJUNCTIVE AUTHORITY.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)), as amended by section 601, is amended by adding at the end thereof the following new subparagraph:

"(B) The Commission may petition the appropriate court for an injunction if—

"(i) the Commission believes that there is a substantial likelihood that a violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) such expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction."

SEC. 603. TIME PERIODS.

Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by—

(A) striking ", for a period of at least 30 days,"; and

(B) striking "90 days" and inserting "60 days"; and

(2) in clause (ii) by striking "at least" and inserting "no more than".

SEC. 604. KNOWING VIOLATION PENALTIES.

Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation, except that if the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 has been committed during the 15-day period immediately preceding any election, a conciliation agreement entered into by the Commission under paragraph (4)(A) shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation."

SEC. 605. COURT RESOLVED VIOLATIONS AND PENALTIES.

Section 309(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(6)) is amended—

(1) in subparagraph (A) by—

(A) striking "Commission may" and inserting "Commission shall";

(B) striking "including" and inserting "which shall include"; and

(C) striking "which does not exceed the greater of $5,000 or an amount equal to any" and inserting "which equals the greater of $10,000 or an amount equal to 200 percent of any"; and

(2) in subparagraph (B) by—

(A) striking "court may" and inserting "court shall"; and

(B) striking ", including" and inserting "which shall include"; and

(C) striking "which does not exceed the greater of $5,000 or an amount equal to any" and inserting "which equals the greater of $10,000 or an amount equal to 200 percent of any".

SEC. 606. PRIVATE CIVIL ACTIONS.

Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)), as amended by section 605, is amended—

(1) by inserting "(i)" after "(6)(A)"; and

(2) by adding at the end thereof the following new clause:

"(ii) If, by a tie vote, the Commission does not vote to institute a civil action pursuant to clause (i), the candidate involved in such election, or an individual authorized to act on behalf of such candidate, may file an action for appropriate relief in the district court for the district in which the respondent is found, resides, or transacts business. If the court determines that a violation has occurred, the court shall impose the appropriate civil penalty. Any such award of a civil penalty made under this paragraph shall be made in favor of the United States. In addition to any such civil penalty, the court shall award to the prevailing party in any action under this paragraph, all attorneys' fees and actual costs reasonably incurred in the investigation and pursuit of any such action, including those attorneys' fees and costs reasonably incurred in bringing or defending the proceeding before the Commission."

SEC. 607. KNOWING VIOLATIONS RESOLVED IN COURT.

Section 309(a)(6)(C) of FECA (2 U.S.C. 437g(a)(6)(C)) is amended by striking "may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "shall impose a civil penalty which is not less than the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation, except that if such violation was committed during the 15-day period immediately preceding the election, the court shall impose a civil penalty which is not less than the greater of $15,000 or an amount equal to 300 percent of any contribution or expenditure involved in such violation".

SEC. 608. ACTION ON COMPLAINT BY COMMISSION.

Section 309(a)(8)(A) of FECA (2 U.S.C. 437g(a)(8)(A)) is amended—

(1) by striking "act on" and inserting "reasonably pursue";

(2) by striking "120-day" and inserting "60-day"; and

(3) by striking "United States District Court for the District of Columbia" and inserting "appropriate court".

SEC. 609. VIOLATION OF CONFIDENTIALITY REQUIREMENT.

Section 309(a)(12)(B) of FECA (2 U.S.C. 437g(a)(12)(A)) is amended—

(1) by striking "$2,000" and inserting "$5,000"; and

(2) by striking "$5,000" and inserting "$10,000".

SEC. 610. PENALTY IN ATTORNEY GENERAL ACTIONS.

Section 309(d)(1)(A) of FECA (2 U.S.C. 437g(d)(1)(A)) is amended by striking "exceed" and inserting "be less than".

SEC. 611. AMENDMENTS RELATING TO ENFORCEMENT AND JUDICIAL REVIEW.

(a) TIME LIMITATIONS FOR AND INDEX OF INVESTIGATIONS.—Section 309(a) of FECA (2 U.S.C. 437g(a)), as amended by section 324, is amended by adding at the end thereof the following new paragraphs:

"(14) The Commission shall establish time limitations for investigations under this subsection.

"(15) The Commission shall publish an index of all investigations under this section and shall update the index quarterly."

(b) PROCEDURE ON INITIAL DETERMINATION.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)), as amended by section 602, is amended by adding at the end thereof the following: "Before a vote based on information ascertained in the normal course of carrying out supervisory responsibilities, the person alleged to have committed the violation shall be notified of the allegation and shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the information. Prior to any determination, the Commission may request voluntary responses to questions from any person who may become the subject of an investigation. A determination under this paragraph shall be accompanied by a written statement of the reasons for the determination."

(c) PROCEDURE ON PROBABLE CAUSE DETERMINATION.—(1) Section 309(a)(3) of FECA (2 U.S.C. 437g(a)(3)) is amended by adding at the end thereof the following: "The Commission shall make available to a respondent any documentary or other evidence relied on by the general counsel in making a recommendation under this subsection. Any brief or report by the general counsel that replies to the respondent's brief shall be provided to the respondent."

(2) Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended by adding at the end thereof the following new clauses:

"(iii) A determination under clause (i) shall be made only after opportunity for a hearing upon request of the respondent and shall be accompanied by a statement of the reasons for the determination.

"(iv) The Commission shall not require that any conciliation agreement under this paragraph contain an admission by the respondent of a violation of this Act or any other law."

(d) ELIMINATION OF EN BANC HEARING REQUIREMENT.—Section 310 of FECA (2 U.S.C. 437h), as amended by section 124(d), is amended by striking ", which shall hear the matter sitting en banc".

SEC. 612. TIGHTENING ENFORCEMENT.

(a) REPEAL OF PERIOD OF LIMITATION.—Section 406 of FECA (2 U.S.C. 455) is repealed.

(b) SUPPLYING OF INFORMATION TO THE ATTORNEY GENERAL.—Section 309(a)(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(12)(A)) is amended by adding at the end thereof the following new subparagraph:

"(C) Nothing in this section shall be deemed to prohibit or prevent the Commission from making information contained in compliance files available to the Attorney General, at the Attorney General's request, in connection with an investigation or trial."

Subtitle B—Telephone Voting by Persons with Disabilities

SEC. 616. STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.

(a) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(b) CONSULTATION.—The Federal Election Commission shall conduct the study described in subsection (a) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(c) CRITERIA.—The system or systems developed pursuant to subsection (a) shall—

(1) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(2) propose procedures to identify persons who are so disabled; and

(3) describe procedures and equipment that may be used to ensure that—

(A) only those persons who are entitled to use the system are permitted to use it;

(B) the votes of persons who use the system are recorded accurately and remain secret;

(C) the system minimizes the possibility of vote fraud; and

(D) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(d) REQUESTS FOR PROPOSALS.—In developing a system described in subsection (a), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(e) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(f) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the date of enactment of this Act.

Subtitle C—Other Provisions

SEC. 621. DISCLOSURE OF DEBT SETTLEMENT AND LOAN SECURITY AGREEMENTS.

Section 304(b) of FECA (2 U.S.C. 434(b)), as amended by section 312, is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a semicolon, and by adding at the end thereof the following new paragraphs:

"(10) for the reporting period, the terms of any settlement agreement entered into with respect to a loan or other debt, as evidenced by a copy of such agreement filed as part of the report; and

"(11) for the reporting period, the terms of any security or collateral agreement entered into with respect to a loan, as evidenced by a copy of such agreement filed as part of the report."

SEC. 622. CONTRIBUTIONS FOR DRAFT AND ENCOURAGEMENT PURPOSES WITH RESPECT TO ELECTIONS FOR FEDERAL OFFICE.

(a) DEFINITION.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended by striking "or" after the semicolon at the end of clause (i), by striking the period at the end of clause (ii) and inserting "; and", and by adding at the end thereof the following new clause:

"(iii) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of drafting a clearly identified individual as a candidate for Federal office or encouraging a clearly identified individual to become a candidate for Federal office."

(b) DRAFT AND ENCOURAGEMENT CONTRIBUTIONS TO BE TREATED AS CANDIDATE CONTRIBUTIONS.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(12) For purposes of paragraph (1)(A) and paragraph (2)(A), any contribution described in section 301(8)(A)(iii) shall be treated, with respect to the individual involved, as a contribution to a candidate, whether or not the individual becomes a candidate."

SEC. 623. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 624. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of the enactment of this Act, and shall apply to all contributions and expenditures made after that date.

SECTION-BY-SECTION ANALYSIS—THE COMPREHENSIVE CAMPAIGN FINANCE REFORM AND ETHICS ACT OF 1991

Section 1. Short Title.

This Act may be cited as "The Comprehensive Campaign Finance Reform and Ethics Act of 1991."

TITLE I—FLEXIBLE FUNDRAISING TARGETS

This Title adopts the "flexible" approach advocated by the Bipartisan Panel of Experts, which was commissioned in February 1990 by Senators Dole and Mitchell. The Title establishes aggregate state-by-state fundraising targets based on voting age population for the primary and general elections. The fundraising targets would cap contributions from political action committees (if the PAC-ban is declared unconstitutional), personal funds, and contributions from out-of-state individuals in excess of $250.

Flexible Component.—Exempts from the aggregate cap donations from in-state individuals. Exempts donations of $250 or less from out-of-state individuals.

Voluntary.—Acceptance of "flexible" fundraising targets would be voluntary. Participating candidates would be entitled to reduced broadcast rates (see section 501).

Application.—Applies to participating candidates for the Senate in 1994, 1996, and 1998.

Bipartisan Commission.—Establishes a Bipartisan Commission to review effects of "flexible" fundraising targets on campaign spending and the cost of campaigns during the 1994 and 1996 elections to the Senate. Requires the Bipartisan Commission to submit a report to Congress outlining its findings on or before November 7, 1997.

Sunset Provision.—This Title "sunsets" after the 1998 elections to the Senate. At that time, flexible fundraising targets would expire, unless re-enacted by Congress.

TITLE II—ETHICS-IN-GOVERNMENT

Section 201. Public Disclosure of Congressional Intervention in Enforcement Actions.

This section has two parts:

a. Part A requires all federal agencies (independent agencies and executive branch departments) to disclose unwritten (*i.e.* telephonic, personal, etc.) Congressional contacts with the agency concerning (a) potential or ongoing enforcement matters and (b) proceedings related to the award of agency contracts. The section requires each agency to compile a monthly list specifying (a) the source of the contact, (b) the stated purpose of the contact, (c) any information requested or actions suggested to the agency, and (d) any other pertinent information. The agencies are required to submit these lists to the Congressional committees of jurisdiction. The Congressional committees are then required to submit these lists for publication in the Congressional Record on a semi-annual basis.

Comment: Part A basically extends to all federal agencies the Banking Committee policy requiring the public disclosure of Congressional contacts with the FDIC.

b. Part B requires all federal agencies (independent agencies and executive branch departments) to incorporate all *written* Congressional communications into the appropriate Public File of (a) any potential or ongoing enforcement action, (b) any proceeding relating to the award of an agency contract. Agency responses to the Congressional communications must also be incorporated into the Public File.

Comment: Part B reflects the policy of the Federal Energy Regulatory Commission.

TITLE III—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Elimination of Political Action Committees From Federal Election Activities

Section 301. Ban on Activities of Political Action Committees in Federal Elections.

This section eliminates all "special interest" political action committees (corporate, union, and trade association PACs). This section also bans all non-connected or ideological PACs and all "leadership" PACs. [Note: if a ban on non-connected PACs is determined to be unconstitutional by the Supreme Court, the legislation will subject non-connected PACs to a $1000 contribution limit.]

Subtitle B—Ban on Soft Money in Federal Elections

Section 311. Ban on Soft Money.

This section *bans* all "soft" money from being used to influence a federal election. "Soft" money is the raising and spending of political money outside of the source restrictions, contributions limits, and disclosure requirements of the Federal Election Campaign Act and its regulations.

Section 312. Restrictions on Party Committees.

This section establishes new rules for political party committees to ensure that "soft" money is not used to influence federal elections, including:

(1) the requirement that national, state and local political parties establish a separate account for activities benefiting federal candidates and a separate account for activities benefiting state candidates;

(2) the requirement of full disclosure of all accounts by any political party committee that maintains a federal account; and

(3) the establishment of minimum percentages of federal funds which must be used for any party building program (*e.g.* voter registration, get-out-the-vote, absentee ballot, ballot security) which benefits both federal and state candidates.

Section 313. Protection for Employees.

This section codifies the Supreme Court decision in Beck and provides certain rights for employees who are union members. [S. 1645 (McConnell); S. 1727 (Bush); House Republican Task Force]

Section 314. Restrictions on Soft Money Activities of Tax-Exempt Organizations.

This section prohibits tax-exempt, 501(c) organizations from engaging in any activity which attempts to influence a federal election on behalf of a specific candidate for public office. This section accomplishes this goal by extending to all 501(c) organizations the current prohibition on campaign activity which applies to 501(c)(3) charities. [Note: the effective date for this provision will be September 1, 1991.]

Section 315. Denial of Tax-Exempt Status for Certain Politically Active Organizations.

This section restricts tax-exempt organizations from engaging in voter registration or GOTV activities (which are not candidate-specific) if a candidate or Member of Congress solicits money for the organization. [S. 2148 (McConnell)].

Section 316. Contributions to Certain Political Organizations Maintained by a Candidate.

This section restricts federal activities by state PACs created by Members of Congress [S. 2148 (McConnell)].

Subtitle C—Other Activities

Section 321. Modification of Contribution Limits on Individuals.

This section reduces from $1,000 to $500 the maximum allowable contribution by individuals residing outside of a candidate's state.

This section also indexes the individual contribution limit ($1,000 per election for in-state contributions or $500 per election for out-of-state contributions) for Congressional candidates using the Consumer Price Index; adjustments would be rounded to the nearest $100 [Mitchell/Dole Panel Recommendation (modified)]

Section 322. Political Parties.

This section exempts certain organizational activities (research, GOTV, voter registration) from coordinated or other limitations; requires disclosure and allocation for these activities; and retains the same coordinated expenditure limits for media expenditures. [Mitchell/Dole Panel Recommendation]

This section raises contributions to politcal parties from the $25,000 annual limit to $50,000 [Modified Mitchell/Dole Panel Recommendation]

Section 323. Contributions Through Intermediaries and Conduits.

This section prohibits "bundling" by registered lobbyists, unions, trade associations, corporations, and other employers. Bundled contributions which are permitted must be made payable to the candidate and disclosed to the candidate and the Federal Election Commission. [Mitchell/Dole Panel Recommendation; S. 1727 (Bush)]

Section 324. Independent Expenditures.

This section requires all independently-financed political communications to disclose the person or organization financing it; requires that disclosure be complete and conspicuous; and requires timely notice to all candidates of the communications' placement and content. [S. 7 (Dole-McConnell-Stevens); House Republican Task Force]

This section also defines "independent expenditure" to prohibit consultation with a candidate or his agent; requires the FEC to hold a hearing within 3 days of any formal complaint of collusion between an independent expenditure committee and a candidate. [S. 7 (Dole-McConnell-Stevens); House Republican Task Force]

Finally, this section creates an expedited cause of action in federal courts for a candidate seeking relief from expenditures which are not "independent." [Mitchell/Dole Panel Recommendation]

TITLE IV—INCREASE OF COMPETITION IN POLITICS

Subtitle A—General Provisions

Section 401. Seed Money for Challengers.

This section permits political party committees to use a special coordinated expenditure fund to "match" early, in-state contributions by challengers to help begin a campaign. Party committee matching funds would be permitted to a maximum of challengers. [Ornstein (modified)]

Section 402. Opposition Research Fund.

This section allows the Congressional campaign committees and the Senatorial campaign committees to establish an "opposition research fund" in connection with a primary or general election for Senate and House challengers. The "opposition research fund" would be financed by the committees up to $50,000. The purpose of the fund is to allow the recognized challenger of a Senate or House incumbent to establish an office and hire staff. Funds for the office and staff must be earmarked exclusively for research into the voting/public record of the incumbent.

Section 403. Ban on Roll-Over of Campaign Funds.

This section prohibits the roll-over of all surplus House and Senate campaign funds existing on November 7, 1994. Effective November 7, 1994, House Members may roll-over an amount not to exceed $50,000, and Senate Members may roll-over an amount not to exceed $100,000.

This section also prohibits State officials from rolling-over State campaign funds for use in a federal election. In the case of a candidate for the House of Representatives, surplus State campaign funds may be rolled-over in an amount not to exceed $50,000. In the case of a candidate for Senate, surplus State campaign funds may be rolled-over in an amount not to exceed $100,000.

Surplus campaign funds may be a) transferred to a tax-exempt 501(c)(3) organization, b) refunded to contributors on a pro rata basis, or c) paid into the Treasury of the United States and applied to the account to reduce the public debt.

Section 404. Use of Campaign Funds.

This section prohibits Members from supplementing their official office accounts with campaign funds. [S. 1727 (Bush)]

Section 405. Truth-in-Incumbency.

This section allows the State political parties to finance television and radio ads out of their federal accounts for the purpose of discussing the voting/public record of the Senate incumbent. These State-party financed ads may be aired at any time prior to the date of the primary election or the date on which the State party nominates its own candidate, whichever is earlier. The ads may not name or mention the State party's own prospective candidate. They may only discuss the voting/public record of the Senate incumbent. State-party financed ads must be at least 1 minute in length.

Section 406. Candidate Expenditures From Personal Funds.

This section requires congressional candidates to declare upon filing for an election whether they intend to spend or loan over $250,000 in personal funds in the race; raise the individual contribution limit to $5000 per election from $1000 for all opponents of a candidate who declares such an intention. No limits would apply to individual contributions and expenditures by party committees if a candidate spends more than $1 million in personal funds. [S. — (Domenici); S. 7 (Dole-McConnell-Stevens) (modified)]

This section also prohibits candidates from recovering personal funds or loans used in their race from contributions raised after the election. [S. 332 (McConnell)]

Section 407. Limitations on Gerrymandering.

This section requires new standards for Congressional reapportionment and redistricting, including the full and fair enforcement of the Voting Rights Act. This provision will: (1) codify current case law and maintain previous statutory requirements that Congressional districts be of equal population, and be contiguous and compact in form; (2) repeal current statutory provisions permitting multi-member Congressional districts; and (3) limit the division of county and political subdivision boundary lines, as well as redistricting egregious partisan gerrymandering. [S. 1727 (Bush); House Republican Task Force]

Section 408. Election Fraud and Other Public Corruption.

This section creates a new public corruption statute which codifies current case law and increases the authority of the U.S. Justice Department to combat election fraud at all levels of the government. [S. — (Biden-McConnell)]

Subtitle B—Congressional Mass Mailings

Section 411. Franked Communications.

This section prohibits Members of Congress from conducting franked mass mailings during an election year and prohibits franking transfers to a Member up for re-election. This section also requires the quarterly publication in the Congressional Record of 1) the total number of pieces of mass mail sent by each Member, 2) the total cost of the mailing, and 3) all franking transfers, including information related to a) the name of the office to which the transfer was received, b) the amount of transfer, c) the amount of the allocation made to the office for the fiscal year, d) the total amount of allocations that have been transferred by and to the office to date during the fiscal year, and e) the amount of the transfer remaining available to the office for the fiscal year. This section is based on an amendment offered last year by Senator Don Nickles.

TITLE V—REDUCTION OF CAMPAIGN COSTS

Section 501. Broadcast Discount.

This section allows Presidential and Congressional candidates to purchase nonpreemptible time at the lowest unit rate for preemptible time, in the last 45 days before a primary and the last 60 days before the general election. [S. 1009 (Danforth-Hollings); S. 744 (McConnell); S. 7 (Dole-McConnell-Stevens)]

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Federal Election Commission Enforcement Authority

Section 601. Elimination of Reason to Believe Standard.

This section eliminates the "reason to believe" standard. The Commission, upon receiving a complaint, will have to investigate a complaint if the identity of the complianant is known, and the complaint is sufficient on its face. [S. 16556 (McConnell-Reid)]

Section 602. Injunctive Authority.

This section provides the FEC the authority to seek injunctive relief to stop certain violations or an impending violation. [S. 1655 (McConnell-Reid)]

Section 603. Time Periods.

This section streamlines the administrative procedures for a complaint brought by the Commission by eliminating the minimum waiting period of 30 days and lowering the maximum period for post-probable cause conciliation bargaining to 60 days. [S. 1655 (McConnell-Reid)]

Section 604. Knowing Violation Penalties.

This section increases the penalties for knowing and willful violations which are resolved informally and requires these penalties to be mandatory. [S. 1655 (McConnell-Reid)]

Section 605. Court Resolved Violations and Penalties.

This section increases the penalty for violations that must be resolved in court and requires the penalty to be mandatory. [S. 1655 (McConnell-Reid)]

Section 606. Private Civil Actions.

This section permits a candidate, or a person authorized by a candidate, to sue on a complaint whenever the Commission declines to pursue an alleged violation by a tie vote. In such an action, the complainant may bring suit in U.S. District Court and any monetary award would be made in favor of the United States. The prevailing party would collect attorney's fees from the loser to discourage frivolous suits. [S. 1655 (McConnell-Reid)]

Section 607. Knowing Violations Resolved in Court.

This section increases the penalties for knowing and willful violations resolved in court. [S. 1655 (McConnell-Reid)]

Section 608. Action on Complaint by Commission.

This section reduces the time period by which the Commission must act on a complaint from 120 to 60 days. [S. 1655 (McConnell-Reid)]

Section 609. Violation of Confidentiality Requirement.

This section increases the fines for violations of the confidentiality requirement. [S. 1655 (McConnell-Reid)]

Section 610. Penalty in Attorney General Actions.

This section increases the penalties for violations of the election laws where the Attorney General separately prosecutes. [S. 1655 (McConnell-Reid)]

Section 611. Amendments Relating to Enforcement and Judicial Review.

This section implements several procedural recommendations proposed by the Mitchell/Dole Panel on Campaign Finance Reform. This section will:

provide the Commission with more authority to informally resolve both complaint- and internally-generated investigations before any determination by the Commission;

provide respondents with more access to documents provided by third parties in an investigation;

provide respondents with access to any report submitted to the Commission by the General Counsel after the respondent has filed his or her brief;

provide respondents with the right to present oral arguments before a Commission finding of probable cause;

eliminate the ability of the Commission to routinely require admissions by the respondent that a violation has occurred; and

establish time limits for investigations and require the Commission to publish an index of all investigations which have been concluded. [Mitchell/Dole Panel Recommendation]

Section 612. Tightening Enforcement.

This section repeals the shortened 3 year statute of limitations for violations of the Act and returns to the general 5 year statute of limitations. This section also permits the Attorney General to have access to FEC compliance files pursuant to a criminal investigation or trial. [S/ 1727 (Bush)]

Subtitle B—Telephone Voting by Persons with Disabilities

This Subtitle directs the Federal Election Commisison to conduct a feasibility study of telephonic voting by persons with disabilities who are physically unable to go to the polls. The FEC shall conduct the study in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public. The study must describe procedure and equipment that may be used to ensure that (1) only those persons who are entitled to use the system are permitted to use it, (2) the votes of persons who use the system are recorded accurately and remain secret, (3) the system minimizes the possibility of vote fraud, and (4) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

Subtitle C—Other Provisions

Section 621. Disclosure of Debt Settlement and Loan Security Agreements.

This section clarifies FEC rules on campaign credit, loans, and debt settlement. [House Republican Task Force]

Section 622. Contributions for Draft and Encouragement Purposes With Respect to Elections for Federal Office.

This section defines "contribution" to include donations made to draft or exploratory committees advocating that a clearly identified individual becomes a candidate for federal office. [House Republican Task Force]

Section 623. Severability.

This section provides that if any portion of this Act is found to be invalid, then the remaining portions of the Act shall continue in full force and effect.

Section 624. Effective Date.

This section requires the Act to be effective upon enactment, unless a specific section provides otherwise.

By Mr. DOLE (for himself and Mr. SIMPSON):

S. 7. A bill to amend the Federal Election Campaign Act of 1971 to increase competition and fairness in politics, and for other purposes; to the Committee on Rules and Administration.

FAIRNESS IN POLITICS ACT

Mr. DOLE. Mr. President, there is no doubt about it, with a reelection rate of 97 percent, congressional incumbents are living on "easy street." That is why we can't have truly competitive elections unless we go the extra mile to help the challengers who run against incumbents. Therefore, today I am introducing S. 7—a companion measure to the campaign finance reform package—that can help bring more competition to our election process.

Incumbents enjoy all kinds of advantages—the frank, large staffs, high name recognition, easy access to the media, and most importantly, a ready-made ability to tap into the special-interest money that fuels congressional campaigns. But when it comes to sharing these advantages, congressional challengers are most often left out in the cold, all but eliminating competition in politics.

Let me make one thing clear: Incumbents are not to blame for playing by the rules—the rules are the problem. What we need to do, is change some of the rules to level the playing field, and give challengers a fighting chance.

Free broadcast time, advertising discount to do that, we have to go where the campaign dollars go—for the cost of broadcast time. Television advertising accounts for nearly half of the cost of the average Senate campaign. Under S. 7, candidates would be entitled to a substantial discount for nonpreemptible television time, allowing challengers to get their message out to the voters at a significantly reduced cost.

Mr. President, I ask unanimous consent that the full text of the Fairness in Politics Act of 1991, and a section-by-section analysis, be included in the RECORD immediately after my remarks.

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

S. 7

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

SECTION 1. SHORT TITLE; AMENDMENT OF FECA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fairness in Politics Act of 1991".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of FECA; table of contents.

TITLE I—BAN ON POLITICAL ACTION COMMITTEES

SEC. 101. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office."

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Section 301(4) of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof;

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; and

"(D) any committee jointly established by a principal campaign committee and any committee described in subparagraph (B) or (C) for the purpose of conducting joint fundraising activities."

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraphs (B) and (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

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

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For the purposes of the Federal Election Campaign Act of 1971, during any period in which the limitation under section 324 of FECA (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect; and

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association,

to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000.

TITLE II—SEED MONEY

Subtitle A—Challengers

SEC. 201. SEED MONEY FOR CHALLENGERS.

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

"(i)(1) Notwithstanding any other provision of this Act, the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees) that in the aggregate do not exceed the lesser of—

"(A)(i) $150,000, in the case of a candidate for the House of Representatives; or

"(ii) $250,000, in the case of a candidate for the Senate; or

"(B) the aggregate qualified matching contributions received by the candidate and the candidate's authorized committees.

"(2) A contribution under paragraph (1) shall not be treated as an expenditure for purposes of subsection (d)(3).

"(3) For purposes of this subsection—

"(A) the term 'qualified matching contributions' means contributions made during the period of the election cycle preceding the primary election by an individual who, at the time the contributions are made, is a resident of the State in which the election with respect to which such contributions are made is to be held; and

"(B) the term 'eligible candidate' means a candidate for election, or nomination for election, to Federal office (other than President or Vice President) who does not hold Federal office."

Subtitle B—Research

SEC. 211. OPPOSITION RESEARCH FUND.

Section 315(i)(1) of FECA, as added by section 201, is amended by adding at the end thereof the following flush sentence:

"In addition to a contribution under the preceding sentence, the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees), in an aggregate amount not exceeding $50,000, for the sole purpose of conducting research into the voting and other public records of the candidate's opponent to determine the opponent's views on issues relevant to the election."

TITLE III—TRUTH-IN-INCUMBENCY

SEC. 301. INCUMBENT ACCOUNTABILITY.

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

"(4) For purposes of paragraph (3), an expenditure by a State or local committee of a political party for a radio or television advertisement that—

"(A) is made for the purpose of publicizing the voting or other public record of an incumbent who is not a member of the political party of the committee that makes the expenditure;

"(B) does not indicate whether the incumbent is or will be a candidate for Federal office or whether a listener or viewer should vote against the incumbent; and

"(C) is made prior to the date on which a candidate of that party is nominated for election to the office held by the incumbent,

is not an expenditure in connection with the general election campaign of a candidate. This paragraph shall only apply to advertisements that are at least 1 minute in length."

TITLE IV—BAN ON ROLLOVER OF CAMPAIGN FUNDS

SEC. 401. CAMPAIGN FUNDS OF CANDIDATES.

(a) IN GENERAL.—Section 313 of FECA (2 U.S.C. 439a) is amended to read as follows:

"USE OF CAMPAIGN FUNDS

"SEC. 313. (a) Amounts received as contributions by a candidate for the Senate or the House of Representatives and the authorized committees of such a candidate that are surplus campaign funds may be—

"(1) transferred to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code;

"(2) refunded to contributors on a pro rata basis; or

"(3) paid into the Treasury of the United States and applied to the account to reduce

the public debt described in section 3113(d) of section 31, United States Code.

"(b)(1) It shall be unlawful for a candidate or an authorized committee of a candidate or for any person acting as an agent of either to dispose of surplus campaign funds in any manner except as required by subsection (a).

"(2) It shall be unlawful for any person knowingly to accept or receive surplus campaign funds for purposes or in a manner other than those specified in subsection (a).

"(c) The disposition of surplus campaign funds shall be reported on the post-election semiannual report that is filed pursuant to section 304 on or before July 31 of the year following the election for which the funds were raised.

"(d) For purposes of this section, the term 'surplus campaign funds' means the amount (if any) after a general election by which—

"(1) the contributions made to the candidate and the candidate's authorized committees with respect to the election cycle for such election; exceeds

"(2) the sum of—

"(A) the expenditures made by such candidate or authorized committees with respect to such election cycle; and

"(B) in the case of a candidate for the House of Representatives, $50,000, and in the case of a candidate for the Senate, $100,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to surplus campaign funds existing on November 9, 1994, and thereafter.

SEC. 402. STATE AND LOCAL CAMPAIGN FUNDS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 201, is amended by adding at the end thereof the following new subsection:

"(j) It shall be unlawful for an individual who is a candidate for Federal office (or any authorized committee) to transfer campaign funds raised in connection with any campaign of such individual for State or local office for use in the campaign for such Federal office. The preceding sentence shall not apply to the extent such funds do not exceed $50,000 in the case of a candidate for the House of Representatives, or $100,000 in the case of a candidate for the United States Senate."

TITLE V—BROADCAST PROVISIONS

Subtitle A—Free Time

SEC. 501. FREE TIME FOR SENATE CANDIDATES.

(a) IN GENERAL.—Section 315 of the Communications Act (47 U.S.C. 315) is amended—

(1) in subsection (b)—

(A) by striking "The" and inserting "(1) The";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

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

"(2)(A)(i) Except as otherwise provided in this paragraph, a licensee shall make available at no charge 5 hours of broadcast time during a Senate election cycle for the use of legally qualified candidates who have qualified for the general election ballot for a seat in the United States Senate.

"(ii) Unless a candidate elects otherwise, the broadcast time made available under this subparagraph shall be during the daytime and prime time.

"(B) If—

"(i) a licensee's audience with respect to any broadcast station is measured or rated by a recognized media rating service in more than 1 State; and

"(ii) during any Senate election cycle there is an election to the United States Senate in more than 1 of such States, the 5 hours of broadcast time under subparagraph (A) shall be allocated equally among the States described in clause (ii).

"(C)(i) In the case of an election between 2 candidates, the number of hours of broadcast time allocated to a State under subparagraph (A) shall be allocated equally between the 2 candidates.

"(ii) In the case of an election among more than 2 candidates, the broadcast time provided under subparagraph (A) shall be allocated as follows:

"(I) The amount of broadcast time that shall be provided to the candidate of a minor party shall be equal to the number of hours allocable to the State multiplied by the percentage of the number of popular votes received by the candidate of that party in the preceding general election for the Senate in the State (or if subsection (c)(4)(B) applies, the percentage determined under such subsection).

"(II) The amount of broadcast time remaining after assignment of broadcast time to minor party candidates under subclause (I) shall be allocated equally between the major party candidates.

"(iii) In the case of an election where only 1 candidate qualifies to be on the general election ballot, no time shall be required to be provided by a licensee under subparagraph (A).

"(C) Each candidate to whom free broadcast time is allocated under this section shall reserve at least two-thirds of the time for use during the period beginning September 1 of the year in which the general election occurs and ending on the date of the general election.

"(D) Free broadcast time provided under this subsection shall be used in segments of such duration as the candidate may select but shall not be shorter than 1 minute or longer than 1 hour.

"(E) The Federal Election Commission shall by regulation exempt from the requirements of this paragraph—

"(i) a licensee whose signal is broadcast substantially nationwide; and

"(ii) a licensee that establishes to the satisfaction of the Commission that such requirements would impose a significant economic hardship on the licensee."; and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(3) the term 'major party' means, with respect to an election for the United States Senate in a State, a political party whose candidate for the United States Senate in the preceding general election for the Senate in that State received, as a candidate of that party, 25 percent or more of the number of popular votes received by all candidates for the Senate;

"(4) the term 'minor party' means, with respect to an election for the United States Senate in a State, a political party—

"(A) whose candidate for the United States Senate in the preceding general election for the Senate in that State received, as a candidate of that party, 5 percent or more but less than 25 percent of the number of popular votes received by all candidates for the Senate; or

"(B) whose candidate for the United States Senate in the current general election for the Senate in that State has obtained the signatures of at least 5 percent of the State's registered voters, as determined by the chief voter registration official of the State, in support of a petition for an allocation of free broadcast time under this subsection;

"(5) the term 'Senate election cycle' means, with respect to an election to a seat in the United States Senate, the 2-year period ending on the date of the general election for that seat; and

"(6) the term 'Senate general election period' means the period beginning on the day after the date of the primary election in which candidates for the United States Senate are nominated in a State and ending on the date of the general election for the Senate in the State.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to the general elections occurring in 1992 and 1994 (and the election cycles relating thereto).

(2) REPORT.—Not later than June 1, 1995, the Federal Election Commission, in consultation with the Federal Commnnications Commission, shall submit a report to the Congress analyzing the effects of the free broadcast time provided by the amendments made by this section, including an analysis of—

(A) the effect of such time on the cost of Senate election campaigns;

(B) the cost to the broadcast industry of providing such time; and

(C) any technical problems in providing such time.

Subtitle B—Broadcast Discount

SEC. 511. BROADCAST DISCOUNT.

(a) FINDINGS.—The Congress finds that—

(1) in the 45 days preceding a primary election, and in the 60 days preceding a general election, candidates for political office need to be able to buy, at the lowest unit charge, nonpreemptible advertising spots from broadcast stations and cable television stations to ensure that their messages reach the intended audience and that the voting public has an opportunity to make informed decisions;

(2) since the Communications Act of 1934 was amended in 1972 to guarantee the lowest unit charge for candidates during these important preelection periods, the method by which advertising spots are sold in the broadcast and cable industries has changed significantly;

(3) changes in the method for selling advertising spots have made the interpretation and enforcement of the lowest unit charge provision difficult and complex;

(4) clarification and simplification of the lowest unit charge provision in the Communications Act of 1934 is necessary to ensure compliance with the original intent of the provision; and

(5) in granting discounts and setting charges for advertising time, broadcasters and cable operators should treat candidates for political office at least as well as the most favored commercial advertisers.

(b) AMENDMENT OF COMMUNICATIONS ACT.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by section 501, is amended—

(1) in subsection (b)(1)(A), by striking "class and";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting immediately after subsection (b) the following new subsections:

"(c) During any period specified in subsection (b)(1)—

"(1) a licensee shall not preempt the use of a broadcasting station by a legally qualified candidate for public office who has purchased such use pursuant to subsection

(b)(1), or is entitled to such use pursuant to subsection (b)(2);

"(2) a licensee shall not deny the use of a broadcasting station by a legally qualified candidate for public office who seeks to use reasonable amounts of time in, around, or adjacent to any programs aired by the station; and

"(3) a licensee shall certify, under penalty of perjury, that the charges made for the use of a broadcasting station by a legally qualified candidate for public office are at the lowest unit charge of the station for the same amount of time for the same period.

"(d) The Commission shall monitor compliance with this section with timely auditing of licensees' records relating to use, and requests for use, of broadcast stations by candidates.".

TITLE VI—CONGRESSIONAL MASS MAILINGS

SEC. 601. DEFINITIONS.

For the purposes of this title—

(1) the term "Commission" means the Commission on Congressional Mailing Standards of the House of Representatives; and

(2) the term "Sergeant at Arms" means the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 602. STATEMENT OF COSTS AND RELATED EXPENSES OF CONGRESSIONAL MASS MAILINGS.

(a) SENATE.—(1) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter.

(2) A statement described in paragraph (1) shall—

(A) separately identify the cost of postage and paper and other costs;

(B) distinguish the costs attributable to newsletters and all other mass mailings; and

(C) include the total cost per capita in the Senator's State.

(3) The Sergeant at Arms shall submit to the Committee on Rules and Administration of the Senate a compilation of the statements sent to Senators under paragraph (1).

(4)(A) A summary tabulation of the information contained in the statements sent to Senators under paragraph (1) shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate.

(B) The summary tabulation shall set forth for each Senator—

(i) the Senator's name;

(ii) the number of pieces of mass mail mailed during the quarter;

(iii) the total cost of such mail; and

(iv) the number of pieces and the cost of such mail divided by the population of the Senator's State.

(b) HOUSE OF REPRESENTATIVES.—(1) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Commission shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter.

(2) A statement described in paragraph (1) shall—

(A) separately identify the cost of postage and paper and other costs;

(B) distinguish the costs attributable to newsletters and all other mass mailings; and

(C) include the total cost per capita in the Member's congressional district.

(3) The Commission shall submit to the Committee on House Administration of the House of Representatives a compilation of the statements sent to Members under paragraph (1).

(4)(A) A summary tabulation of the information contained in the statements sent to Members under paragraph (1) shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House of Representatives.

(B) The summary tabulations shall set forth for each Member—

(i) the Member's name;

(ii) the number of pieces of mass mail mailed during the quarter;

(iii) the total cost of such mail; and

(iv) the number of pieces and cost of such mail divided by the population of the Member's congressional district.

SEC. 603. RESTRICTIONS ON FRANKED CONGRESSIONAL MASS MAILINGS EXCEEDING APPROPRIATED FUNDS.

Section 3216(c) of title 39, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) If at any time during a fiscal year the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the Senate during that year have exhausted the amount appropriated for use by the Senate, no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the Senate during the remainder of that fiscal year unless additional funds are appropriated for use by the Senate and paid to the Postal Service.

"(B) If at any time during a fiscal year the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the House of Representatives during that year have exhausted the amount appropriated for use by the House of Representatives, no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the House of Representatives during the remainder of that fiscal year unless additional funds are appropriated for use by the House of Representatives and paid to the Postal Service.".

SEC. 604. EXTENSION OF TIME PERIOD WHEN FRANKED MASS MAILINGS ARE PROHIBITED.

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking clause (i) and inserting the following:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II) by striking "fewer than 60 days immediately before the date" and inserting "during the year"; and

(2) in subparagraph (C) by striking "fewer than 60 days immediately before the date" and inserting "during the year".

SEC. 605. REPORTING AND PUBLICATION OF FRANKED MASS MAILINGS.

Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register such mass mailings annually with the Secretary of the Senate. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

"(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Member shall register such mass mailings annually with the Clerk of the House of Representatives. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

SEC. 606. TRANSFERS OF OFFICIAL MAIL COSTS.

(a) PROHIBITION OF TRANSFERS TO CANDIDATES.—(1) During any fiscal year in which appropriations for official mail costs of the Senate are allocated among offices of the Senate, no such office may transfer any of its allocation to the office of a Member of the Senate who is a candidate for Federal office.

(2) During any fiscal year in which appropriations for official mail costs of the House of Representatives are allocated among offices of the House of Representatives, no such office may transfer any of its allocation to the office of a Member of the House of Representatives who is a candidate for Federal office.

(b) REPORTING AND PUBLICATION.—(1)(A) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report to the Sergeant at Arms—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of enactment of this Act, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during the portion of fiscal year 1991 preceding such date of enactment shall report to the Sergeant at Arms the information described in paragraph (A) with respect to such transfers, and such information shall be published in the Congressional Record.

(2)(A) Each office of the House of Representatives that transfers or receives a transfer of an official mail cost allocation to or from another office of the House of Representatives shall report to the Commission—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Commission pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the quarterly report of the Clerk of the House of Representatives.

(c) AMENDMENT OF STANDING RULES OF THE SENATE.—(1) Rule XL of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"7. (a) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report on the date of the transfer or receipt of the transfer to the Sergeant at Arms and Doorkeeper of the Senate—

"(1) the name of the office to which the transfer is made or from which the transfer was received;

"(2) the amount of the transfer;

"(3) the amount of the allocation made to the office for the fiscal year;

"(4) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

"(5) the amount of the allocation remaining available to the office for the fiscal year.

"(b) The information reported to the Sergeant at Arms pursuant to subparagraph (a) shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate."

(2) Not later than 30 days after the date of enactment of this Act, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms the information described in paragraph 7(a) of Rule XL of the Standing Rules of the Senate with respect to such transfers, and such information shall be published in the Congressional Record.

(3) This subsection is enacted—

(A) as an exercise of the rulemaking power of the Senate; and

(B) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 607. USE OF OFFICIAL EXPENSE ACCOUNTS AND OTHER SOURCES OF FUNDS FOR MASS MAILINGS.

Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by striking subparagraph (A).

TITLE VII—GERRYMANDERING

SEC. 701. LIMITATIONS ON GERRYMANDERING.

(a) REAPPORTIONMENT OF REPRESENTATIVES.—Section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress," approved June 18, 1929 (2 U.S.C. 2a), is amended—

(1) by striking subsection (c); and

(2) by adding at the end thereof the following new subsections:

"(c)(1) In each State entitled in the One Hundred Third Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to the second paragraph of the Act entitled 'An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting', approved December 14, 1967 (2 U.S.C. 2c), as in effect prior to the date of enactment of this subsection, there shall be established in the manner provided by the law of the State a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only by eligible voters from districts so established, no district to elect more than 1 Representative.

"(2) Such districts shall be established in accordance with the provisions of this Act as soon as practicable after the decennial census date established in section 141(a) of title 13, United States Code, but in no case later than such time as is reasonably sufficient for their use in the elections for the One Hundred Third Congress and in each fifth Congress thereafter.

"(d)(1) The number of persons in congressional districts within each State shall be as nearly equal as is practicable, as determined under the then most recent decennial census.

"(2) The enumeration established according to the Federal decennial census pursuant to article I, section II, United States Constitution, shall be the sole basis of population for the establishment of congressional districts.

"(e) Congressional districts shall be comprised of contiguous territory, including adjoining insular territory.

"(f) Congressional districts shall not be established with the intent or effect of diluting the voting strength of any person, group of persons, or members of any political party.

"(g) Congressional districts shall be compact in form. In establishing such districts, nearby population shall not be bypassed in favor of more distant population.

"(h) Congressional district boundaries shall avoid the unnecessary division of counties or their equivalent in any State.

"(i) Congressional district boundaries shall be established in such a manner so as to minimize the division of cities, towns, villages, and other political subdivisions.

"(j)(1) It is the intent of the Congress that congressional districts established pursuant to this section be subject to reasonable public scrutiny and comment prior to their establishment.

"(2) At the same time that Federal decennial census tabulations data, reports, maps, or other material or information produced or obtained using Federal funds and associated with the congressional reapportionment and redistricting process are made available to any officer or public body in any State, those materials shall be made available by the State at the cost of duplication to any person from that State meeting the qualifications for voting in an election of a Member of the House of Representatives.

"(k) Nothing in this section shall be construed to supersede any provision of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

"(l)(1) A State may establish by law criteria for implementing the standards set forth in this section.

"(2) Nothing in this section shall be construed as limiting the power of a State to strengthen or add to the standards set forth in this section, or to interpret those standards in a manner consistent with the law of the State, to the extent that any additional criteria or interpretations are not in conflict with this section."

"(m)(1) The district courts of the United States shall have exclusive jurisdiction to hear and determine any action to enforce subsections (c) through (l).

"(2) A person who meets a State's qualifications for voting in an election of a Member of the House of Representatives from the State may bring an action in the district court for the district in which the person resides to enforce subsections (c) through (l) with regard to the State in which the person resides.

"(3) Notwithstanding any other provision of this section, the district courts of the United States shall have authority to issue all judgments, orders, and decrees necessary to ensure that any criteria established by State law pursuant to this section are not in conflict with this section.

"(4) With the exception of actions brought for the relief described in paragraph (3), the district court for the purposes of this section shall be a three-judge district court pursuant to section 2284 of title 28, United States Code.

"(5) On motion of any party in accordance with section 1657 of title 28, United States Code, it shall be the duty of the district court to assign the case for briefing and hearing at the earliest practicable date, and to cause the case to be in every way expedited. The district court shall have authority to enter all judgments, orders and decrees necessary to bring a State into compliance with this Act.

"(6) An action to challenge the establishment of a congressional district in a State after a Federal decennial census may not be brought after the end of the 9-month period beginning on the date on which the last such district is so established.

"(7) For the purposes of this section, an order dismissing a complaint for failure to state a cause of action shall be appealable in accordance with section 1253 of title 28, United States Code.

"(8) If a district court fails to establish a briefing and hearing schedule that will permit resolution of the case prior to the next general election, any party may seek a writ of mandamus from the United States Court of Appeals for the circuit in which the district court sits. The court of appeals shall have jurisdiction over the motion for a writ of mandamus and shall establish an expedited briefing and hearing schedule for resolution of the motion. Such a motion shall not stay proceedings in the district court.

"(9) If a district court determines that the congressional districts established by a State's redistricting authority pursuant to this Act are not in compliance with this Act, the court shall remand the plan to the State's redistricting authority to establish new districts consistent with subsections (c) through (l). The district court shall retain jurisdiction over the case after remand.

"(10) If, after a remand under paragraph (9), the district court determines that the congressional districts established by a State's redistricting authority under the remand order are not consistent with subsections (c) through (l), the district court shall enter an order establishing districts that are consistent with subsections (c) through (l) for the next general congressional election.

"(11) If any question of State law arises in a case under this section that would require abstention, the district court shall not abstain. However, in any State permitting cer-

tification of such questions, the district court shall certify the question to the highest court of the State whose law is in question. Such certification shall not stay the proceedings in the district court or delay the court's determination of the question of State law.

"(12) With the exception of actions brought for the relief described in paragraph (3), an appeal from a decision of the district court under this section shall be taken in accordance with section 1253 of title 28, United States Code. An appeal under this paragraph shall be noticed in the district court and perfected by docketing in the Supreme Court within thirty days of the entry of judgment below. Appeals brought to the Supreme Court under this paragraph shall be heard as soon as practicable.

"(13) For purposes of this section, the term "redistricting authority" means the officer or public body having initial responsibility for the congressional redistricting of a State."

(b) CONFORMING AMENDMENTS AND REPEALER.—(1) The first sentence of section 1657 of title 28, United States Code, is amended by striking 'chapter 153 or" and inserting "chapter 153, any action under subsection (m) through (l) of section 22 of the Act entitled 'An Act to provide for the fifteenth and subsequent censuses and to provide for apportionment of Representatives in Congress,' approved June 18, 1929 (2 U.S.C. 2a), or".

(2) Section 141(c) of title 13, United States Code, is amended by adding at the end thereof the following: "In circumstances in which this subsection requires that the Secretary provide criteria to, consult with, or report tabulations of population to (or if the Secretary for any reason provides material or information to) the public bodies having responsibility for the legislative apportionment or districting of a State, the Secretary shall provide, without cost, such criteria, consultations, tabulations, or other material or information simultaneously to the leadership of each political party represented on such public bodies. For purposes of this subsection, the term 'political party' means any political party whose candidates for Representatives to Congress received, as the candidates of such party, 5 percent or more of the total number of votes received statewide by all candidates for such office in any of the 5 most recent general congressional elections. Such materials may include those developed by the Census Bureau for redistricting purposes for the 1990 Census."

(3) The second paragraph of the Act entitled "An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting", approved December 14, 1967 (2 U.S.C. 2c), is repealed.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 802. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF THE FAIRNESS IN POLITICS ACT OF 1991

Section 1. Short Title.

This Act may be cited as the "Fairness in Politics Act of 1991."

TITLE I—BAN ON POLITICAL ACTION COMMITTEES

This Title eliminates all "special interest" political action committees (corporate, union, and trade association PACs). This section also bans all non-connected or ideological PACs and all "leadership" PACs. [Note: if a ban on non-connected PACs is determined to be unconstitutional by the Supreme Court, the legislation will subject non-connected PACs to a $1,000 contribution limit.]

TITLE II—SEED MONEY

Subtitle A—Challengers. This section permits political party committees to use a special coordinated expenditure fund to "match" early, in-state contributions to challengers. Party committee matching funds would be permitted to a maximum of $150,000 for House challengers and $250,000 for Senate challengers.

Subtitle B—Opposition Research Fund. This section allows the congressional campaign committees and the senatorial campaign committees to establish an "opposition research fund" in connection with a primary or general election for Senate and House challengers. The "opposition research fund" would be financed by the committees up to $50,000. The purpose of the fund is to allow the recognized challenger of a Senate or House incumbent to establish an office and hire staff. Funds for the office and staff would be earmarked exclusively for research into the voting/public record of the incumbent.

TITLE III—TRUTH-IN-INCUMBENCY

This Title allows the State political parties to finance television and radio ads out of their federal accounts for the purpose of discussing the voting/public record of the Senate incumbent. These State-party financed ads may be aired at any time *prior* to the date of the primary election or the date on which the State party nominates its own candidate, whichever is earlier. The ads may *not* name or mention the State party's *own* prospective candidate. They may only discuss the voting/public record of the Senate incumbent.

State-party financed ads authorized by this section must be at least 1 minute in length.

TITLE IV—BAN ON ROLL-OVER OF CAMPAIGN FUNDS

This Title prohibits the roll-over of all surplus House and Senate campaign funds existing on November 9, 1994. Effective November 9, 1994, House Members may roll-over an amount *not* to exceed $50,000, and Senate Members may roll-over an amount *not* to exceed $100,000.

This section also prohibits State officials from rolling-over State campaign funds for use in a federal election. In the case of a candidate for the House of Representatives, surplus State campaign funds may be rolled-over in an amount *not* to exceed $50,000. In the case of a candidate for Senate, surplus State campaign funds may be rolled-over in an amount *not* to exceed $100,000.

Surplus campaign funds may be (1) transferred to a tax-exempt 501(c)(3) organization, (b) refunded to contributors on a *pro rata* basis, or (c) paid into the Treasury of the United States and applied to the account to reduce the public debt.

TITLE V—BROADCAST PROVISIONS

Subtitle A—Free Time. This section requires television and radio broadcasters to provide, during every 2-year election cycle, 5 hours of free time to legally qualified Senate candidates. For purposes of this subtitle, legally qualified Senate candidates include the winners of the Democratic and Republican primaries, and the candidate of any third party that received 5% or more of the vote in the immediately preceding federal election. Legally qualified Senate candidates also include the candidate of any third party that did *not* receive 5% of the vote in the immediately preceding election but who was able to garner the signatures of at least 5% of the State's eligible voters in support of a free-time allocation. Third-party candidates are entitled to a *pro rata* share of the free-time pool.

If a radio or television station's audience is measurable in more than one State by a recognized national media rating service, the station must equally divide the free-time allotment among the candidates of both states. If there is no Senate election in one of the States, then the free time will be allotted to the two Senate candidates in the State holding an election.

One Candidate. A free-time allocation is *not* required if only 1 legally qualified Senate candidate is running in a State.

Exemption. The Federal Election Commission may exempt a broadcaster from the free-time requirement if the broadcaster can demonstrate that the requirement would impose a significant economic hardship.

September-November Period. This section requires that at least two-third of the free time must be made available during the September-November period immediately preceding the general election.

Length. Free-time spots must be between 1 minute and 1 hour in length, to be determined at the discretion of the Senate candidate.

Sunset and FEC/FCC Study. This section *"sunsets"* after the two general elections immediately following the date of enactment (1992 and 1994). No later than June 1, 1995, the Federal Election Commission and the Federal Communications Commission are required to submit a report to Congress analyzing a) the effect of free broadcasting time on the cost of Senate campaigns, b) any technical problems associated with allocating free time to legally qualified Senate candidates, and c) the cost of the free-time requirement to the broadcasting industry.

Subtitle B—Broadcast Discount. This section allows Congressional candidates to purchase non-preemptible time at the lowest unit rate for preemptible time, in the last 45 days before a primary and the last 60 days before the general election.

TITLE VI—CONGRESSIONAL MASS MAILINGS

This Title prohibits Members of Congress from conducting franked mass mailings during an election year and prohibits franking transfers to a Member up for re-election. This Title also requires the quarterly publication in the CONGRESSIONAL RECORD of 1) the total number of pieces of mass mail sent by each Member, 2) the total cost of the mailing, and 3) all franking transfers, including information related to a) the name of the office to which the transfer is made or from which the transfer was received, b) the amount of the transfer, c) the amount of the allocation made to the office for the fiscal year, d) the total amount of allocations that have been transferred by and to the office to date during the fiscal year, and e) the amount of the transfer remaining available to the office for the fiscal year.

This Title is based on an amendment offered last year by Senator Don Nickles.

TITLE VII—LIMITATIONS ON GERRYMANDERING

This Title requires new standards for congressional reapportionment and redistrict-

ing, including the full and fair enforcement of the Voting Rights Act. This provision will: 1) codify current case law and maintain previous statutory requirements that Congressional districts be of equal population, and be contiguous and compact in form; 2) repeal current statutory provisions permitting multi-member Congressional districts; and 3) limit the division of county and political subdivision lines, as well as redistricting egregious partisan gerrymandering. [S. 1727 (Bush); House Republican Task Force]

TITLE VIII—MISCELLANEOUS

Section 801. Severability. This section provides that if any portion of this Act is found to be invalid, then the remaining portions of the Act shall continue in full force and effect.

Section 802. Effective Date. This section requires the Act to be effective upon enactment, unless a specific section provides otherwise.

By Mr. DOLE (for himself, Mr. MITCHELL, Mr. GLENN, Mr. PACKWOOD, Mr. BENTSEN, Mr. WARNER, Mr. INOUYE, Mr. DURENBERGER, Mr. FORD, Mr. SIMPSON, Mr. COCHRAN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mr. BRADLEY, Mr. BROWN, Mr. BRYAN, Mr. BURDICK, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. FOWLER, Mr. GARN, Mr. GORTON, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KOHL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. THURMOND, Mr. WIRTH, Mr. AKAKA, Mr. SHELBY, Mr. KERRY, Mr. ROBB, Mr. BAUCUS, Mr. NICKLES, Mr. MCCONNELL, Mr. DOMENICI, and Mr. MOYNIHAN):

S. 8. A bill to extend the time for performing certain acts under the internal revenue laws for individuals performing services as part of the Desert Shield operation; to the Committee on Finance.

RELIEF FROM CERTAIN INTERNAL REVENUE PROVISIONS FOR DESERT SHIELD PERSONNEL

Mr. DOLE. Mr. President, today I am introducing legislation to provide our Desert Shield Forces with relief from IRS tax filing deadlines during their service in the Persian Gulf and for 60 days thereafter.

Without this legislation, our service men and women would owe interest to the IRS on any taxes paid after April 15, and would be subject to penalties if their tax returns are not filed by June 15. I believe that our Government should not add to the rigors of Persian Gulf duty with impossible tax deadlines.

In addition, under this bill, those Desert Shield personnel who are owed refunds will receive interest on their money as of April 15, provided that their returns are filed within the 60-day grace period following their tour of duty. That way they will not suffer financially from any filing delay. Finally, this relief is extended to soldiers hospitalized as a result of their service in the Persian Gulf.

This legislation is plain common sense. Our men and women in the Saudi desert have more important things to worry about than compiling records, meeting paperwork deadlines or being penalized by the country they are serving.

Mr. President, this legislation will send an important signal of support to our soldiers and their families. I hope that it will be enacted quickly.

I ask 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. 8

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

SECTION 1. EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by inserting after section 7508 the following new section:

"SEC. 7508A. EXTENSION OF TIME FOR DESERT SHIELD OPERATIONS.

"(a) GENERAL RULE.—For purposes of applying the internal revenue laws with respect to the tax liability (including any interest, penalty, additional amount, or addition to tax) of any individual who performed Desert Shield services, the period during which such individual performed such services, and the next 60 days thereafter, shall be disregarded in determining whether any of the acts referred to in paragraph (1) of section 7508(a) were performed within the time prescribed therefor.

"(b) SPECIAL RULE FOR OVERPAYMENTS.—

"(1) IN GENERAL.—Subsection (a) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

"(2) SPECIAL RULES.—In the case of any return filed by an individual entitled to the benefits of subsection (a) during the period disregarded under subsection (a), subsections (b)(3) and (e) of section 6611 shall not apply.

"(c) DESERT SHIELD SERVICE.—For purposes of this section—

"(1) IN GENERAL.—The term "Desert Shield service" means any service in a unit of the Armed Forces of the United States (as defined in section 7701(a)(15)) or in support of any such unit if—

"(A) such service is performed in the Persian Gulf area, and

"(B) such service is performed during the period that there is in effect a designation by the President that such unit is part of the Desert Shield operation.

"(2) PERIODS OF HOSPITALIZATION.—An individual shall be treated as performing Desert Shield services during any period of continuous hospitalization attributable to an injury received while performing Desert Shield services.

"(d) SPECIAL RULES.—

"(1) APPLICATION TO SPOUSE.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a).

"(2) MISSING STATUS.—The period of service referred to in subsection (c) shall include the period during which an individual entitled to benefits under subsection (a) is in missing status, within the meaning of section 6013(f)(3).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 7508(d) shall apply for purposes of this section."

"(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by inserting after the item relating to section 7508 the following new item:

"Sec. 7508A. Extension of time for Desert Shield Operation."

Mr. PACKWOOD. Mr. President, I am pleased to join the distinguished Republican leader in introducing legislation today to temporarily extend the time for the men and women serving our country in the Persian Gulf to file their Federal tax returns and pay their taxes.

To us, this may seem like a small gesture. But, I'm sure our men and women serving in the Desert Shield Operation will feel a sense of relief knowing that the paperwork back home can wait while they focus their attention on a more serious job.

The bill gives individuals—and their spouses—60 days after completing Desert Shield service to file their tax returns and pay their taxes. They will not be charged interest on taxes owed, but will receive interest on refunds. For individuals hospitalized for injuries sustained in Desert Shield operations, the 60-day period will begin upon being released from a hospital.

Mr. President, I would like to point out that this bill provides temporary relief from only Federal tax return filings and payments. Since Oregon follows the Federal rules, Oregonians serving in the Desert Shield Operation should automatically receive an extension for filing Oregon tax returns. But, some States do not follow Federal filing rules. I would hope that these States would enact similar legislation as quickly as possible.

Just as the men and women serving in the Persian Gulf have a duty and obligation to protect our national security, we have a responsibility to ease their burdens on the domestic front. I hope my colleagues will join us and pass the legislation immediately.

By Mr. DOLE (for himself and Mr. SIMPSON):

S. 9. A bill to amend the foreign aid policy of the United States toward countries in transition from communism to democracy; to the Committee on Foreign Relations.

ASSISTANCE TO DEMOCRATIC GOVERNMENTS AT THE REPUBLIC LEVEL

Mr. DOLE. Mr. President, the world has changed a great deal in the past 2 years; among other things, Eastern Europe is on the road to democracy and the two Germanies have become one. As a result of these dramatic and fun-

damental changes, one of the biggest challenges the United States faces today is to adapt its policies to meet the demands of this new emerging world.

Now, it is easy to adjust diplomatically—speeches and letters are easy to write. However, it is much more difficult to change the policies, rules, and regulations by which we act, even if the principles remain the same. And, it is extremely difficult to make these changes quickly.

In my view, U.S. foreign aid policy has lagged far behind in meeting the demands of the changing world. In particular, United States foreign aid policy lacks the flexibility to deal with developments in Eastern Europe and the Soviet Union. Last year, I raised the issue of reallocation of U.S. foreign aid resources so that Eastern Europe would get a fair share of our support, and I will address this issue again at a later date.

Today, however, I wish to introduce this bill which seeks to add flexibility to our foreign aid policy so that we can more effectively help build democracy and free market economies in other countries. It does so very simply: By amending our policy to permit the provision of direct assistance to democratic governments at the Republic level that exist within countries that still have a Communist ruling majority in other Republic governments and/or at the Federal level.

In my view, this bill would appropriately address one of the toughest situations we face in Eastern Europe: How to assist hybrid nations—in other words, countries whose governments include both democratic and Communist elements. A perfect example of this is Yugoslavia: four of its six Republics elected democratic governments into office last year. However, the largest Republic, Serbia, and its smaller ally, Montenegro, elected hardline Communists into government last December. And, Yugoslavia's Federal Government is still run by Communists, in addition to being dominated by Serbia.

Under the present system, to provide United States aid to Yugoslavia, we would have to go through the Central Government—the Government that has threatened to send troops into the fledging democratic Republics in one week if those Republics refuse to disarm their national guard and militia units. However, if this bill is enacted, we would be able to bypass the Central Government and get U.S. aid directly to these democratic Republics. In addition, this provision would allow us to prevent aid from going to the Communist government of Serbia, which for the past 2 years, has been systematically violating the rights of the 2 million Albanian people in the Province of Kosova. As I saw last August, the people of Kosova live under Stalinist conditions—in my view, the United States should not reward the Serbian Government for its actions.

This type of flexibility would also apply to the Soviet Union. Last weekend we witnessed the onset of a brutal crackdown against the Lithuanian people. Who knows how much more suffering they will have to endure—the Lithuanians and the Latvians and Estonians, face not only political and military oppression, but economic crises, food, and fuel shortages, as well. But, under today's foreign aid program if we wanted to send these poor people any type of humanitarian assistance we would have to send it through Moscow.

Well, I think I can say with some confidence after this weekend's events, Moscow wouldn't be sympathetic and wouldn't cooperate. Only a few weeks ago, in response to the critical food shortages across the Soviet Union, the United States agreed to provide grain credits to Gorbachev's government—a decision I strongly advocated. To my great disappointment, I learned last week from the Prime Minister of the Republic of Moldova, that Gorbachev has made it clear that the only Republics that will get the U.S. grain and feed are those who sign the Union Treaty. There is only one word for that tactic: Blackmail.

Mr. President, I believe that the United States should not be a party to that blackmail. And, I have already stated that I believe a suspension of U.S. grain credits is in order until we get assurances from Gorbachev that all those who need grain and feed will get it.

Under today's foreign aid system, we are boxed in; help all or hurt all. In Yugoslavia, in the Soviet Union, we can only support the democrats, if we are willing to support the Communists. If we want to weaken the Communists, we can only do so by weakening the democrats.

Mr. President, these are the kinds of choices we don't want to make. As a result we tend to sit on the sidelines, hoping for democracy, but not helping it. But, I say to my colleagues today, this is not a time to sit on the sidelines, this is not the time to watch quietly while new democratic governments are coerced, threatened, and finally snuffed out. This is a historic opportunity to spread democracy and to make democracy permanent.

Sure, there are some who will say that directing aid to democratic Republics is impossible. In my view, that argument is simply a bureaucratic "out"—a reluctance to change the system because the bureaucracy is comfortable with the way things are being done now. Changing the foreign aid system, in their view, is inconvenient. Well, to me, inconvenience is not a compelling argument. What is compelling is the survival and growth of democracy.

Mr. President, the United States needs to do all it can to support democracy around the world. So, let us not make bureaucratic excuses, let us enact this bill.

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. 9

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

SECTION 1. PROVISION FOR DIRECT UNITED STATES ASSISTANCE TO DEMOCRATIC GOVERNMENTS AT THE REPUBLIC LEVEL.

An essential purpose of United States foreign assistance is to foster the development of democratic institutions and free enterprise systems. In regard to United States assistance to those nations which are in transition from communism to democracy, it is the policy of the United States to provide foreign aid, to the extent feasible, directly to democratic governments at the republic level that exist within countries which include a ruling communist majority in other republic governments and/or at the Federal level.

By Mr. DOLE (for himself, Mr. SIMPSON, Mr. NICKLES, Mr. D'AMATO, Mr. HELMS, Mr. COCHRAN, Mr. MACK, Mr. EXON, Mr. WARNER, Mr. MCCONNELL, Mr. DURENBERGER, Mr. JEFFORDS, Mr. LUGAR, Mr. BURNS, Mr. SYMMS, Mr. SMITH, Mr. COHEN, and Mr. ROTH):

S. 10. A bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY EARNINGS LIMITATIONS ACT

Mr. DOLE. Mr. President, at the outset of the last Congress, I noted that President Bush had called on us to harness the unused talent of the elderly. There is no better way for us to underscore our seriousness in this endeavor than to repeal the very law that discourages the elderly from remaining in the work force, and that is the Social Security earnings limitation.

The Senate has on two occasions in the last 8 years, in 1983 and again in 1990, passed legislation that either phased out or increased the amount our senior citizens could earn before seeing a reduction in their Social Security benefits.

It is time to see final action on legislation to repeal these restrictions.

Under current law, Social Security beneficiaries under age 70 face sharp reductions in their monthly benefit if their earnings exceed a specified amount. In 1990, these seniors lost $1 of benefits for every $3 of earnings above $9,360. In 1991, that amount is $9,720.

Simply stated, this law is unfair and counter productive. Senior citizens are

actually penalized if they want to continue working.

Under the bill, the earnings limitation would be increased by $3,000 a year beginning in 1992 and eliminated entirely by the end of 1996 for beneficiaries above the normal retirement age, currently age 65. The legislation would also accelerate the effective date of the 8-percent delayed retirement credit contained in current law from 2009 to 1997.

It is rather ironic that we want our senior citizens to remain active, but present them with incentives to do exactly the opposite. Indeed, we explicitly recognize that senior citizens possess great stores of wisdom, the kind of knowledge and experience our Nation needs. Certainly it is neither justified nor just that we punish these worthy citizens. And that, my colleagues, is precisely what we do.

America's elderly have already borne the burden of decades of hard work. They have paid Social Security taxes throughout their working lives. Is it fair that they lose some of these benefits simply because they choose to continue offering their abilities to America?

The earnings limit effectively denies benefits to those retirees making more than a certain amount of money per year. It does not matter that these retirees contributed a significant portion of their income throughout their careers in order to enjoy these benefits.

At a time when our 41st President is calling for the continued contributions of our Nation's seniors, we are offering them a choice that cannot help but drive productive individuals to a full retirement or force them to forgo benefits they have worked for over a lifetime. With many economists predicting that shortages of workers will be one of the most severe economic problems we will face in the 1990's, it would certainly seem wise to reform policies which discourage workers who have a lifetime of experience.

If the earnings test is such a bad idea, some may ask, why was it part of earlier legislation? The answer to this question lies in the economic climate of our Nation at that point in history. Social Security was started in the wake of the Great Depression—a time when government wanted to make it more attractive for the elderly to leave the work force, thereby opening jobs to others. Toward that end, the earnings test was an important step. In this day and age, however, there is no social or economic excuse for this tax on senior citizens.

Finally, there is the all important issue of cost. Eliminating the earnings test immediately for all beneficiaries would cost $9.7 billion in the first year alone and approximately $65.6 billion over 5 years. By limiting repeal to those over age 65, delaying implementation until 1992 and phasing out the limit over 5 years, the cost of the proposal drops to $450 million in the first year and $5.9 billion over 5 years, a fraction of the projected trust fund surpluses during this period.

Moreover, there is good reason to believe the cost of this proposal would be much less than this since the estimate does not take into account additional revenues flowing to the Government as the result of a larger work force paying income and Social Security payroll taxes, higher wage levels subject to taxation for those no longer constrained by the earnings limit, and additional revenues derived from the existing tax on Social Security benefits.

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. 10

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

SECTION 1. LIBERALIZATION OF EARNINGS TEST OVER THE PERIOD 1992–1996 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) IN GENERAL.—Effective with respect to taxable years ending after 1991, subparagraph (D) of section 203(f)(8) of the Social Security Act is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be increased by $3,000 in each taxable year over the exempt amount for the previous taxable year, beginning with any taxable year ending after 1991 and before 1993.".

(b) CONFORMING AMENDMENT.—The second sentence of section 223(d)(4) of such Act is amended by striking out "which is applicable to individuals described in subparagraph (D) thereof" and inserting in lieu thereof "which would be applicable to individuals who have attained retirement age (as defined in section 216(l)) without regard to any increase in such amount resulting from a law enacted in 1991".

SEC. 2. REPEAL OF EARNINGS TEST IN 1997 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Effective with respect to taxable years ending after 1996—

(1) clause (B) in the third sentence of section 203(f)(1) of the Social Security Act is amended by striking out "age seventy" and inserting in lieu thereof "retirement age (as defined in section 216(l))"; and

(2) section 203(f)(3) of such Act is amended—

(A) by striking out "33½ percent" and all that follows through "other individual" and inserting in lieu thereof "50 percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8)", and

(B) by striking out "age 70" and inserting in lieu thereof "retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AND RELATED AMENDMENTS.

Effective with respect to taxable years ending after 1996—

(1) section 203(c)(1) of the Social Security Act is amended by striking out "is under the age of seventy" and inserting in lieu thereof "is under retirement age (as defined in section 216(l))";

(2) the last sentence of subsection (c) of section 203 of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(2) paragraphs (1)(A) and (2) of section 203(d) of such Act are each amended by striking out "under the age of seventy" and inserting in lieu thereof "under retirement age (as defined in section 216(l))";

(3) section 203(f)(1) of such Act is amended by striking out clause (D) and inserting in lieu thereof the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or";

(4) subparagraph (D) of section 203(f)(5) of such Act is amended—

(A) by striking out "(D) In the case of" and all that follows down through "(ii) an individual" and inserting in lieu thereof the following:

"(D) An individual";

(B) by striking out "became entitled to such benefits" and all that follows and inserting in lieu thereof "became entitled to such benefits, there shall be excluded from gross income any such other income."; and

(C) by shifting such subparagraph as so amended to the left to the extent necessary to align its left margin with that of subparagraphs (A) through (C) of such section;

(5) section 203(f)(8)(A) of such Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting in lieu thereof "the new exempt amount which is to be applicable";

(6) section 203(f)(8)(B) of such Act is amended—

(A) by striking out all that precedes clause (i) and inserting in lieu thereof the following:

(B) The exempt amount which is applicable for each month of a particular taxable year shall be whichever of the following is the larger—";

(B) by striking out "corresponding" in clause (i); and

"(C) by striking out "an exempt amount" in the matter following clause (ii) and inserting in lieu thereof "the exempt amount";

(7) section 203(f)(8)(D) of such Act (as amended by section 1(a) of this Act) is repealed;

(8) section 203(f)(9) of such Act is repealed;

(9) section 203(h)(1)(A) of such Act is amended by striking out "age 70" each place it appears and inserting in lieu thereof "retirement age (as defined in section 216(l))";

(10) section 203(j) of such Act is amended to read as follows:

"ATTAINMENT OF RETIREMENT AGE

"(j) For purposes of this section—

"(1) an individual shall be considered as having attained retirement age (as defined in section 216(l)) during the entire month in which he attains such age; and

"(2) the term 'retirement age (as defined in section 216(l))', with respect to any individual entitled to monthly insurance benefits under section 202, means the retirement age

(as so defined) which is applicable in the case of old-age insurance benefits, regardless of whether or not the particular benefits to which the individual is entitled (or the only such benefits) are old-age insurance benefits.";

(11) section 202(w)(2)(B)(ii) of such Act is amended—

(A) by striking out "either"; and

(B) by striking out "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit"; and

(12) the second sentence of section 223(d)(4) of such Act (as amended by section 1(b) of this Act) is further amended by striking out "without regard to any increase in such amount resulting from a law enacted in 1991" and inserting in lieu thereof "but for the liberalization and repeal of the earnings test for such individuals in 1992".

SEC. 4. ACCELERATION OF 8 PERCENT DELAYED RETIREMENT CREDIT.

Effective with respect to taxable years ending after 1991, paragraph (6) of section 202(w) of the Social Security Act is amended—

(1) by striking out "2005" in subparagraph (C) and inserting in lieu thereof "1993"; and

(2) by striking out "2004" in subparagraph (D) and inserting in lieu thereof "1992".

Mr. NICKLES. Mr. President, I rise today in strong support of the reintroduction of legislation I cosponsored during the 101st Congress, the Older Americans' Freedom to Work Act. This bill does a very important and necessary service to the senior citizens of this Nation: It repeals the earnings limit on retirees aged 65–69.

It's hard to believe that we still have a Federal law that penalizes certain people who want to work, but that in fact is the case. While spending millions to prepare people for the work force, we charge one group of trained workers for the right to hold a well-paying job.

Currently, all Social Security recipients aged 65–69 who choose to work are required to give up $1 for every $3 they earn over the limit of $9,720.

People who want to work should be encouraged to work, not penalized by a 33-percent tax that applies only to them. They already pay income and Social Security taxes on these earnings. In fact, senior citizens between the ages of 65 and 69 who make $10,000 or more actually pay a marginal tax rate of up to 56 percent when you add their income tax, Social Security tax, and the earnings limit penalty.

More people are living longer and finding that the work place is the only place in which they can find the satisfaction they seek and the means for living a comfortable life. They should be applauded for their contributions, not penalized.

This year should be the year senior citizens are relieved of the discriminatory earnings tax. We should retire the earnings limit instead of productive workers.

Mr. D'AMATO. Mr. President, I rise today to join as an original cosponsor of two important measures—one offered by the distinguished Republican leader and the other by my colleague from Arizona, Senator MCCAIN—which call for the elimination of the Social Security earnings test.

The earnings test is a patently unfair provision of the Social Security Act. Effective January 1, 1991, the earnings test denies workers age 65 to 69 $1 in Social Security benefits for every $3 they earn over $9,720 per year. This benefit reduction is a 33-percent effective tax, plain and simple, that when combined with Federal, State, and Social Security taxes, makes senior citizens the most heavily taxed group in our population.

Not only is this blatantly discriminatory against senior citizens; it also threatens our economy by discouraging vast numbers of senior citizens from remaining in the work force. At a time when our Nation faces a growing labor shortage, we cannot afford to let such an enormous pool of experienced and productive citizens simply fall by the wayside. We should be encouraging our seniors, not penalizing them.

Both measures we are introducing today would do away with this outdated policy. The measure offered by Senator DOLE would do so in stages, increasing the earnings limit $3,000 a year beginning in 1992 and eliminating it entirely in 1997. The measure offered by Senator MCCAIN would simply repeal the earnings limit outright.

Both measures deserve the support of this body. In my view, there is no reason why we ought not to scrap the earnings test immediately. While some have said that repeal would be too costly, there is a strong current of opinion that repeal will not cost us anything. In fact, one recent study using dynamic revenue models projects that repealing the earnings test will actually net the Government $140 million in additional revenue.

I think our Nation's senior citizens have waited more than long enough for Congress to address the unfairness inherent in the earnings limit. There is no excuse for continued delay. We now have before us two measures that would correct this inequitable policy. One of these measures should become law in the 102d Congress.

ADDITIONAL STATEMENTS

WHEN IS IT GOING TO STOP?

• Mr. SMITH. Mr. President, the public debt currently stands at $3.4 trillion. The estimated Federal deficit for fiscal year 1991 is more than $300 billion. When is it going to stop?

Our system is broken, and it needs repair. The budget agreement of 1990 is not the answer. The Federal budget deficit will rise significantly in the upcoming fiscal year. Only in Washington can one claim victory when the problem gets worse.

We do not need another summit agreement, we need fundamental reform of our system.

Senator THURMOND's bill calls for a constitutional amendment that requires outlays not exceed receipts during any fiscal year—a balanced budget amendment. It is the simplest of principles but the most commonly ignored. The Federal Government should not spend more than it receives. The American people strongly support a balanced budget amendment, and so should every Member of Congress. The public debt is cripping our Nation; passage of this legislation would be a huge first step toward recovery.

The proposal by Senators COATS and MCCAIN to increase the President's rescission authority is also long overdue. Perhaps if legislation of this nature had been enacted earlier, the Federal Government would not be spending money on a tribute to Lawrence Welk, or a ferryboat for American Samoa, or a convention center in Washington. The American people are sick of self-serving pork barrel projects. The legislative line-item veto act will provide the President with an effective tool for combating wasteful spending.

Last, I would like to express my strong support for Senator SYMMS' legislation that would provide for a line-item veto amendment to the Constitution. When our Founding Fathers drafted the Constitution, I am certain that they did not envision a reconciliation bill embodying child care legislation, tax increases, increased Medicaid benefits, et cetera. The President needs the ability to veto each new legislative initiative separately, and an amendment to the Constitution can put this issue to rest once and for all.

Federal spending is out of control. These intiatives can help reign it in.•

HARRODSBURG'S COMPANY D

• Mr. MCCONNELL. Mr. President, today I rise to pay tribute to the 66 members of Company D, 192d Light Tank Batallion of the Kentucky Army National Guard from Harrodsburg, KY. I would like to insert into the RECORD their story, told in the December 5, 1990, issue of the Louisville Courier-Journal.

The courageous men of Company D were mobilized to the Philippine Islands, and became the first American force to engage the enemy in tank warfare in World War II. It is said that Gen. George Patton himself picked the outfit for duty in the Philippines. Later cited for outstanding performance in the war, the men endured many hardships when the Japanese overran the islands in early 1942.

Hardships for the survivors came in the form of the "Bataan Death March," forcing 37,000 wounded and weary soldiers to march 70 to 90 miles to prison camps, if they were not killed along

the way. According to 70-year-old Bland Moore of Danville, credited with saving the lives of two comrades during the death march, "If you got too tired or got weak and had to sit down, they killed you."

Now, 50 years after the mobilization of the 192d, Moore is 1 of Company D's 17 living survivors. He and others endured repeated beatings and threats of execution, to come back and tell of their experiences. On Sunday, December 2, they did just that. And 250 Harrodsburg residents came to hear the story, to let them know they had not been forgotten, and to tell them they knew why an Army tank is parked on a little hill beside the American flag at the edge of town.

Mr. President, I salue the members of Company D, and congratulate them on their 50th anniversary. Their story is the story of the hard-fought battle for continued freedom, one none of us should ever forget.

The article follows:

HARRODSBURG'S TANK IS REMINDER OF WORLD WAR II HEROISM, TRAGEDY

(By Byron Crawford)

HARRODSBURG, KY.—Passers-by often wonder why a World War II Army tank is permanently parked on the outskirts of Harrodsburg, near the American flag and the sign proclaiming the town Kentucky's first settlement.

Most are probably going too fast to notice the bronze plaque encased in a stone marker beside the tank. It is inscribed with the names of 66 members of Company D, 192nd Light Tank Battalion of the Kentucky Army National Guard from Harrodsburg, which, in 1941, became the first American force to engage in tank warfare in World War II.

The 192nd had distinguished itself in maneuvers against regular Army tankers at Camp Polk, La., earlier that year, and Gen. George Patton Jr. himself is said to have picked the outfit for mobilization to the Philippine Islands.

The 192nd would later be cited for its outstanding performance in the war, but when the Japanese overran the islands in early 1942, members of the Harrodsburg Guard unit were among the outnumbered American troops who for four months withstood shortages of food, ammunition and medical supplies to beat back attacks on the Bataan Peninsula—only to be eventually surrendered.

The subsequent Bataan Death March, in which the Japanese marched approximately 37,000 battle-weary and wounded American and Filipino prisoners 70 to 80 miles to prison camps, killing many of the captives as they went, brought the horror of war home to Harrodsburg to stay.

Life Magazine's July 6, 1942, issue contained a seven-page picture story titled "Missing In Action" that stated: "Harrodsburg is one of the first towns in the entire country to taste the last full measure of war—loved ones reported 'missing in action.' By the next Fourth of July the U.S. will have a great many Harrodsburgs. For until it does this war cannot be won," Life said.

Twenty-nine men of Company D died, either on the Death March or in camps where the prisoners of war were held until September 1945.

Last Sunday about 250 people from Harrodsburg and the surrounding area showed up at the National Guard Armory to mark the 50th anniversary of the 192nd's mobilization, and to pay tribute to members of Company D. Eight of the company's 17 living survivors were in attendance—as was a doctor from another company of the 192nd.

Among them was Bland Moore, 70, of Danville, who is credited by his fellow soldiers with saving the lives of two of his buddies by helping them survive the Death March.

Moore told reporters that he considers it a miracle that he himself survived.

"If you got too tired or got weak and had to sit down, they killed you," he said. "I quit perspiring . . . and I couldn't get any salt, I was getting real weak and dizzy.

"We were going through a little town, and some of the Filipinos were throwing rice balls out to us. That was the last thing I wanted. All I wanted to do was stay on my feet. By that time, the men were a whole lot like animals.

"But . . . a little brown package landed in my hand, and it was salt. I ate that salt, and shared it with others, and finished the march. I wasn't reaching for anything when it fell in my hand. Nothing could tell me otherwise but that Jesus Christ had a hand in saving me."

Later, Moore and his fellow soldiers would face death many times, during repeated beatings, and many of their number were executed.

Once, Moore himself was scheduled to be executed after defying a Japanese officer.

Several of his teeth were knocked out with the hilt of a saber, he was forced to stand at attention for 13 hours and was tied to a tree for four days—and then he was brought out for execution before a squad of Japanese soldiers with bayonets.

"As I walked by Grover Brummett from Louisville, who still lives there, I said, 'Grover, tell my wife and my folks that I died like a man, and that I didn't beg for nothin','" Moore remembered.

As the Japanese officer snapped the soldiers to attention, "I just looked him in the eye," Moore said, "And you know, just at the snap of a finger, he told me—"Go to work."

"I was the first one on the truck."

Many such stories were exchanged Sunday when the handful of survivors of Company D met in Harrodsburg to be honored by the community and by other military personnel.

"The reason I was there was because of my love for the guys who didn't come back," said Moore. "I wish that everyone who has ever burned an American flag could go through the first three months of hell that these men went through."

Harrodsburg hasn't forgotten them. That is why a World War II Army tank is parked on a little hill beside the American flag at the edge of town.●

A SALUTE TO RHODE ISLAND SCOUTS

● Mr. CHAFEE. Mr. President, as we begin the year 1991 and a new session of Congress, I bring to your attention 44 young women and 105 young men of my State of Rhode Island who have distinguished themselves in 1990 through the Boy Scouts and the Girl Scouts of America.

Since 1910, Scouting has helped build the character and spirit of our youth by promoting the ability of young men and women to do for themselves, by teaching them patriotism, courage, self-reliance, and helping them realize the satisfaction earned through service to others.

It may be difficult for some to believe that there are youngsters in the United States who still believe in these ideals and live their lives accordingly. Yet, every year thousands of young girls and boys participate in Scouting activities.

The Eagle Scout Award is given to the Boy Scout who has earned 21 merit badges and it is the highest honor in Boy Scouting. The Silver Award is awarded to girls in junior high school upon completion of a service project. The highest honor for a Senior Girl Scout is the Gold Award, which is presented at the culmination of a major service project.

Scouting in America is stronger than ever.

So, it is with pride that I pay tribute today to these young boys and girls, to their Scout leaders, and to their families.

The list of Boy Scouts and Girl Scouts referred to follows:

GIRL SCOUT SILVER AWARD

Ashaway, RI

Tanya Del Bene, Steffany Lewandowski.

Bradford, RI

Lori Jean Kinsey.

Carolina, RI

Kelly McDonnell.

Charlestown, RI

Allison M. Hitte.

Coventry, RI

Robin L. Triggs.

Cranston, RI

Gillian Bell, Kate Cousins.

Cumberland, RI

Carrie Boucher, Annika Cantanzarro, Stephanie Fabrizio, Shannon Lancaster, Rebecca Lincoln.

East Providence, RI

Alexis Dubiel, Tennille Hervieux, Jessica Luciano, Gina Marabello, Debbie Paiva, Amy Wood.

Edgewood, RI

Maria Cimini.

Newport, RI

Patty Dvorak.

Pawtucket, RI

Heather Carroll, Amanda Young.

Portsmouth, RI

Christina Erwin, Sarah Emm McCarthy.

Providence, RI

Tabetha Bernstein, Jessica Blake, Denielle Cady, Jennifer Richmond.

Riverside, RI

Jaimie Desorcy, Roxanne Ferreira, Naomi Francis, Jennie Guertin, Crystal Prew.

West Kingston, RI

Meggan Gould, Jen McWeeney.

Wood River Junction, RI

Diedra Dieter.

Woonsocket, RI

Amy Cheever, Tracy L. Pelletier.

GIRL SCOUT GOLD AWARDS

Bradford, RI

Melissa Burdick.

Edgewood, RI

Carolyn Cimini.

East Greenwich, RI

Susanne Calvano.

Riverside, RI

Michelle Errington.

Warwick, RI

Behany Briggs.

BOY SCOUT EAGLE AWARD RECIPIENTS
NARRAGANSETT COUNCIL

Arrowhead Valley District

Matthew F. Holmes, Troop 101 Foster.
Christopher W. Albro, Troop 39 Summit.
Steve G. Dubois, Troop 4 Conventry.
Kevin J. Chamberland, Troop 1 Arctic.
Christopher Leaman, Troop 11 Conventry.
Kenneth Barrette, Troop 17 Crompton.
Peter J. Gorman, Troop 1 Arctic.
Aaron M. Higley, Troop 7 Scituate.
Jeffrey Oates, Troop 31 Crompton.
Patrick P. Matarese, Troop 101 Foster.
Robert P. Bergantine, Troop 101 Foster.
Raymond R. Perry, Troop 11 Conventry.
Kevin L. Moffitt, Troop 1 Conventry.
Thomas W. Wilson, Troop 7 Scituate.
Roger A. Chattell, Troop 2 Arctic.
Jason P. Senerchia, Troop 2 Natick.
Peter E. Tondreau, Troop 1 Conventry.
John A. Sechio, Troop 17 Crompton.
Derek J. Leigh, Troop 17 Crompton.
James Onysko, Troop 31 Crompton.

Blackstone Valley District

Robert E. Sasso, Troop 1 Central Falls.
Raymond J. Gagne, Troop 85 Pawtucket.
Ronald K. Gagne, Jr., Troop 1 Pawtucket.
William A. Bramley, Troop 50 Cumberland.
Michael A. Kizlinski, Troop 1 Diamond Hill.
Jason A. Gardner, Troop 10 Berkeley-Ashton.
Brian T. Parker, Troop 10 Lincoln.
Mark S. Pawlitschek, Troop 12 Berkeley-Ashton.
Paul Ramos, Troop 76 Pawtucket.

Pokanoket District

Michael J. Ferreira, Troop 13 Rehoboth.
Anthony A. Fishel, Troop 2 Barrington.
Jeff Longo, Troop 1 Seekonk.
Richard T. Atkins, Troop 1 Newport.
Sean P. Cotta, Troop 82 Portsmouth.
Jonathan D. Barber, Troop 22 Newport.
John Crow, Troop 82 Portsmouth.
Craig T. Lasiewski, Troop 1 Seekonk.
Brian T. Massey, Troop 1 Portsmouth.
Christian Alteri, Troop 2 Barrington.
Robert D. Kulaga, Troop 3 Seekonk.
Ian Kohl, Team 1 Middletown.
Ronald P. Pelletier, Troop 8 Barrington.
Christopher E. Martin, Troop 3 Seekonk.
Thomas A. Benoit, Jr., Troop 1 Seekonk.
George Towlinson, Troop 5 East Providence.
Brian L. Lombardi, Troop 8 Barrington.
Michael F. Quirk, Troop 22 Seekonk.
Wayne M. Stepalavich, Troop 33 Newport.
Mark T. Barabe, Troop 5 Portsmouth.
Patrick J. Tracy, Troop 8 Barrington.
Blaine S. Felloney, Troop 1 Middletown.
Thomas J. Walsh, Jr., Troop 1 Riverside.
Peter Lincoln, Troop 22 Seekonk.
David M. Lomastro, Troop 8 Barrington.
Jeffrey Lonardo, Troop 8 Barrington.
Mark A. Strycharz, Troop 3 Seekonk.

Providence District

David M. DeSarro, Troop 89 Providence.
Michael V. O'Connell, Troop 82 Providence.
Daniel Ackroyd, Troop 82 Providence.
Michael T. Spadazzi, Troop 56 Providence.
David E. Gabrey, Troop 76 Providence.
Robert J. McAdam, Troopy 76 Providence.
Michael P. Sheridan, Troop 76 Providence.
John Abbruzzese, Troop 56 Providence.

Quequatuck District

Ram A. Narasimhan, Troop 1 Kingston.
Scott K. Smith, Troop 50 Narragansett.
Timothy M. Viveiros, Troop 1 Richmond.
Kenneth W. Lazarski, Troop 43 Wickford.
Daniel A. Norton, Troop 22 Davisville.
Aaron W. Way, Troop 1 Hope Valley.
Shawn P. Smith, Troop 2 Misquamicut.
Jason R. Ringer, Troop 15 Charlestown.

Sachem District

Eric M. Norberg, Troop 1 Greenville.
Robert O. DiGiulio, Troop 1 Greenville.
Gilbert B. Giles, Troop 3 Cranston.
Stephen Arcand, Troop 6 Cranston.
Norman M. Rogers, Troop 9 Cranston.
John F. Maguire, Troop 66 Garden City.
Ronald L. Valletta, Troop 20 Johnston.
Dennis J. Gasrow, Jr., Troop 5 North Providence.
Michael J. McGlynn, Troop 20 Johnston.
Joel A. Kahn, Troop 66 Garden City.
Michael A. Torregrossa, Troop 1 Greenville.

Thundermist District

Peter L. Pignolet, Troop 1121 Woonsocket.

West Shore District

Michael T. Plemmons, Troop 1 East Greenwich.
Justin D. Lambert, Troop 49 Lakewood.
Michael C. Denning, Troop 49 Lakewood.
Andrew M. Glucksman, Troop 10 Warwick.
Joseph M. Lariviere, Troop 4 Gaspee Plateau.
Todd M. Regine, Troop 7 Warwick.
Matthew T. Collins, Troop 1 Gaspee Plateau.
Stephen P. Keenan, Troop 49 Lakewood.
Elias J. Deeb, Troop 2 East Greenwich.
Joseph H. Fontaine, Troop 117 Warwick.
Matthew T. Rogan, Troop 49 Lakewood.
Jeffrey R. Zeiner, Troop 1 East Greenwich.
Andrew D. Boisvert, Troop 49 Lakewood.
James T. Doyle, Troop 2 East Greenwich.
C. Andrew Lundsten, Troop 2 East Greenwich.
Eric D. Thornton, Troop 18 Frenchtown.
David A. Ucci, Jr., Troop 1 East Greenwich.
Sean M. Flynn, Troop 18 Frenchtown.
Stephen E. Thompson, Troop 18 Frenchtown.
Timothy M. Rankin, Troop 117 Warwick.
Christian E. Smith, Troop 2 East Greenwich.●

By Mr. MOYNIHAN (for himself, Mr. HOLLINGS, Mr. KASTEN, Mr. PELL, and Mr. HATCH):

S. 11. A bill to cut Social Security contribution rates and return Social Security to pay-as-you-go financing, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY TAX CUT ACT

● Mr. MOYNIHAN. Mr. President, I rise to introduce as S. 11 the Social Security Tax Cut Act of 1991, a bill to reduce Social Security contribution rates and return the program to traditional pay-as-you-go financing. It is a bill to strengthen the financing of the Social Security Program, stimulate the weakening economy, and provide a fair tax cut to 132 million workers and 6 million employers and self-employed individuals. I am introducing the measure in the company of my distinguished cosponsors, Senators HOLLINGS, KASTEN, PELL, and HATCH.

In S. 11 we propose to cut the Social Security tax rate from the current 6.2 percent for employees and employers each to 5.7 percent on July 1 of this year, and further cut it to 5.5 percent on January 1, 1994, and 5.2 percent on January 1, 1996.

We also propose increases in the maximum wage subject to the Social Security tax, from $53,400 this year to $60,600 next year and $82,200 by 1996. The maximum wage level has traditionally been set to cover about 90 percent of wages in the economy but presently covers only about 86 percent. I would note that workers with earnings at or above the proposed maximum wage levels would still, with the proposed tax rates, realize a tax cut compared to current law.

The proposal is designed, of course, to build and maintain a safe level of reserves in the Social Security trust funds. Before the first rate cut goes into effect we will have about a year's worth of benefits in reserve. We have not had a year's reserve in the trust funds since 1970. Reserve levels are estimated to continue to grow under the proposal to a year and a half's worth of benefits.

Maximum tax cut savings for an individual worker would be $134 for the last 6 months of this year, $279 next year, and $693 in 1996. Maximum cumulative tax cut savings for the individual worker would be about $2,300 over the 5-year transition to pay-as-you-go financing.

I think its about time the American worker got a break. In constant 1977 dollars, average weekly earnings in the United States in 1989 were about $3 higher than they were in 1959. After accounting for rising FICA taxes, the average worker actually made less in 1989 than he did 30 years ago. We have more working mothers now so that families can maintain the same living standard they had in 1973. Despite higher female labor force participation rates, real median family income has been virtually flat since then.

The basic arguments for going back to pay-as-you-go can be stated briefly. We are running large and growing surpluses in the Social Security trust funds and using the money as if it were general revenue—some $74 billion in the current fiscal year, $83 billion in the next, $126 billion in 1995, and over $225 billion in the year 2000. It is the dirty little secret of last year's budget summit agreement that we will spend $500 billion of Social Security tax revenue on general government expenses over the next 5 years. This practice violates the integrity of the Social Security trust funds and makes government finance more regressive.

The tax structure of the United States is fast becoming one of the most regressive of any Western nation. In the 1980's we cut income taxes for the better off and raised payroll taxes for

low- and middle-income workers. Social Security tax revenue as a percent of total Federal revenue rose by 23 percent from 1980 to 1988, while personal and corporate income tax revenue as a percent of total Federal revenue declined by 6 percent and 23 percent, respectively. At the end of 1987, Senator GEORGE MITCHELL observed in the Wall Street Journal that "there has been a shift of about $80 billion in annual revenue collections from the progressive income tax to the regressive payroll tax." There have been two increases in the Social Security payroll tax rate since then. Last year the Social Security Administration estimated that in 1990 about 74 percent of taxpayers would pay more in FICA taxes—including the employer's share—than in income taxes.

Further, Mr. President, since I first introduced this bill a year ago, we have been presented with yet another, and urgent, reason to cut Social Security taxes. I speak, of course, of the economic recession that is upon us. We do not know how long it will last or how bad it will be. But we do know that we must do something about it. That is why voters send us here. Workers and businesses in this country are already being knocked hard by this economic downturn, and fear that it is going to get worse before it gets better. They would be helped by this measure. A Social Security tax cut is an anti-recession measure. It is a tax cut for both workers and businesses, in equal shares. It would stimulate the purchasing power of consumers and help create jobs for unemployed workers.

Professor Gary Hufbauer, a Georgetown University economist and former Treasury official in the Carter administration, has estimated that a Social Security tax cut would create a million jobs. Michael Boskin, now Chairman of the President's Council of Economic Advisers, has made similar statements in the past about the labor effects of the Social Security tax. Even before the recession, Nobel Laureate Franco Modigliani endorsed a Social Security tax cut as economically sound.

Mr. President, I said at the outset that this legislation would also strengthen the financing of the Social Security Program. Let me now explain how it would do so.

By way of background, I would note first that the Social Security Program was financed on a pay-as-you-go basis for decades prior to 1977. Under this financing method, Congress would schedule Social Security tax rates for the future that would produce the revenue needed to meet expected outlays. Generally, the goal was to keep the system in close actuarial balance over the long-term 75-year projection period.

In 1977 and again in 1983, in response to short-term financing problems, Congress accelerated the schedule for Social Security tax rate increases. The higher rates in the 1980's, together with better-than-estimated economic performance, produced the current surpluses.

But the Social Security system is not currently in close actuarial balance over the long term. That is because our current financing arrangements call for us to build up a huge reserve over the next 30 years and then draw it down over the following 20 years. The trust fund are expected to be exhausted in the early 2040's. How will we finance benefits then? Well, even though there are no more rate increases scheduled in current law, we would obviously have to raise the rate at that time. And it would be a pretty big jump, to around 8 percent.

This legislation calls for getting to that ultimate rate in a more rational fashion. We would schedule a series of rate increases for the next century as costs rise, consistent with pay-as-you-go financing. Significantly, we would not have to go back to the current rate of 6.2 percent until 2015, and would not have to go above that rate until 2020. The rate would ultimately rise to 8.1 percent in 2050. We would, then, in a sense, just smooth out, or fine tune the current arrangements. And in the process we would put the system back in close actuarial balance over the long term.

I have stated before but it bears repeating that this improvement in the financing of Social Security has been urged for years by Robert J. Myers, who served as chief actuary of Social Security for 23 years and was a member of that venerable group that created our Social Security system back in 1934. The proposal has also been endorsed by the American Academy of Actuaries.

Mr. President, I would make just one further point. Senators will recall that last October 9 and 10 we had a floor debate on this proposal. A budget point of order was raised against consideration of the bill. Sixty votes were needed to waive the point of order. We got 54, 42 Democrats and 12 Republicans. Not bad really—a majority of the Senate after all. And this even though our timing could not have been worse, with the debate coming on the heels of final agreement to a budget resolution based on the long-awaited budget summit agreement.

But here's the point. Senators should be aware that a Social Security tax cut can be passed with a simply majority. They should also be aware that under the law budget process rules, the Social Security tax is the one tax we can cut without offsets, without producing a sequester, and without making it harder to reach deficit reduction target. So no one need think that we are bound to repeat last year's outcome. We are in a much better position to pass the bill this year, and as I stated earlier, there are even more reasons to do so.

Let me conclude by saying this is not a partisan matter. This proposal has a broad base of bipartisan support. It is supported by organizations ranging from the AFL-CIO to the U.S. Chamber of Commerce, from the Democratic National Committee to the Heritage Foundation. Governor Mario Cuomo supports this proposal, as does former Gov. Pete du Pont. And support from political commentators comes from Michael Kinsley and Eleanor Clift as well as James Kilpatrick and George Will.

Mr. President, we must cut Social Security taxes. We don't need the money for Social Security, so let's give it back to the workers who earned it and need it. It's just not fair to keep it for other government expenses. A return to pay-as-you-go financing will strengthen the financing of Social Security, restore honesty and integrity to Federal finances, stimulate the economy, and provide a fair tax cut to 132 million Social Security taxpayers.

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. 11

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 "Social Security Tax Cut Act of 1991".

SEC. 2. RETURN SOCIAL SECURITY TO PAY-AS-YOU-GO FINANCING.

(a) FICA TAXES.—

(1) TAX ON EMPLOYEES.—The table in section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended to read as follows:

"In the case wages received during:	The rate shall be:
January 1, 1991 through June 30, 1991	6.2 percent
July 1, 1991 through 1993	5.7 percent
1994 or 1995	5.5 percent
1996 through 2009	5.2 percent
2010 through 2014	5.6 percent
2015 through 2019	6.2 percent
2020 through 2024	6.8 percent
2025 through 2029	7.5 percent
2030 through 2039	7.8 percent
2040 through 2049	7.9 percent
2050 or thereafter	8.1 percent."

(2) TAX ON EMPLOYERS.—The table in section 3111(a) of such Code (relating to rate of tax on employers for old-age survivors, and disability insurance) is amended to read as follows:

"In the case wages received during:	The rate shall be:
January 1, 1991 through June 30, 1991	6.2 percent
July 1, 1991 through 1993	5.7 percent
1994 or 1995	5.5 percent
1996 through 2009	5.2 percent
2010 through 2014	5.6 percent
2015 through 2019	6.2 percent
2020 through 2024	6.8 percent
2025 through 2029	7.5 percent
2030 through 2039	7.8 percent
2040 through 2049	7.9 percent
2050 or thereafter	8.1 percent."

(3) REALLOCATION TO FEDERAL DISABILITY INSURANCE TRUST FUND.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and so reported, and (P) 1.42 per centum of the wages (as so defined) paid after December 31, 1999, and so reported" and inserting "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1992, and so reported, (P) 1.24 per centum of the wages (as so defined) paid after December 31, 1991, and before January 1, 2000, and so reported, (Q) 1.40 per centum of the wages (as so defined) paid on or after December 31, 1999, and before January 1, 2005, and so reported, (R) 1.60 per centum of the wages (as so defined) paid after December 31, 2004, and before January 1, 2015, and so reported, (S) 1.70 per centum of the wages (as so defined) paid after December 31, 2014, and before January 1, 2030, and so reported, and (T) 1.80 per centum of the wages (as so defined) paid after December 31, 2029, and so reported".

(b) TAX ON SELF-EMPLOYMENT INCOME.—

(1) IN GENERAL.—The table in section 1401(a) of the Internal Revenue Code of 1986 (relating to rate of tax on self-employment income for old-age survivors, and disability insurance) is amended to read as follows:

"In the case of a taxable year

Beginning after:	And before:	Percent:
December 31, 1990	January 1, 1992	11.9
December 31, 1991	January 1, 1994	11.4
December 31, 1995	January 1, 2010	10.4
December 31, 2009	January 1, 2015	11.2
December 31, 2014	January 1, 2020	12.4
December 31, 2019	January 1, 2025	13.6
December 31, 1993	January 1, 1996	11.0
December 31, 2024	January 1, 2030	15.0
December 31, 2029	January 1, 2040	15.6
December 31, 2039	January 1, 2050	15.8
December 31, 2049		16.2."

(2) REALLOCATION TO FEDERAL DISABILITY INSURANCE TRUST FUND.—Section 201(b)(2)) of the Social Security Act (42 U.S.C. 401(b)(2)) is amended by striking "(O) 1.20 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (P) 1.42 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999" and inserting "(O) 1.20 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 1992, (P) 1.24 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1991, and before January 1, 2000, (Q) 1.40 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999, and before January 1, 2005, (R) 1.60 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2004, and before January 1, 2015, (S) 1.70 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2014, and before January 1, 2030, and (T) 1.80 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2029".

(c) OASDI TAXABLE WAGE BASE INCREASED.— Section 230(c)(2) of the Social Security Act (42 U.S.C. 430(c)(2)) is amended by striking subclauses (A), (B), (C), and (D) and inserting the following:

"(A) in 1992 shall be $60,600,

"(B) in 1993 shall be $64,200,

"(C) in 1994 shall be $70,200,

"(D) in 1995 shall be $73,800, and

"(E) in 1996 shall be $82,200."•

• Mr. KASTEN. Mr. President, although the hearts and minds of all Americans are focused on the situation in the Persian Gulf, I think it's important that we not lose sight of our dire economic troubles here at home.

It's painfully clear to most of us that the United States is headed for an economic slowdown—perhaps a full-blown recession. Economic growth has ground to a halt. Unemployment has jumped to 6.1 percent. The financial sector in the Northeast is teetering on the edge of collapse. Small business optimism is at its lowest level since 1982.

This economic slowdown has been caused, in part, by the Iraqi invasion of Kuwait and the subsequent rise in oil prices. I believe most of the blame, however, rests on the misguided policies inflicted on the economy by Washington.

Since 1986, capital gains and payroll taxes have gone up. New regulatory burdens are stifling entrepreneurial activity. And, perhaps most devastating of all, we are imposing the largest tax increase in U.S. history on consumers, savers, and producers this year.

I rise today to join Senator MOYNIHAN in introducing legislation that will jumpstart the economy and reduce taxes on working families as well. Our legislation would return Social Security to pay-as-you-go financing, returning the tax surplus to the working people who earned it.

Mr. President, I want to make a special appeal to my Republican colleagues to join us in sponsoring this important measure. Thanks to last fall's budget debate, Republicans are losing the so-called tax fairness debate.

A recent Harris Poll found that by a margin of 62 to 36 percent, Americans believe that Republicans were wrong to oppose tax increases on the wealthy; and by a 50-to-30 margin, they think congressional Democrats were more right on how to cut the deficit than Republicans.

This poses a critical challenge to me and my fellow Republicans. Unless we propose a politically attractive alternative, we will remain on the defensive—and eventually lose outright the political debate over taxes.

Fortunately, there is a way out. We can take the political and economic offensive again—by making Social Security payroll tax cuts a centerpiece of the economic empowerment agenda.

The currently controversial "empowerment" initiatives are aimed at giving individuals more control over their own lives. What could be more empowering than letting workers keep more of the wages they have earned?

The American Dream still eludes too many of today's working families. They are finding it harder to achieve the same standard of living that their parents enjoyed. And the chief cause is the skyrocketing of Federal taxes: Today's median-income families face an effective tax rate—income and payroll taxes combined—more than double what their parents faced in the 1950's.

Throughout the 1980's, Republicans worked to reduce that tax burden. The 1981 Reagan tax bill slashed income tax rates by 25 percent for middle-income Americans, and the 1986 tax reforms removed 4 million poor taxpayers from the tax rolls altogether. The people responded by giving three consecutive landslide victories to the GOP.

However, at the same time the Reagan-Bush tax cuts were reducing the burden of income taxes, the 30 percent increase in payroll tax rates legislated in 1977 under Jimmy Carter kept the middle-class tax burden excessively high. Today, three out of four workers pay more in payroll taxes than they do in income taxes.

This tax is punishing working-class Americans—and crippling the economy as well. It raises labor costs, inhibits job creation, cuts profits, and reduces the availability of capital. It is a direct tax on America's ability to compete.

And as if all this were not enough, Social Security is collecting more taxes than are needed to pay benefits to seniors. This revenue buildup—proceeding at a rate of more than $1 billion per week—is used to subsidize the rest of the Federal budget.

Last December, our colleague PAT MOYNIHAN proposed returning Social Security to a pay-as-you-go system in which income roughly matches expenses, leaving the money in the hands of the people who earned it. This isn't a new idea: In 1988, then-Congressman Jack Kemp and I introduced similar legislation to cut payroll taxes.

Under the plan we are introducing today, the payroll tax rate would be reduced from 6.2 to 5.2 percent in over the next 5 years. For a worker for an individual or a two-earner couple making $69,300, the annual savings would add up to $693 under pay-as-you-go financing.

In addition, the maximum taxable wage base would be increased modestly above what it would be under current law. Senator MOYNIHAN has argued that the wage base must be increased in order to maintain historic 90 percent of wages in the economy covered by the taxable maximum.

While I do have some concerns about the precedent that increasing the taxable maximum wage base may set, I think it's important to point out that, under the Moynihan-Kasten plan, all taxpayers will receive a tax cut.

Mr. President, in Wisconsin, $693 more in take-home pay will go a long way. This money can help build a nest egg for retirement. It can buy a new washer and dryer. It can pay for part of children's daycare. It can buy a year of parochial grammar school in Milwaukee. Overall, this tax cut plan will

pump $3.8 billion into Wisconsin's economy over the 1992-96 period.

I ask unanimous consent that a table on the estimated tax cut savings, by State be printed at this point in the RECORD:

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

Estimated Social Security tax cut savings by State, 1992-96

[In millions]

Alabama	$2,292
Alaska	573
Arizona	2,101
Arkansas	1,337
California	21,392
Colorado	2,483
Connecticut	3,438
Delaware	955
Florida	7,067
Georgia	4,011
Hawaii	764
Idaho	573
Illinois	9,932
Indiana	3,820
Iowa	1,910
Kansas	1,719
Kentucky	1,910
Louisiana	2,674
Maine	573
Maryland	3,438
Massachusetts	5,348
Michigan	8,404
Minnesota	3,820
Mississippi	1,146
Missouri	3,820
Montana	382
Nebraska	1,146
Nevada	573
New Hampshire	764
New Jersey	7,258
New Mexico	764
New York	20,055
North Carolina	4,202
North Dakota	382
Ohio	8,786
Oklahoma	2,101
Oregon	2,101
Pennsylvania	9,359
Rhode Island	764
South Carolina	1,910
South Dakota	382
Tennessee	3,247
Texas	11,651
Utah	955
Vermont	382
Virginia	3,820
Washington	3,056
West Virginia	955
Wisconsin	3,820
Wyoming	382

Mr. President, we can go ahead and tax millionaires all we want—but it won't do anything to reduce the burden on middle-income families.

I think it's also important to point out that Social Security is off-budget. Therefore, reducing the payroll tax will not effect our efforts to meet the statutory Gramm-Rudman deficit reduction mandates.

Also, the newly enacted budget reforms make it relatively easier to cut Social Security taxes than other kinds of taxes because they would not trigger and automatic reduction in spending to offset the revenue loss.

And from an economic standpoint, any negative impact of the rise in government borrowing will be offset by the stimulative impact of lower payroll taxes on wage earners and small business.

Now more that ever, our economy needs a shot in the arm. Payroll tax cuts are the best cure for recession because it shows up immediately in workers' paychecks. Former Treasury economist Gary Hufbauer estimates that this pro-growth tax cut would create 1 million new jobs over the next 4 years.

Even without the Social Security tax surplus, the deficit problem is manageable. According to the Congressional Budget Office, the non-Social Security budget deficit will decline from 5.6 percent to 1.9 percent of gross national product over the fiscal 1991-95 period.

House Majority Leader RICHARD GEPHARDT said recently that, to him, the key is "not to beat up on the rich, but try to get the poor and middle class moving up quickly." I agree. We ought to give working families the opportunity to move up the economic ladder. And cutting payroll taxes is the best way to do it.●

By Mr. DANFORTH (for himself, Mr. INOUYE, Mr. HOLLINGS, Mr. GORE, Mr. LIEBERMAN, and Mr. METZENBAUM):

S. 12. A bill to amend title VI of the Communications Act to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CABLE TELEVISION CONSUMER PROTECTION ACT

● Mr. DANFORTH. Mr. President, it is time for Congress to address the many constituent complaints about the cable television industry.

In 1984, I voted for legislation to deregulate cable. Like many others, I thought that developing competition could replace regulation. But since deregulation, consumers, cities, broadcasters, small cable operators, wireless distributors of video programming, and satellite dish owners have come to Congress for help. A poll conducted by Cable News Network [CNN] last summer demonstrates the widespread discontent with the unbridled cable industry. The CNN poll asked: "Should cable TV be regulated?" Did half of those polled say "yes, cable should be regulated"? Did three quarters? Mr. President, 92 percent responded that cable television should be regulated.

Today, cable is an unregulated monopoly. The results of an unregulated monopoly are predictable: high rates; indifferent service; cable operators who drop local broadcasters, or place them on high channels; discrimination in the pricing of programming; problems with access to cable systems.

That is why the Chairman of the Communications Subcommittee, Senator INOUYE, the Chairman of the Commerce Committee, Senator HOLLINGS, and others are joining me in introducing the Cable Television Consumer Protection Act of 1991 today. This cable reform bill is very similar to one that was reported out of the Commerce Committee last year by a vote of 18 to 1.

RATE REGULATION

Perhaps the most visible symptoms of our premature deregulation of cable has been the skyrocketing rates for cable service. As an example of the astounding rate increases, let me cite the testimony of Mr. Allen Garner, counsel to Jefferson City, MO, before the Commerce Committee last year. He testified that, in the preceding 3½ years, cable rates increased in Missouri's capital by 186 percent.

Where there is no true competition, States and cities should have the option of regulating cable rates. Under the Cable Television Consumer Protection Act, States or cities can regulate rates, within Federal Communications Commission [FCC] guidelines, if there is no effective competition from another cable system, a microwave system, or any other multichannel video provider and a sufficient number of broadcast signals.

Under today's rules, a cable operator's rates cannot be regulated if a certain number of broadcast stations serve the same area. But broadcast signals are not the same as cable service—that is why consumers are willing to pay for cable even where broadcast signals are available for free.

This bill's definition of effective competition as another multichannel video provider will protect consumers from monopoly pricing. This definition also provides an incentive for the cable industry to allow competiion to develop: if there is a second provider, the cable operator's rates are deregulated. Under this legislation, rate regulation sunsets automatically where there is effective competition.

FRANCHISE RENEWALS, LIABILITY, AND CUSTOMER SERVICE STANDARDS

This bill addresses the complaint of cities that they lack authority over cable operators who raise rates, give poor service, or fail to meet their franchise requirements. If a cable operator is not serving its community's interests, the city should be able to find an operator who will. The bill clarifies the renewal proceedings to ease the burden for a franchising authority to deny renewal of an unsatisfactory cable operator's franchise. Additionally, the bill provides that, if franchising authorities act pursuant to the Cable Act, they may only be subject to injunctive relief, declaratory relief, or attorneys' fees for claims asserting First Amendment rights. This bill also allows fran-

chising authorities to enforce tougher customer service standards.

ACCESS TO PROGRAMMING AND PROGRAMMING DISTRIBUTION

This legislation addresses concerns raised by potential cable competitiors that they cannot obtain access to programming. Small cable operators, home satellite dish owners, wireless cable operators, and other potential distributors of video programming complain that they are denied programming or are charged more for programming than the large cable operators affiliated with cable programmers. They point out that cable programmers who are affiliated with cable system operators have an incentive to favor their cable operators over other distributors of video programming.

Mr. President, this bill addresses the problem by barring programmers affiliated with cable operators from unreasonably refusing to deal with video distributors. Such programmers are also barred from discriminating in the price, terms, and conditions if that action would impede retail competition.

The bill also requires those programmers to deal with purchasing groups, such as cable cooperatives, on terms similar to those given to cable systems. Additionally, the bill bars cable operators from requiring a financial interest in programming as a condition for carrying that programming.

These nondiscrimination provisions are essential to meaningful cable reform. Without access to popular programming, cable can keep programming locked up and prevent competition from developing. On the other hand, once competition is allowed to develop, we can let the market, rather than regulation, protect consumers. Policies aimed at promoting competition and preventing market abuses simultaneously advance diversity in the market place of ideas.

CABLE INDUSTRY CONCENTRATION

Mr. President, the cable industry has become highly concentrated. A few multiple system operators [MSO's] dominate the industry. The large MSOs have the market power to determine what programming services can succeed on cable. Concentration in the cable industry also means a reduction in the number of media voices available to consumers. This legislation requires the FCC to set a limit on the size of cable operators. Similar limits already apply to the broadcast industry. For example, one broadcaster may own no more than 12 television stations. To encourage diversity of programming, the bill also directs the FCC to limit the number of channels that can be occupied on a cable system by a single programmer.

CABLE OWNERSHIP OF POTENTIAL COMPETITORS

To prevent cable from warehousing its potential competition, the bill prohibits a cable operator from owning the microwave or satellite-delivery system in his cable area. A cable/direct broadcast satellite cross-ownership ban also would be applied after 10 percent of the Nation subscribes to direct broadcast satellite services.

LEASED ACCESS

Under current law, anyone who is interested may lease a channel from a cable company. The goal was to establish an electronic soapbox. But the right of access has been used infrequently and the goal has not been met, because the cable operator can set any price he wants for the leased channel. If he is affiliated with a cable programmer, the cable operator may have an incentive to price the channels out of reach. This bill therefore directs the FCC to set maximum rates for leased access.

TECHNICAL STANDARDS

One of the most frequent complaints by cable consumers is that the picture quality is poor. To address that problem, this legislation directs the FCC to establish minimum technical standards for the operation of cable systems.

MUST CARRY AND CHANNEL POSITIONING

Today, cable operators are free to act as gatekeepers who decide whether to carry local broadcasters on their systems and what channel number to give them. The bill we are introducing codifies "must carry" rules to ensure that cable subscribers have access to local broadcasting stations. It also requires cable companies to carry broadcasters on the channels assigned under the old must carry rules, on their over-the-air channel numbers, or on other channels by mutual agreement. The bill lets the FCC resolve disputes over channel positioning.

The must carry and channel positioning rules of this legislation promote three longstanding, substantial governmental interests: First, the public's first amendment right of access to diverse sources of information; second, the preservation of vigorous competition among communications services; and third, the promotion of a nationwide broadcasting service built upon local outlets—one of the statutory obligations of the FCC.

CONCLUSION

This bill is good government based on sound economics. Where there is neither competition nor regulation, the consumer is the loser. This legislation permits regulation where there is no competition, takes steps to encourage competition, and automatically sunsets rate regulation where there is competition. I urge my colleagues to stand up for consumers and support this bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD immediately following these remarks.

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

S. 12

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Cable Television Consumer Protection Act of 1991".

FINDINGS

SEC. 2. The Congress finds and declares the following:

(1) Pursuant to the Cable Communications Policy Act of 1984, rates for cable television services have been deregulated in approximately 97 percent of all franchises since December 29, 1986. Since rate deregulation, monthly rates for the lowest priced basic cable service have increased by 40 percent or more for 28 percent of cable television subscribers. Although the average number of basic channels has increased from about 24 to 30, average monthly rates have increased by 29 percent during the same period. The average monthly cable rate has increased almost three times as much as the Consumer Price Index since rate deregulation.

(2) For a variety of reasons, including local franchising requirements and the extraordinary expense of constructing more than one cable television system to serve a particular geographic area, most cable television subscribers have no opportunity to select between competing cable systems. Without a sufficient number of local television broadcast signals and without the presence of another multichannel video programming distributor, a cable system faces no local competition. The result is undue market power for the cable operator as compared to that of consumers and video programmers.

(3) There is a substantial governmental and First Amendment interest in promoting a diveristy of views provided through multiple technology media.

(4) There has been a substantial increase in the penetration of cable televisicn systems over the past decade, with cable television services now available to 71.3 million of the 92.1 million households with televisions. Nearly 54 million households, over 58 percent of the households with televisions, subscribe to cable television, and this percentage is almost certain to increase. As a result of this growth, the cable television industry has become a dominant nationwide video medium.

(5) The cable industry has become highly concentrated. The potential effects of such concentration are barriers to entry for new programmers and a reduction in the number of media voices available to consumers.

(6) Cable television rates for video programming provided on other than the basic service tier should not be governmentally regulated except in extraordinary circumstances, which may include the need to control undue market power.

(7) The cable television industry has become vertically integrated; cable operators and cable programmers often have common ownership. As a result, cable operators have the incentive and ability to favor their affiliated programmers. This could make it more difficult for non-cable-affiliated programmers to secure carriage on cable systems. Vertically integrated program suppliers also have the incentive and ability to favor their affilitated cable operators over non-affiliated cable operators and programming distributors using other technologies.

(8) There is a substantial governmental and First Amendment interest in ensuring that cable subscribers have access to local noncommerical educational stations which

Congress has authorized, as expressed in section 396(a)(5) of the Communications Act of 1934 (47 U.S.C. 396(a)(5)). The distribution of unique noncommercial, educational programming services, including those transmitted by noncommerical educational television stations serving local communities or markets, advances that interest in providing for the further education of our citizens and encouraging "public telecommunications services which will be responsive to the interests of people both in particular localities and throughout the United States, which will constitute an expression of diversity and excellence, and which will constitute a source of alternative telecommunications services for all the citizens of the Nation".

(9) The Federal Government has a substantial interest in making all nonduplicative local public television services available on cable systems because—

(A) public television provides educational and informational programming to the Nation's citizens, thereby advancing the Government's compelling interest in educating its citizens;

(B) public television is a local community institution, supported through local tax dollars and voluntary citizen contributions in excess of $10,800,000,000 since 1972, that provides public service programming that is responsive to the needs and interests of the local community;

(C) the Federal Government, in recognition of public television's integral role in serving the educational and informational needs of local communities, has invested more than $3,000,000,000 in public broadcasting since 1969; and

(d) absent carriage requirements there is a substantial likelihood that citizens, who have supported local public television services, will be deprived of those services.

(10) A primary objective and benefit of our Nation's system of regulation of television and radio broadcasting is the local origination of programming. There is a substantial governmental interest in ensuring its continuation.

(11) Broadcast television stations continue to be an important source of local news and public affairs programming and other local broadcast services critical to an informed electorate.

(12) Broadcast television programming is supported by revenues generated from advertising broadcast over stations. Such programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

(13) As a result of the growth of cable television, there has been a marked shift in market share from broadcast television to cable television services.

(14) Cable television systems and broadcast television stations increasingly compete for television advertising revenues. As the proportion of households subscribing to cable television increases, proportionately more advertising revenues will be reallocated from broadcast to cable television systems.

(15) A cable television system which carries the signal of a local television broadcaster is assisting the broadcaster to increase its viewership, and thereby attract additional advertising revenues that otherwise might be earned by the cable system operator. As a result, there is an economic incentive for cable systems to terminate the retransmission of the broadcast signal, refuse to carry new signals, or reposition a broadcast signal to a disadvantageous channel position. There is a substantial likelihood that absent the reimposition of such a requirement, additional local broadcast signals will be deleted, repositioned, or not carried.

(16) As a result of the economic incentive that cable systems have to delete, reposition, or not carry local broadcast signals, coupled with the absence of a requirement that such systems carry local broadcast signals, the economic viability of free local broadcast television and its ability to originate quality local programming will be seriously jeopardized.

(17) Consumers who subscribe to cable television often do so to obtain local broadcast signals which they otherwise would not be able to receive, or to obtain improved signals. Most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to antenna reception system, or cannot otherwise receive broadcast television services.

(18) Cable television systems often are the single most efficient distribution system for television programming. A government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the "A/B" input selector antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

(19) The compulsory license was created by Congress as part of a delicate balance between cable television systems and broadcast television stations that included mandatory carriage obligations for cable systems. Cable systems are able to procure programming through the compulsory license at a cost substantially below the cost paid by the broadcast television stations. Cable systems, however, may rely upon the compulsory license as an alternative to negotiating for such programming in the marketplace, but are no longer subject to mandatory carriage obligations. This has created a competitive imbalance between the two industries.

(20) The Cable Communications Policy Act of 1984, in its amendments to the Communications Act of 1934, limited the regulatory authority of franchising authorities over cable operators. Franchising authorities are finding it difficult under the current regulatory scheme to deny renewals to cable systems that are not adequately serving cable subscribers.

(21) Given the lack of clear guidelines in applying the First Amendment to cable franchise decisions, cities are unreasonably exposed to liability for monetary damages under the Civil Rights Acts.

(22) Cable systems should be encouraged to carry low power television stations licensed to the communities served by those systems where the low power stations creates and broadcasts, as a substantial part of its programming day, local programming.

STATEMENT OF POLICY

SEC. 3. It is the policy of the Congress in this Act to—

(1) promote the availability to the public of a diversity of views and information through cable television and other video distribution media;

(2) rely on the marketplace, to the maximum extent feasible, to achieve that availability;

(3) ensure that cable operators continue to expand, where economically justified, there capacity and the programs offered over their cable systems;

(4) where cable television systems are not subject to effective competition, ensure that consumer interests are protected in receipt of cable service; and

(5) ensure that cable television operators do not have undue market power vis-a-vis video programmers and consumers.

DEFINITIONS

SEC. 4. (a) Section 602 of the Communications Act of 1934 (47 U.S.C. 522) is amended by redesignating paragraph (1) as paragraph (2), by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively, by redesignating paragraphs (4) through (10) as paragraphs (7) through (13), respectively, by redesignating paragraphs (11) and (12) as paragraphs (16) and (17), respectively, by redesignating paragraph (13) as paragraph (19), by redesignating paragraphs (14) and (15) as paragraphs (22) and (23), respectively, and by redesignating paragraph (16) as paragraph (26).

(b) Section 602 of the Communications Act of 1934 (47 U.S.C. 522), as amended by this section, is further amended by inserting immediately before paragraph (2), as so redesignated, the following new paragraph:

"(1) the term 'activated channels' means those channels engineered at the headend of a cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational, or governmental use;".

(c) Section 602 of the Communications Act of 1934 (47 U.S.C. 522), as amended by this section, is further amended by inserting immediately after paragraph (2), as so redesignated, the following new paragraph:

"(3) the term 'available to a household' or 'available to a home' when used in reference to a multichannel video programming distributor means a particular household which is a subscriber or customer of the distributor or a particular household which is actively and currently sought as a subscriber or customer by a multichannel video programming distributor;".

(d) Section 602 of the Communications Act of 1934 (47 U.S.C. 522), as amended by this section, is further amended by inserting immediately after paragraph (5), as so redesignated, the following new paragraph:

"(6) the term 'cable community' means the households in the geographic area in which a cable system provides cable service;".

(e) Section 602 of the Communications Act of 1934 (47 U.S.C. 522), as amended by this section, is further amended by inserting immediately after paragraph (13), as so redesignated, the following new paragraphs:

"(14) the term 'headend' means the location of any equipment of a cable system used to process the signals of television broadcast stations for redistribution to subscribers;

"(15) the term 'multichannel video programming distributor' means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming;".

(f) Section 602 of the Communications Act of 1934 (47 U.S.C. 522), as amended by this section, is further amended by inserting immediately after paragraph (17), as so redesignated, the following new paragraph:

"(18) the term 'principal headend' means—

"(A) the headend, in the case of a cable system with a single headend, or

"(B) in the case of a cable system with more than one headend, the headend designated by the participating operator as the principal headend, except that such designation shall not undermine or evade the requirements of section 614;".

(g) Section 602 of the Communications Act of 1934 (47 U.S.C. 522), as amended by this section, is further amended by inserting immediately after paragraph (19), as so redesignated, the following new paragraphs:

"(20) the term 'qualified local commercial broadcast station' means any television broadcast station licensed and operating on a channel regularly assigned to its community by the Commission (except where such station would be considered a distant signal under section 111 of title 17, United States Code) that, with respect to a particular cable system—

"(A) is licensed to a comunity whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations, or any successor regulations thereto, is within 50 miles of the principal headend of the cable system, and which delivers to the cable system principal headend either a signal level of −45 dBm for UHF signals and −49 dBm for VHF signals at the input terminals of the signal processing equipment, or a baseband video signal, and

"(B) which is not a qualified noncommercial educational television station and is determined by the Commission to be a commercial station; such term shall not include low power television stations, television translator stations, and other passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto;

"(21) the term 'qualified noncommercial education television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; or

(ii) is owned and operated by a municipality and transmits only noncommercial programs for educational purposes; and

"(B) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B));

such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the cable community, (II) a full service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations".

(h) Section 602 of the Communications Act of 1934 (47 U.S.C. 522), as amended by this section, is further amended—

(1) by striking "and" at the end of paragraph (23), as so redesignated; and

(2) by inserting immediately after such paragraph (23) the following new paragraphs:

"(24) the term 'usable activated channels' means activated channels of a cable system, except those channels whose use for the distribution of broadcast signals would conflict with technical and safety regulations as determined by the Commission;

"(25) the term 'video programmer' means a person engaged in the production, creation, or wholesale distribution of a video programming service for sale; and".

REGULATION OF CABLE RATES

SEC. 5. Section 623 of the Communications Act of 1934 (47 U.S.C. 543) is amended to read as follows:

"REGULATION OF RATES

"SEC. 623. (a) Any Federal agency, State, or franchising authority may not regulate the rates for the provision of cable service, or for the installation or rental of equipment used for the receipt of cable service, except to the extent provided under this section and section 612. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

"(b)(1) If the Commission finds that a cable system is not subject to effective competition, the Commission shall ensure that the rates for the provision of basic cable service, including for the installation or rental of equipment used for the receipt of basic cable service, or charges for changes in service tiers, are reasonable; except that if fewer than 30 percent of all customers to that cable system subscribe only to basic cable service, the Commission also shall ensure that rates are reasonable for the lowest-priced tier of service subscribed to by at least 30 percent of the cable system's customers.

"(2)(A) Upon written request by a franchising authority, the Commission shall review the State and local laws and regulations governing the regulation of rates of cable systems under the jurisdiction of such franchising authority. The Commission shall authorize such franchising authority to carry out such regulation pursuant to paragraph (1) in lieu of the Commission if the Commission finds that—

"(i) such State and local laws and regulations conform to the procedures, standards, requirements, and guidelines prescribed under paragraph (4) and any interpretative rulings, decisions, and orders of the Commission that relate to rate regulation under this subsection; and

"(ii) such franchising authority will provide the level of protection to consumers required by the Commission and that carries out the national policy established in this title.

"(B) Upon petition by a cable operator or other interested party, the Commission shall review such regulation of cable system rates by a franchising authority authorized under this paragraph. If the Commission finds that the franchising authority has acted inconsistently with the requirements in subparagraph (A), the Commission shall grant appropriate relief. If the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the State and local laws and regulations are not in conformance with subparagraph (A)(i) or (ii), the Commission shall revoke such authorization.

"(3) A cable operator may add to or delete from a basic cable service tier any video programming other than retransmitted local television broadcast signals. Any obligation imposed by operation of law inconsistent with this subsection is preempted and may not be enforced.

"(4) Within 120 days after the date of enactment of the Cable Television Consumer Protection Act of 1991, the Commission shall prescribe by rule procedures, standards, requirements, and guidelines for the establishment of reasonable rates charged for basic cable service by a cable operator not subject to effective competition.

"(5) A cable operator may file with the Commission, or with a franchising authority authorized by the Commission under paragraph (2) to regulate rates, a request for a rate increase in the price of a basic cable service tier. Any such request upon which final action is not taken within 180 days after such request shall be deemed granted.

"(c)(1) When a franchising authority or a subscriber of any cable system found by the Commission not to be subject to effective competition files, within a reasonable time after a rate increase for cable programming service of that system, including an increase which results from a change in that system's service tiers or from a change in the per channel rate paid by subscribers for a particular video programming service, a complaint which establishes a prima facie case that rates for such cable programming service are unreasonable based on the criteria established by the Commission, the Commission shall determine whether such rates for cable programming service are unreasonable. In making its determination, the Commission shall inquire of the cable operator of such system as to the reasons for such rates. If the Commission finds that such rates cannot be justified under reasonable business practices, the Commission shall establish reasonable rates.

"(2) Within 180 days after the date of enactment of the Cable Television Consumer Protection Act of 1991, the Commission shall prescribe by rule—

"(A) the criteria for determining whether rates for cable programming service are unreasonable, and

"(B) criteria for determining that (i) a complaint described under paragraph (1) is filed within a reasonable period after a rate increase and (ii) the complaint establishes a prima facie case that rates for cable programming service are unreasonable.

"(3) In establishing the criteria for determining whether rates for cable programming service are unreasonable pursuant to paragraph (2)(A), the Commission shall consider, among other factors—

"(A) the extent to which service offerings are offered on an unbundled basis;

"(B) rates for similarly situated cable systems offering comparable services, taking into account, among other factors, similarities in facilities, regulatory and governmental costs, and number of subscribers;

"(C) the history of rates for such service offerings of the system;

"(D) the rates for all cable programming service offerings taken as a whole; and

"(E) the rates for such service offerings charged by cable systems subject to effective competition, as defined in subsection (d).

"(d) Under this section, a cable system shall be presumed to be subject to effective competition if—

"(1) fewer than 30 percent of the households in the cable community subscribe to the cable service of such cable system; or

"(2) the cable community is served by a sufficient number of local television broadcast signals and by more than one multichannel video programming distributor.

For purposes of paragraph (2), a cable community shall be considered as served by more than one multichannel video programming

distributor if (A) comparable video programming is available at comparable rates to at least a majority of the households in the cable community from a competing cable operator, multichannel multipoint distribution service, direct broadcast satellite program distributor, television receive-only satellite program distributor, or other competing multichannel video programming distributor, and (B) the number of households subscribing to programming services offered by such competing multichannel video programming distributor, or by a combination of such distributors, is in the aggregate at least 15 percent of the households in the cable community. No competing multichannel video programming distributor serving households in a cable community which, directly or indirectly, is owned or controlled by, or affiliated through substantial common ownership with, the cable system in that cable community, shall be included in any determination regarding effective competition under this subsection.

"(e) Nothing in this title shall be construed as forbidding any Federal agency, State, or franchising authority from—

"(1) prohibiting discrimination among customers of cable service; or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of cable service by hearing-impaired individuals.

"(f) For purposes of this section, the term 'cable programming service' means all video programming services, including installation or rental of equipment not used for the receipt of basic cable service, regardless of service tier, offered over a cable system except basic cable service and those services offered on a per channel or per program basis.

"(g) Within 120 days of enactment of this subsection, the Commission shall, by regulation, establish standards, guidelines, and procedures to prevent evasions of the rates, services, and other requirements of this section.".

NONDISCRIMINATION WITH RESPECT TO VIDEO PROGRAMMING

SEC. 6. Part IV of title VI of the Communications Act of 1934 (47 U.S.C. 551 et seq.) is amended by adding at the end the following new sections:

"NONDISCRIMINATION WITH RESPECT TO VIDEO PROGRAMMING

"SEC. 640. (a) A video programmer in which a cable operator has an attributable interest and who licenses video programming for national or regional distribution—

"(1) shall not unreasonably refuse to deal with any multichannel video programming distributor;

"(2) shall not discriminate in the price, terms, and conditions in the sale of the video programmer's programming among cable systems, cable operators, or other multichannel video programming distributors if such action would have the effect of impeding retail competition.

"(b) A video programmer in which a cable operator has an attributable interest and who licenses video programming for national or regional distribution shall make programming available on similar price, terms, and conditions to all cable systems, cable operators, or their agents or buying groups: *Provided however*, That such video programmer may—

"(1) impose reasonable requirements for creditworthiness, offering of service, and financial stability;

"(2) establish different price, terms, and conditions to take into account differences in cost in the creation, sale, delivery, or transmission of video programming;

"(3) establish price, terms, and conditions which take into account economies of scale or other cost savings reasonably attributable to the number of subscribers served by the distributor; and

"(4) permit price differentials which are made in good faith to meet the equally low price of a competitor.

"(c) The Commission shall prescribe rules and regulations to implement this section. The Commission's rules shall—

"(1) provide for an expedited review of any complaints made pursuant to this section; and

"(2) provide for penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) Any person who encrypts any satellite cable programming for private viewing shall make such programming available for private viewing by C-band receive-only home satellite antenna users.

"(f) This section shall not apply to the signal of an affiliate of a national television broadcast network or other television broadcast signal that is retransmitted by satellite and shall not apply to any internal satellite communication of any broadcaster, broadcast network, or cable network.

"(g) For purposes of this section, any video programmer who licenses video programming for distribution to more than one cable community shall be considered a regional distributor of video programming. Nothing contained in this section shall require any person who licenses video programming for national or regional distribution to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"AGREEMENTS BETWEEN CABLE OPERATORS AND VIDEO PROGRAMMERS

"SEC. 641. Within one year after the date of enactment of this section, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators and video programmers. Such regulations shall—

"(1) include provisions designed to prevent a cable operator or other multichannel video programming distributor from requiring a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) include provisions designed to prohibit a cable operator or other multichannel video programming distributor from coercing a video programmer to provide exclusive rights against other multichannel video programming distributors as a condition of carriage on a system;

"(3) contain provisions designed to prevent a multichannel video programming distributor from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programmer to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation in the selection, terms, or conditions for carriage of video programmers;

"(4) provide for expedited review of any complaints made by a video programmer pursuant to this section; and

"(5) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.".

LEASED COMMERCIAL ACCESS

SEC. 7. (a) Section 612(a) of the Communications Act of 1934 (47 U.S.C. 532(a)) is amended by inserting "to promote competition in the delivery of diverse sources of video programming and" immediately after "purpose of this section is".

(b) Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) in paragraph (1) by inserting "and with rules prescribed by the Commission under paragraph (4)" immediately after "purpose of this section"; and

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

"(4)(A) The Commission shall have the authority to—

"(i) determine the maximum reasonable rates that a cable operator may establish pursuant to paragraph (1) for commercial use of designated channel capacity, including the rate charged for the billing of rates to subscribers and for the collection of revenue from subscribers by the cable operator for such use; and

"(ii) establish reasonable terms and conditions for such use, including those for billing and collection.

"(B) Within 180 days after the date of enactment of this paragraph, the Commission shall establish rules for determining the maximum reasonable rate under subparagraph (A)(i) and for establishing terms and conditions under subparagraph (A)(ii).".

(c) Paragraph (5) of section 612(b) of the Communications Act of 1934 (47 U.S.C. 532(b)) is amended to read as follows:

"(5) For the purposes of this section, the term 'commercial use' means the provision of video programming, whether or not for profit.".

LIMITATIONS ON CONTROL AND UTILIZATION

SEC. 8. Subsection (f) of section 613 of the Communications Act of 1934 (47 U.S.C. 533) is amended to read as follows:

"(f)(1) In order to enhance effective competition, the Commission shall, within one year after the date of enactment of the Cable Television Consumer Protection Act of 1990, conduct a rulemaking proceeding to prescribe rules and regulations establishing—

"(A) reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest; and

"(B) reasonable limits on the number of channels on a cable system that can be occupied by a video programmer in which a cable operator has an attributable interest.

"(2) In prescribing rules and regulations under paragraph (1), the Commission shall, among other public interest objectives—

"(A) ensure that no cable operator or group of cable operators can unfairly impede, either because of the size of any individual operator or because of joint actions by a group of operators of sufficient size, the flow of video programming from the video programmer to the consumer;

"(B) ensure that cable operators affiliated with video programmers do not favor such programmers in determining carriage on their cable systems or do not unreasonably restrict the flow of such programming to other video distributors;

"(C) take particular account of the market structure, ownership patterns, and other relationships of the cable television industry, including the nature and market power of the local franchise, the joint ownership of cable systems and video programmers, and the various types of non-equity controlling interests;

"(D) account for any efficiencies and other benefits that might be gained through increased ownership or control;

"(E) make such rules and regulations reflect the dynamic nature of the communications marketplace;

"(F) not impose limitations which would bar cable operators from serving previously unserved rural areas; and

"(G) not impose limitations which would impair the development of diverse and high quality video programming.".

CROSS-OWNERSHIP

SEC. 9. (a) Section 613(a) of the Communications Act of 1934 (47 U.S.C. 533(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

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

"(2) It shall be unlawful for a cable operator to hold a license for multichannel multipoint distribution service, or to offer satellite master antenna television service separate and apart from any franchised cable service, in any portion of the cable community served by that cable operator's cable system. The Commission—

"(A) shall waive the requirements of this paragraph for all existing multichannel multipoint distribution services and satellite master antenna television services which are owned by a cable operator on the date of enactment of this paragraph; and

"(B) may waive the requirements of this paragraph to the extent the Commission determines is necessary to ensure that all significant portions of the affected cable community are able to obtain video programming.".

(b) Section 613(c) of the Communications Act of 1934 (47 U.S.C. 533(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

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

"(2) If ten percent of the households in the United States with television sets subscribe to service provided by multichannel video programming distributors directly via satellite to home satellite antennae, the Commission shall promulgate appropriate regulations (A) limiting ownership of any such distributor by cable operators or any person having other media interests and (B) requiring access to such satellite service by unaffiliated video programmers.".

CUSTOMER SERVICE

SEC. 10. (a) Section 632(a) of the Communications Act of 1934 (47 U.S.C. 552(a)) is amended by inserting "may establish and" immediately after "authority" and in paragraph (1) by inserting immediately after "operator" the following: "that (A) subject to the provisions of subsection (e), exceed the standards set by the Commission under this section, or (B) prior to the issuance by the Commission of rules pursuant to subsection (d)(1), exist on the date of enactment of the Cable Television Consumer Protection Act of 1991".

(b) Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended by adding at the end the following new subsections:

"(d)(1) The Commission, within 180 days after the date of enactment of this subsection, shall, after notice and an opportunity for comment, issue rules that establish customer service standards that ensure that all customers are fairly served. Thereafter the Commission shall regularly review the standards and make such modifications as may be necessary to ensure that customers of the cable industry are fairly served. A franchising authority may enforce the standards established by the Commission.

"(2) Notwithstanding the provisions of subsection (a) and this subsection, nothing in this title shall be construed to prevent the enforcement of—

"(A) any municipal ordinance or agreement in effect on the date of enactment of this subsection, or

"(B) any State law,

concerning customer service that imposes customer service requirements that exceed the standards set by the Commission under this section.

"(e) In the event that a particular franchising authority, pursuant to its authority under subsection (a), requires provisions for enforcement of customer service requirements of the cable operator that exceed the standards established by the Commission, the cable operator may petition the Commission for a declaration, after notice and hearing and based upon substantial evidence, that the particular franchising authority's requirements are not in the public interest. In determining whether a particular franchising authority's provisions for enforcement of customer service requirements are not in the public interest, the Commission shall consider the needs of the local area served by the particular franchising authority.".

FRANCHISE RENEWAL

SEC. 11.(a) Section 626(a) of the Communications Act of 1934 (47 U.S.C. 546(a)) is amended by adding at the end the following: "Submission of a timely written renewal notice by the cable operator specifically requesting a franchising authority to initiate the formal renewal process under this section is required for the cable operator to invoke the renewal procedures set forth in subsections (a) through (g); except that nothing in this section requires a franchising authority to commence the renewal proceedings during the 6-month period which begins with the 36th month before the franchise expiration.".

(b) Section 626(c)(1) of the Communications Act of 1934 (47 U.S.C. 546(c)(1)) is amended—

(1) by inserting "pursuant to subsection (b)" immediately after "renewal of a franchise"; and

(2) by striking "completion of any proceedings under subsection (a)" and inserting in lieu thereof the following: "date of the submission of the cable operator's proposal pursuant to subsection (b)".

(c) Section 626(c)(1)(A) of the Communications Act of 1934 (47 U.S.C. 546 (c)(1)(A)) is amended by inserting "throughout the franchise term" immediately after "law".

(d) Section 626(c)(1)(B) of the Communications Act of 1934 (47 U.S.C. 546(c)(1)(B)) is amended—

(1) by striking "mix, quality, or level" and inserting in lieu therof "mix or quality"; and

(2) by inserting "throughout the franchise term" immediately after "needs".

(c) Section 626(d) of the Communications Act of 1934 (47 U.S.C. 546(d)) is amended—

(1) by inserting "which has been submitted in compliance with subsection (b)" immediately after "Any denial of a proposal for renewal"; and

(2) by striking all after "unless" and inserting in lieu thereof the following: "the operator has notice and opportunity to cure, or in any case in which it is documented that the franchising authority has waived in writing its right to object.".

(f) Section 626(e)(2)(A) of the Communications Act of 1934 (47 U.S.C. 546(e)(2)(A)) is amended by inserting immediately after "section" the following: "and such failure to comply actually prejudiced the cable operator".

(g) Section 626 of the Communications Act of 1934 (47 U.S.C. 546) is amended by adding at the end the following new subsection:

"(i) Notwithstanding the provisions of subsections (a) through (h), any lawful action to revoke a cable operator's franchise for cause shall not be negated by the initiation of renewal proceedings by the cable operator under this section.".

REQUIREMENT FOR CERTAIN EQUIPMENT ON TELEVISION SETS SEC. 12. SECTION 303(S) OF THE COMMUNICATIONS ACT OF 1934 (47 U.S.C. 303(S) IS AMENDED—

(1) by inserting ", and be equipped with an electronic switch permitting users of the apparatus to change readily among all video distribution media," immediately after "television broadcasting"; and

(2) by inserting immediately before the period at the end of the following: ", except that such electronic switch shall be required only if the Commission determines that the installation of the switch is technically and economically feasible".

LIMITATION OF FRANCHISING AUTHORITY LIABILITY

SEC. 13. Part III of title VI of the Communications Act of 1934 (47 U.S.C. 621 et seq.) is amended by adding at the end the following new section:

"LIMITATION OF LIABILITY

"SEC. 628.(a) In any court proceeding pending on the date of enactment of this section, or initiated after such date, involving any claim under the Civil Rights Acts asserting a violation of First Amendment constitutional rights by a franchising authority or other governmental entity or by any official, member, employee, or agent of such authority or entity, arising from actions expressly authorized or required by this title, any relief shall be limited to injunctive relief, declaratory relief, and attorney's fees and legal costs, except as provided in subsection (b).

"(b) The limitation required by subsection (a) shall not apply to actions that, prior to such violation, have been determined by a final order of a court of binding jurisdiction, no longer subject to appeal, to be in violation of constitutional rights under the First Amendment or of the Civil Rights Act.".

MINIMUM TECHNICAL STANDARDS

SEC. 14. Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

"(e)(1) The Commission shall, within one year after the date of enactment of the Cable Television Consumer Protection Act of 1990, establish minimum technical standards to ensure adequate signal quality for all classes of video programming signals provided over a cable system, and thereafter shall periodically update such minimum standards to reflect improvements in technology.

"(2) The Commission may establish standards for technical operation and other signals provided over a cable system including but not limited to high-definition television (HDTV).

"(3) The Commission may require compliance with and enforce any standard established under this subsection, adjusted as appropriate for the particular circumstances of the local cable system and cable community.

"(4) The Commission shall establish procedures for complaints or petitions asserting the failure of a cable operator to meet the technical standards and seeking an order compelling compliance; except that nothing in this subsection shall be construed to limit

the ability of a complainant or petitioner to seek any other remedy that may be available under the franchise agreement or State or Federal law or regulation.

"(5) After the establishment of technical standards by the Commission pursuant to this section, neither a State or political subdivision thereof, nor a franchising authority or other governmental entity of a State or political subdivision thereof, shall—

"(A) establish any technical standards described in this subsection;

"(B) enforce any such standards that have not been established by the Commission; or

"(C) enforce any such standards that are inconsistent with the standards established by the Commission.".

REQUIREMENT TO CARRY LOCAL BROADCAST SIGNALS

SEC. 15. Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting immediately after section 613 the following new sections:

"CARRIAGE OF LOCAL COMMERCIAL BROADCAST SIGNALS

"SEC. 614. (a) Each cable operator that relies upon compulsory licensing pursuant to section 111 of title 17, United States Code, for secondary transmissions by its cable system (hereafter in this section referred to as a 'participating operator') shall carry the signals of qualified local commercial broadcast stations in accordance with the provisions of this section.

"(b)(1) A participating operator of a cable system with 12 or fewer usable activated channels shall carry the signals of a minimum of three qualified local commercial broadcast signals.

"(2) A participating operator of a cable system with more than 12 usable activated channels shall carry the number of signals of qualified local commercial broadcast stations that is equal to one-third of the aggregate number of usable activated channels of such system.

"(c)(1) Whenever the number of qualified local commercial broadcast stations exceeds the minimum number of signals of such stations that a participating operator of a cable system is required to carry under this section, the participating operator shall have discretion in selecting which signals shall be carried on its cable system in order to meet the carriage requirements of this section; except that if the participating operator elects to carry an affiliate of a broadcast network entity, such operator shall carry the affiliate of such broadcast network entity whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations, or any successor regulations thereto, is closest to the principal headend of the cable system. The carriage of each signal of a qualified local commercial broadcast station shall be included in determining whether a participating operator of a cable system has complied with the requirements of this section, even if the signal of one such station substantially duplicates that of another station. For purposes of this paragraph, the term "broadcast network entity" means an organization which produces programs available for simultaneous transmission by 10 or more affiliated broadcast stations and which has distribution locality or circuits available to such affiliated stations at least 12 hours each day.

"(2) Each signal carried in fulfillment of carriage obligations of a participating operator of a cable system under this section shall be carried on the cable system channel number on which the qualified local commercial broadcast station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the broadcaster, or on such other channel number as mutually agreed upon by the broadcaster and the participating operator. Any disputes regarding the positioning of a qualified local commercial broadcast station shall be resolved by the Commission.

"(3) A participating operator of a cable system shall carry in its entirety the primary video and accompanying audio transmission of each of the qualified local commercial broadcast stations the operator selects to carry in accordance with this section. Retransmission of material in the vertical blanking interval or other enhancements of the primary video and audio signal (including multi-channel sound, teletext, and materials carried on subcarriers) shall be within the discretion of the participating operator.

"(4) The signals of a qualified local commercial broadcast station that are carried on the cable system of a participating operator shall be carried without material degradation.

"(5) A participating operator of a cable system shall not be required to carry the signal of any qualified local commercial broadcast station that substantially duplicates the signal of another qualified local commercial broadcast station that is carried by the operator.

"(6) Signals carried in fulfillment of carriage obligations of a participating operator under this section shall be available on the lowest priced tier of service separately available to each cable subscriber to which subscription is required for access to all other tiers of service. Such signals shall be viewable via cable on all television receivers of a subscriber connected to a cable system by a cable operator. If a participating operator of a cable system authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment or materials for such connections, the operator shall notify such subscribers in writing of all broadcast stations within 50 miles of the principal headend of the cable system that are not available without a cable converter box and shall offer to sell or lease such a converter box to such subscribers.

"(7) A participating operator shall identify, upon request by any person, those signals carried in fulfillment of the signal carriage obligations of the operator under this section.

"(8) A participating operator of a cable system shall provide written notice to a qualified local commercial broadcast station, the franchising authority of such cable system, and subscribers of such cable system at least 30 days prior to either deleting from carriage or repositioning the signal of that qualified local commercial broadcast station. No such deletion or repositioning shall occur during a sweeps period in which major television rating services measure the size of audience of qualified local commercial broadcast stations.

"(9) A participating operator of a cable system shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local commercial broadcast station carried in fulfillment of signal carriage obligations of the operator under this section, except that any such station may be required to bear any cost associated with delivering to the headend of the cable system a signal of the quality defined in section 602(20).

"(d)(1) Whenever a qualified local commercial broadcast station believes that a participating operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such operator has failed to comply with such requirements and state the basis for such allegations.

"(2) The Commission shall afford such participating operator an opportunity to present data, views, and arguments to establish that the operator has complied with the signal carriage requirements of this section.

"(3) Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the participating operator has complied with the requirements of this section. If the Commission determines that the participating operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the participating operator has fully complied with such requirements, the Commission shall dismiss the complaint.

CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION SIGNALS

"SEC. 615. (a) In addition to the carriage requirements set forth in section 614, each operator of a cable system (hereafter in this section referred to as an 'operator') shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section. The provisions of this section apply without regard for whether the operator is a participating operator as defined in section 614(a).

"(b)(1) Subject to paragraphs (2) and (3) and subsection (e), each operator shall carry, on the cable system of that operator, each qualified local noncommercial educational television station requesting carriage.

"(2)(A) Notwithstanding paragraph (1), an operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of only one qualified local noncommercial educational television station; except that an operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3)(A) Subject to subsection (c), an operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the operator shall import the signal of at least one qualified noncommercial educational station to comply with subparagraph (A)(i).

"(C) The operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television station affiliated with the same network if the programming of such additional station is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) An operator of a system described in subparagraph (A) which increased the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990 shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) Notwithstanding any other provision of this section, all operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular operator and a particular such station, upon the written consent of the operator and the station.

"(d) An operator required to add the signals of qualified local noncommerical educational television stations to a cable system under this section may do so by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) An operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) A qualified local noncommercial educational television station whose signal is carried by an operator shall not assert any network non-duplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that operator.

"(g)(1) An operator shall retransmit in its entirety the primary video and accompanying audio transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the operator.

"(2) An operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section, with bandwidth and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) The signal of a qualified local noncommercial educational television station shall not be repositioned by an operator unless the operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system.

"(4) Notwithstanding the other provisions of this section, an operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(h) Signals carried in fulfillment of the carriage obligations of an operator under this section shall be available to every subscriber as part of the cable system's lowest priced service that includes the retransmission of local television broadcast signals.

"(i)(1) An operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

"(2) Notwithstanding the provisions of this section, an operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered as a distant signal for copyright purposes unless such station reimburses the operator for the incremental copyright costs assessed against such operator as a result of such carriage.

"(j)(1) Whenever a qualified local noncommercial educational television station believes that an operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such operator has failed to compy with such requirements and state the basis for such allegations.

"(2) The Commission shall afford such participating operator an opportunity to present data, views, and arguments to establish that the operator has complied with the signal carriage requirements of this section.

"(3) Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the operator has complied with the requirements of this section. If the Commission determines that the operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) An operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

"(l) For purposes of this section, 'qualified local noncommercial educational television station' is defined as a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system.".

JUDICIAL REVIEW

SEC. 16. Section 635 of the Communications Act of 1934 (47 U.S.C. 555) is amended by adding at the end the following new subsection:

"(c)(1) Notwithstanding any other provision of law, any civil action challenging the constitutionality of section 614 of this Act or any provision thereof shall be heard by a district court of three judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

"(2) Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of three judges in an action under paragraph (1) holding section 614 of this Act or any provision thereof unconstitutional shall be reviewable as a matter or right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.".

HOME WIRING

SEC. 17. Section 624 of the Communications Act of 1934 (17 U.S.C. 544) is amended by adding at the end the following new subsection:

"(g) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules and regulations concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.".

SEPARABILITY

SEC. 18. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application as to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 19. Except as otherwise specified in this Act, the requirements of this Act shall be effective 60 days after the date of enactment of this Act. The Federal Communications Commission may promulgate such regulations as it determines necessary to interpret such requirements that are not inconsistent herewith.●

Mr. GORE. Madam President, I do not plan to speak today on the cable legislation that will be introduced by Senator DANFORTH and Senator HOLLINGS, except to say that I am proud to

be a cosponsor of it and to make a brief statement.

New legislation to control rapidly increasing rates on cable television is still necessary. The situation is no better today than it was 2 years ago. In fact, it is worse. It is a monopoly that is neither regulated nor faces any competition, and no business in America should be in that situation. It is imperative that this Congress act this year to give some relief to people who are paying outrageous increases in their rates for cable television.

Mr. HOLLINGS. Mr. President, I rise in support of the Cable Television Consumer Protection Act of 1991. I have followed the communications industry for decades and am continually impressed by its progress and achievements. Who would have thought a decade ago that over half of the American public would be willing to pay to watch television? After all, we had the best television in the world, and you could receive it for free. Yet, it is clear that the public sees something special in cable television—over 57 percent of American homes now subscribe to cable—and people are willing to pay a significant amount to receive it.

This tremendous growth in the cable industry has produced much of value. Most cable subscribers have access to 36 channels, and this amount is steadily increasing. Many systems already offer twice as many channels as before enactment of the Cable Communications Policy Act of 1984. This increase in capacity has been accompanied by a great increase in the programming that is offered, and here too, more is on the horizon. That is an outstanding record.

This growth also has produced problems. The Commerce Committee has heard about undue rate increases, customer service problems, and various anticompetitive market practices. I know that many of these problems are the result of certain "bad actors". I can assure everyone that we will not set policy based on isolated events.

However, there is more here than isolated events. The cable industry is no longer a second-class video distributor that only retransmits broadcast programming. It now serves more than half of American homes, and that amount is increasing. Furthermore, it has de facto exclusive franchises. It appears well on its way to becoming the dominant video distributor.

I know that cable systems face some competition from over-the-air broadcasters and from video rental stores. However, most often there exists no multichannel competitor, and most people subscribe to cable because of the wide group of satellite-delivered signals. Cable systems thus have become important gatekeepers. They are to be commended for their growth, but they also must recognize that they have achieved a new status and have acquired new responsibilities. These new attributes will become even more important if cable continues its impressive growth.

Last Congress, under the leadership of Senator INOUYE, the chairman of the Communications Subcommittee, the Commerce Committee began to examine what should be done to address the cable industry and the concerns raised by consumers. The committee carefully and deliberately compiled an extensive record through numerous hearings and meetings. The committee then drafted legislation that represented a true consensus of the committee's members. In fact, that legislation was reported by the committee by a vote of 18 to 1. The legislation we are introducing today is based on that same bill.

It reflects my concerns and those of my colleagues about the need to have some control over rates and to ensure that customers are properly served. We must prevent monopolistic practices. At the same time, we want to encourage the growth of programming, the increase in channel capacity, and the development of new technologies.

The bill we are introducing today seeks the proper balance among these competing objectives. It represents a substantial effort. I look forward to continuing to work with my colleagues, and with representatives of consumers, the cable industry, broadcasters and other interested parties to advance this legislation and ensure that it accomplishes its objectives.

Mr. GORE. Mr. President, with the introduction of S. 12, The Cable Television Consumer Protection Act of 1991, we renew the long-running debate on cable television policy. The bill is essentially the same as the legislation reported out of the Commerce Committee last year. But the fact that we are introducing this bill today—at the beginning of this Congress—should send a clear message that advocates of legislation are as determined as ever to act.

When S. 1880 died last October—largely at the instigation of an obstinate White House and some powerful forces in the cable industry—the issues and the problems that sparked these efforts did not disappear. The problems that beseiged this industry and its consumers last year are with us this year.

Mr. President, I want to be sure to note that not all cable executives worked to kill this bill last year. As the 101st Congress came to its end in October, several industry leaders were entirely forthcoming and cooperative in helping us reach important compromises designed to advance the bill. The so-called Gore-Wirth compromise on exclusivity was hammered out after weeks of good-faith negotiations with key representatives within the industry. While that compromise is not part of the new bill—and may not be included as this bill advances—I was pleased to work with these industry leaders who viewed legislation as a responsible course.

Passage of the bill last year would have put this issue to rest. None of us wanted to continue this drumbeat of criticism of an industry which, in fact, has brought many wonderful new forms of television entertainment and information to millions of families. We are all grateful to cable for its efforts to create and then support coverage of the Congress through C-SPAN, new educational programming services from local institutions, coverage of local government decision-making, innovative children's programming, and so much more.

But for the past 6 years, the question has been simple: when you have an industry that looks like a monopoly, acts like a monopoly, smells like a monopoly, and charges captive customers like a monopoly, what do we, as Federal policy makers do about it even while the industry is claiming it is not a monopoly?

The 1984 Cable Act took away the authority of local officials to control abuses, such as when franchises are bought and sold like the junk bonds that finance so many of these franchise takeovers.

Since deregulation consumers have faced alarming rate hikes—in some cases a doubling of rates overnight, as in 22 West Tennessee communities in 1988. In that example, a stable, locally based cable operator was providing essential services to small communities at a fair price. A go-go multi-system operation from Connecticut, MultiVision, using highly leveraged venture capital, paid far too much money to take over these rural systems. Left with a huge debt service, MultiVision had no choice but to jack up rates for basic service to meet their interest payments alone, while adding no new services whatsoever.

The now-infamous MultiVision case may have been one of the most glaring examples of abuse by the cable industry, but it was by no means unique. Practically every Congressional office has a fat file of complaints—in my case more than 4,000 letters—about unwarranted rate increases—and new complaints are added to this file every day.

While some rate adjustments in Tennessee and throughout the country were reasonable, and resulted in improved services and more cable channels, in far too many cases rate hikes were purely efforts to increase profits from captive consumers who have become increasingly dependent upon cable as a primary conduit for information services to their homes.

Clearly, some regulatory adjustments to the 1984 Cable Act were in order. Yet too many cable systems have gone too far in testing what the market will bear, and for too long have ignored their service responsibilities. Direct basic rate increases are not the

only devices cable operators have used to enhance profits. More recently we have seen customers facing moderate basic rate increases, but new—and totally unjustified—rental charges for cable decoders already in place. Other disguised rate hikes were thrown at consumers in the form of basic rates held level only if customers purchase expensive premium services—HBO, Showtime, etc.—otherwise basic rates would be forced up.

S. 12 provides local communities with tools to keep precipitous rate hikes in check, while preserving the revenue flows so cable operators and programmers can improve services and add programming.

Unfortunately, the prospect of competition—which clearly can hold rates in check—is as elusive as ever. The most direct form of competition—local overbuilders of cable systems—is practically non-existent. Out of 9,000 cable franchises nationwide, consumers in fewer than 50 communities have the option of a competing system. Consumers' Research recently found that local cable rates were on average 18 percent lower in communities with overbuilds than those with only one system. But the prospect of this kind of competition is bleak to zero.

Other technological competitors are severely disadvantaged as well. The telephone companies are expressly prohibited from competing with cable. Wireless cable and home satellite dish program distributors often cannot get fair treatment from the companies selling cable programming, and are forced to pay much higher prices for programming, if they can get it at all. The long-awaited, high-powered direct-broadcast satellite systems [DBS] with small home dishes will never get up and running if they suffer the same fate as traditional home dish businesses. Some progress has been made—such as HBO's decision last year to make its services available to most distributors at non-discriminatory prices. But all too often this approach is rejected in favor of highly discriminatory behavior, such as ESPN's continued determination to keep process artificially high for satellite dish distributors.

Moreover, many cable programmers, especially those who are not owned by cable MSOs, fear that the major cable companies which represent their primary source of revenues will retaliate if they allow equal access to cable's competitors. Cable MSOs often have a life-or-death control over new programming services, and have at times exercised this control in devastating ways. Several years ago TCI Inc.—the country's largest cable operator—refused to grant access to NBC's startup cable news service, and NBC was forced to kill the new channel. And even when TCI agreed to take NBC's next cable effort, CNBC, it demanded that NBC buy Tempo, a worthless programming service from TCI.

Our legislative effort is designed to prevent such anticompetitive behavior by requiring that programming services not discriminate against non-cable distributors of programming. Similarly, cable MSOs would not be allowed to extract "exclusive" distribution deals from programmers as a condition of carrying their programming.

Preventing the abuse of exclusive distribution contracts in the cable industry will stimulate competition for cable—competition which can ultimately solve the spiraling rate problem now nearly out of control in this country.

We have been debating these issues since the 1984 Cable Act deregulated cable operators. The problem facing consumers—skyrocketing prices, anticompetitive program distribution, poor customer service—all began to occur immediately after deregulation. Advocates of deregulation said: "Let's let the Act work, the problems will go away." But the problems haven't been solved, the industry is still severely distorted, little has changed. And in fact, from the standpoint of many consumers it has gotten worse.

The goal of S. 12 is to give consumers of cable television services at least modest relief from skyrocketing rates and the pervasive anticompetitive practices within the cable/programming industry. There will again be powerful forces opposing the bill, but the tide clearly has turned in the favor of ccnsumers when it comes to Federal cable policy.

Mr. President, I urge our colleagues to carefully review this new bill, and to join us in sending a message to consumers in their States that the Senate is prepared to finally bring some reason to the morass of regulatory problems in the cable marketplace.

Mr. INOUYE. Mr. President, I join today with Senator DANFORTH, Senator HOLLINGS and Senator GORE to support the Cable Television Consumer Protection Act of 1991. I want to thank these Senators for all of their work on this legislation. This bill should not come as a surprise. It is essentially the same bill that was approved by the Commerce Committee last June by a vote of 18 to 1 and which was authored by Senators HOLLINGS and DANFORTH and myself.

Until the 1984 act, there was no Federal policy for cable television. The FCC had only indirect authority to oversee the cable industry, which it obtained by virtue of its obligation to ensure that broadcasters served the public interest. About a dozen States had laws in effect controlling certain cable activities, and in those States where no law existed, the cities and other local government entities exercised control because cable systems had to pass through public rights of way. As a result, the cable industry was subjected to a crazy quilt of regulation, often to its detriment and to that of the subscriber.

The 1984 act changed this cable landscape significantly. It defined more precisely the roles of each governmental entity. The State or local authorities continued to regulate rates in the absence of effective competition and to control the franchising process, but under new constraints. The Federal Government controlled basic rate deregulation and technical standards. The 1984 act provided the cable industry with the potential to develop its systems and its programming. Actions by the FCC to implement the act further freed the industry from regulation, giving it the certainty to increase capital expenditures.

The 1984 act has achieved many of its objectives. Over the past 6 years, the cable industry has grown dramatically. Most of America is now wired to receive cable; almost 90 percent of the homes in the country are passed by cable systems, and over 60 percent of these homes subscribe to cable service. System capacity has increased; the average cable system offers about 36 channels, and this number is steadily increasing. Programming choices have also grown about 50 percent since the act was passed, with many more offerings now being planned. Cable television has become our Nation's dominant video distribution medium.

With this growth have come problems. In certain instances, rate increases have been excessive. For many systems, customer service has been abominable. Programmers have argued that they cannot get carried on cable systems without relinquishing control of their product. In addition, competing video distributors allege that these programmers refuse to deal with them. In general, it is argued that the cable industry now possesses undue market power which is used to the detriment of consumers, programmers, and competing video distributors. These concerns are addressed by this legislation.

As chairman of the Communications Subcommittee, I knew in the last Congress that we had to address these matters expeditiously, and I immediately began a series of hearings. My subcommittee held 10 hearings on cable-related issues. We listened to over 30 hours of testimony from about 75 different witnesses. Out of this exhaustive examination, virtually all members of the committee concluded that the 1984 Cable Act has been a success but has been accompanied by problems and that legislation was necessary to correct these problems. While we would prefer to remedy these problems through greater competition, such competition will not be forthcoming in the near future. Thus, it is necessary to impose greater regulation.

These conclusions are reflected in the legislation we are introducing today. This legislation addresses the concerns of consumers, programmers, and competitors about the market power of the cable industry. At the same time, it continues to permit the cable industry to grow and bring to the American public a new array of programming and other services. This bill represents a balanced package.

For the record, let me now summarize the major provisions of the legislation.

SUMMARY OF MAJOR PROVISIONS

SECTION 5—RATE REGULATION

The test for determining whether cable systems are subject to effective competition is made more stringent than existing FCC regulations. It requires that there be both a sufficient number of television signals and a multichannel video competitor prior to deregulation. If cable systems are not subject to competition, the FCC shall ensure that rates for basic cable service—the tier with retransmitted television signals—as well as the equipment used for the provision of that service, are reasonable. If fewer than 30 percent of a cable operator's customers subscribe to only the basic tier, the rates for the next tier can be regulated.

In addition, the FCC, upon complaint, shall ensure that rates for other—nonbasic and not offered on a per channel or per program basis—cable services and equipment used for the provision of those services are not unreasonable. Franchising authorities can obtain jurisdiction over basic rate regulation by certifying to the FCC that it will follow the FCC's procedures and standards. If the franchising authority does not follow these FCC requirements, its rate regulation authority can be revoked.

SECTION 6—PROGRAM DISTRIBUTION AND EXCLUSIVITY

National and regional cable programmers affiliated with cable operators cannot unreasonably refuse to deal with other video distributors. In addition, such programmers cannot discriminate in prices, terms, and conditions in the sale of programming to others if such discrimination would have the effect of impeding retail competition. Further, such a programmer must deal with cable operators and buying agents of cable operators on similar terms, but may take into account cost differentials as well as certain other factors. Cable operators cannot discriminate against unaffiliated cable programmers or require that a programmer give the operator a financial interest in the programmer as a condition of carriage. Finally, cable programmers who encrypt their satellite transmissions [C-Band] must make their programming available to home satellite dishowners.

SECTION 7—LEASED ACCESS

The FCC is given the authority to establish rates, terms, and conditions for access to these channels, including for billing and collection.

SECTION 8—LIMITATIONS ON CONTROL AND UTILIZATION

The FCC is required to conduct a rulemaking to prescribe reasonable limitations on first, the number of subscribers a cable operator can reach nationwide, and second, the number of channels that can be occupied on a cable system by programmers affiliated with a cable operator.

SECTION 9—CROSS-OWNERSHIP

A cable operator cannot own a multichannel multipoint distribution service [MMDS] system or a satellite master antenna television [SMATV] system in its franchise area, except that waivers can be granted. When approximately 10 percent of the Nation receives some form of direct satellite video service, the FCC is required to impose (A) limitations on the ownership of such services by cable operators and other persons having media ownership interests, and (B) access requirements for unaffiliated programmers.

SECTION 10—CUSTOMER SERVICE

The FCC is required to establish minimum customer service standards. Franchising authorities may set standards which exceed the FCC's standards. Cable operators may challenge a franchise authority's tougher standards at the FCC. Existing State laws, municipal ordinances and agreements that set customer service standards that are tougher than the FCC's are grandfathered.

SECTION 11—FRANCHISE RENEWAL

The legislation makes a series of changes to the procedural requirements in the current act.

SECTION 12—REQUIREMENTS FOR EQUIPMENT IN TELEVISION SETS

The FCC is given the authority—if it demonstrates technical and economic feasibility—to require television set manufacturers to include electronic switches to permit users to change readily among all video distribution media.

SECTION 13—LIMITATIONS ON FRANCHISING AUTHORITY LIABILITY

If franchising authorities act pursuant to the provisions of this act, they may be subject only to injunctive relief, declaratory relief, or attorneys' fees for claims asserting violations of first amendment rights.

SECTION 14—MINIMUM TECHNICAL STANDARDS

The FCC is required to establish minimum technical standards for the operation of cable systems.

SECTION 15—REQUIREMENT TO CARRY LOCAL BROADCAST SIGNALS

The bill requires carriage of local broadcasters and limits the discretion of cable systems to shift channel positions. It requires cable systems to devote up to one-third of their capacity to broadcast stations. The bill also includes the agreement reached between the public broadcasters and the cable industry.

SECTION 17—HOME WIRING

The FCC is required to prescribe rules concerning the disposition of cable-installed wires inside a home when the subscriber terminates service.

While this legislation is very similar to that approved by the Commerce Committee last Congress, we will be holding extensive hearings on this bill early in the year. It is our intention to move this legislation quickly, but not without providing all interested parties an opportunity to present their views.

Mr. LIEBERMAN. Mr. President, I am pleased to join again as a cosponsor of the Cable Television Consumer Protection Act of 1991, which Senators DANFORTH, HOLLINGS, and INOUYE are introducing today. Last year, under their leadership, we came extremely close to passing cable reform legislation. I sincerely hope that we can build on last year's efforts and secure passage of a strong, proconsumer cable reform bill.

The bill being offered today is much stronger than S. 1880, the bill reported out of the Commerce Committee last year. I am especially pleased that the sponsors of this bill have seen fit to incorporate the substance of two amendments I, along with Senator METZENBAUM, was prepared to offer last year if cable legislation came to the floor.

First, while this bill retains S. 1880 division of cable services into broadcast basic, expanded basic programming—such as ESPN, CNN, MTV, C-SPAN and Nickelodeon—and premium services—such as HBO, Showtime, and the Movie Channel—it has significantly strengthened the standards under which the FCC may review rates for expanded basic programming. Under S. 1880, the FCC could scrutinize rate increases for the tier of service including ESPN, CNN, C-SPAN, MTV, and Nickelodeon, but only to ensure that rates were not significantly excessive. This was a clear signal to cable operators that they could commit petty, but not grand larceny in structuring their rates. This year, Senators DANFORTH, HOLLINGS, and INOUYE have incorporated my and Senator METZENBAUM's proposed amendment which makes clear that cable operators cannot charge unreasonable rates for these services.

I am also pleased that the sponsors of this bill have incorporated my proposed amendment from last year to require the FCC to set minimum nationwide customer service standards, but to allow the States and franchising authorities to adopt tougher standards as their local needs dictate.

I believe this bill can and should be stronger. I will shortly be introducing, along with my friend Congressman

CHRIS SHAYS, the Cable Consumer Protection Act of 1991, which I believe better protects consumers, and I intend to work to strengthen the Cable Television Consumer Protection Act of 1991 as it works its way through Congress. Nevertheless, I also believe it is important to send a strong signal to the cable industry, and its friends and patrons in the administration, that the interests of the American consumer will not be denied this year.

Mr. MCCAIN. Mr. President, I share Senator DANFORTH'S concerns about the state of the cable industry in this country. The core of this issue lies in the plight of consumers who have experienced skyrocketing rates and poor cable service since the deregulation of the industry under the 1984 Cable Act. The cable industry was deregulated with the expectation that competition would flourish as other technologies entered into the field. The competition intended to benefit consumers has not materialized, and the public has been left to deal with a monopoly. The competitive force operating now is a take it or leave it philosophy by which the cable industry is exploiting a captive market.

There is evidence of this nationwide as cable rates have increased dramatically. Increases in basic cable rates have been reported to be an average of 29 percent. In Tucson, AZ, for example, rates have risen an average of more than 68 percent since deregulation took effect in 1986, and over 120 percent since passage of the 1984 Cable Act. Rates in the city of Mesa, AZ, have risen over 73 percent.

The consumer is the ultimate victim of these anticompetitive activities. Would-be operators and competitors from other industries are locked out of the cable marketplace by the industry's abuse of concentrated ownership. In doing this, the cable industry is actively stifling competition through unfair business practices. The result is limiting buying power for the consumer who suffers the impact of rising subscription costs, limited program choices, and poor service. As it stands now, consumers have two choices: they can either subscribe to this kind of service, which consumers have come to rely on more and more, or, as in the case of viewers in rural areas, be totally isolated from information and entertainment services.

These concerns prompted me to cosponsor S. 1880, the Cable Television Consumer Protection Act of 1989 in the 101st Congress. Like S. 1880, the legislation introduced by Senator DANFORTH today offers swift solutions to stemming the abuses by the industry. I commend Senator DANFORTH for his unwavering commitment to bringing this issue to the forefront.

While I have been a strong supporter of this initiative in the past, I am encouraged by a recent proposed rulemaking by the Federal Communications Commission [FCC] which establishes a threshold standard for effective competition. I am awaiting further developments in the rulemaking process before determining whether or not legislation requiring reregulation is the only means available to level the playing field so that other competitors might enter the market. I realize that these are difficult times for consumers who rely on cable services and feel that they have few alternatives for information and entertainment services. Nonetheless, I believe that it is important to allow the expert agency in this field an opportunity to act.

Reregulation should be the solution of last resort. Once the rulemaking outcome is known, the answer will be clear as to which alternative best assists the consumer and nurtures a healthy marketplace from which he or she can choose. The cable industry is on notice that the Senate is able and willing to act, and that reregulation of the industry is a very real possibility. If the FCC is unable to provide the solution to this problem, I, for one, am prepared, as I have been in the past, to support legislation to require reregulation of the cable industry, and to actively promote its passage.

By Mr. INOUYE:

S. 13. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain on certain sales of land subject to ground leases; to the Committee on Finance.

TAX TREATMENT OF LAND SUBJECT TO GROUND LEASES

• Mr. INOUYE. Mr. President, I rise to introduce a bill to amend the Internal Revenue Code of 1986 to exclude from gross income, profits on lease fee conversions of residential properties. This exemption, available until 1995, would provide an incentive for landowners to sell their fee simple interests to those persons currently leasing the land. It specifically addresses the situation involving condominium and co-op owners who are currently leasing the land on which their buildings or houses are situated.

This bill would increase the chances of residential and condominium owners, who currently lease their land, to become homeowners in the true sense of the word by purchasing the land on which they live.

The impact of this bill would be tremendous. In Hawaii, an estimated 70,000 people would be affected by this legislation. Much of the land in Hawaii is owned by a few large estates. Allowing these estates to sell some of their fee simple interests would benefit the State and its residents by increasing the number of landowners and thereby redistributing the wealth.

The large landholding estates in Hawaii would welcome this legislation as an opportunity to dispose of some of their land. The current system addresses the goal of broadening the number of landowners by mandatory conversions. This is a costly procedure requiring government condemnation of the land as part of the transfer. This bill would create an incentive for voluntary lease fee conversions. This would effectively remove the need for the government's involvement in this process.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the full text of my bill be placed in the RECORD following this statement.

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

S. 13

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. GAIN ON CERTAIN LAND SUBJECT TO GROUND LEASE.

"(a) GENERAL RULE.—Gross income shall not include any gain on a qualified sale of land.

"(b) QUALIFIED SALE.—For purposes of this section, the term 'qualified sale' means any sale or exchange of land if—

"(1) such land was subject to a ground lease on the date of the enactment of this section and at all times thereafter before the date of such sale or exchange,

"(2) such sale or exchange is to the lessee under such ground lease,

"(3) the only buildings on such land are residential buildings (or appurtenant structures), and

"(4) such sale or exchange is on or before December 31, 1995.

"(c) RESIDENTIAL BUILDING.—For purposes of this section, the term 'residential building' means—

"(1) any single-family house, and

"(2) any building containing 2 or more dwelling units (as defined in section 167(k)(3)(C)) if 80 percent or more of such building (other than common areas) consists of dwelling units (as so defined)."

(b) The table of sections of part III of subchapter B of chapter 1 of such code is amended by striking the item relating to section 136 and inserting the following:

"Sec. 136. Gain on certain sales of land subject to ground lease.

"Sec. 137. Cross references to other Acts."

(c) The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date.•

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ROBB):

S. 14. A bill to assist in restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

CHESAPEAKE BAY RESTORATION ACT

• Mr. SARBANES. Mr. President, today I am introducing S. 14, legisla-

tion to reauthorize and enhance the Chesapeake Bay Program. This bill, entitled the Chesapeake Bay Restoration Act of 1991, not only continues the tremendously successful program authorized in the 1987 Water Quality Act, but expands and strengthens cooperative efforts to restore and protect the Chesapeake Bay.

This bill was first introduced near the end of the 101st Congress in preparation for early consideration this year. I am pleased that my colleagues from Maryland and Virginia—Senators MIKULSKI, WARNER, and ROBB—are joining me today in reintroducing this important legislation and I want to note that a companion measure will be introduced in the House.

I spoke last October on the need for this legislation and I want to review the most compelling reasons today. First, the existing authorization for the Chesapeake Bay Program expired along with other Water Quality Act programs last September, at the end of fiscal year 1990. The program is being continued through authorities and funding in the appropriations process. However, there is still much more work that needs to be done on the bay and the need for a new authorization is perhaps greater now than ever before. Second, with the signing of the Chesapeake Bay Agreement in December 1987, the bay area jurisdictions and the Federal Government committed to an ambitious program to achieve improved water quality and living resources productivity. The bay area States have moved swiftly to enact legislation and dedicate funding to meet their commitments under the agreement. In order to assure effective implementation of the pact at the Federal level, it is essential that new authorities and resources be provided.

The Chesapeake Bay Restoration Act provides those much-needed resources. It authorizes $20 million a year for the next 4 years for the Chesapeake Bay Program—an increase of $7 million over the previously authorized level. It establishes a new initiative to address key issues such as toxic pollution, the decline of the bay's living resources, and population growth and land use. In my view, it represents the third leg of the three-legged stool on which the Chesapeake Bay Program must rest. The first two legs were established in the 1987 Water Quality Act authorization—a $3 million authorization for EPA to administer the program and a $10 million authorization for grants to the bay area States which has been used primarily for nonpoint source reduction efforts. The third leg, which this legislation would authorize, is this legislation which would provide the resources that are necessary for Federal agencies to begin implementing the strategies called for under the 1987 bay agreement.

The legislation has been carefully crafted with the assistance of the bay area States, the District of Columbia, the Chesapeake Bay Commission, the Citizens Advisory Committee, the Scientific and Technical Advisory Committee, the Local Government Advisory Committee, the Alliance for the Chesapeake Bay, the Chesapeake Bay Foundation, the bay area congressional delegation, and many others. It represents a consensus of the highest priority needs as identified by the agencies and organizations responsible for implementing the strategies and programs called for under the bay agreement. It is not intended as a catchall bill which addresses every aspect of every Federal agency's participation in the bay cleanup effort. Rather, it is intended to continue and improve upon the Chesapeake Bay Program that was authorized in the 1987 Clean Water Act.

We have come a long way since the first Chesapeake Bay Agreement was signed in December 1983 initiating the cooperative Federal-State effort to clean up the bay. Over the past 7 years, remarkable progress has been made in laying the groundwork for the restoration, protection and enhancement of the bay. An interstate and Federal-State management structure is in place, including memoranda of understanding between EPA and other major Federal agencies, outlining their responsibilities for the bay program. States have adopted far-reaching initiatives and activities that are now underway. The bay area congressional delegation has worked closely together and has been successful in protecting and even increasing funding for the Federal agencies involved in the bay program. There is strong public support and a high degree of cooperation and coordination among all parties. Indeed, the Chesapeake Bay Program has been heralded as a model for other estuaries throughout the country and around the world.

There are signs that the bay is improving. Since 1985, phosphorus discharges from municipal treatment plants, industry, and nonpoint sources into the bay have been reduced by 35 percent. This is a direct result of the phosphate detergent ban now in place in each State and the District of Columbia, new sewage treatment plant construction featuring processes for advanced phosphorus removal, and the bay program's unique nonpoint source controls. Submerged aquatic vegetation [SAV], which provides critical habitat for the bay's living resources, has made a slow but steady comeback from dramatic declines in the 1960's and 1970's. This can be directly traced to improved water quality. Striped bass have also made a significant recovery from the depleted stocks of the early 1980's. This success demonstrates that management controls can make a difference in the health of the bay's resources.

Despite these great efforts, it is clear that we have a long way to go before actual improvements to the bay's water quality and living resources will be apparent. Conditions over the past few years, including medical wastes washing up on the shores near Baltimore Harbor and Annapolis, oilspills that spread thousands of gallons across the bay, the spread of MSX and other deadly oyster diseases throughout the Chesapeake, as well as the toxic chemicals and nutrients that continue to pollute the bay's surface and bottom waters underscore the difficult problems continuing to face the bay.

Addressing these serious problems will require a significant and sustained effort on the part of all participants, as well as significant financial resources. My colleagues and I are hopeful that S. 14 will be incorporated in the Clean Water Act. Enactment of the provisions in our legislation would set the course of efforts to protect and restore our national treasure over the next several years.

Mr. President, I ask that letters and statements from Governors Schaefer, Wilder, and Casey; the Chesapeake Bay Commission, and the Chesapeake Bay Foundation, in support of this legislation be included in the RECORD following my statement. I also ask that the bill be made part of the RECORD.

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

S. 14

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 "Chesapeake Bay Restoration Act of 1991".

SEC. 2. FINDINGS

The Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of worldwide significance;

(2) the productivity and water quality of the Chesapeake Bay and its tributaries in recent years have been diminished by pollution, excessive sedimentation, shoreline erosion, the impacts of growth and development of population in the watershed, and other factors;

(3) the Chesapeake Bay Agreement established an institutional framework, including Chesapeake Executive Council with oversight, to implement a series of goals, objectives, and commitments to protect, restore, and enhance the estuary's ecosystem;

(4) there is a need to expand and strengthen Federal support of research, monitoring, and management activities in the Bay in order to meet the goals, objectives, and commitments of the Chesapeake Bay Agreement, particularly in the areas of water quality; living resources; public information, education and participation; population growth, development, and governance;

(5) the United States Environmental Protection Agency should continue to lead a cooperative Federal initiative with the United States Army Corps of Engineers, United States Department of Agriculture, United

States Department of the Interior, Department of Defense, National Oceanic and Atmospheric Administration, United States Coast Guard, and other Federal agencies in the effort to attain the goals embodied in the Chesapeake Bay Agreement, working with State and local authorities;

(6) the National Oceanic and Atmospheric Administration has an important role in the Bay restoration program through participation in the Bay research, monitoring, assessment, and management studies and should continue these activities;

(7) the various research and monitoring programs related to the Chesapeake Bay should be closely coordinated to achieve improved water quality and living resources productivity;

(8) public information, education, and participation are essential to foster stewardship of the Bay's resources, to help identify and prioritize the Bay-related problems of each watershed or river basin, and to formulate goals and objective for addressing these problems;

(9) there is a clear correlation between population growth and development, and environmental degradation in the Chesapeake Bay system and accurate and timely land use data is essential to plan for and manage growth and development and associated impacts on the Chesapeake Bay system and its living resources;

(10) the Federal Government has a special responsibility to ensure that its activities and programs are consistent with State and local efforts to improve the health of the Chesapeake Bay, and Federal facilities and programs must achieve the highest standards of environmental sensitivity and protection;

(11) the local government and citizens' role in the Chesapeake Bay clean-up effort is a vital component for attaining the goals of the Chesapeake Bay Agreement;

(12) the productivity, diversity, and abundance of living resources are the best ultimate measures of the Chesapeake Bay's condition and research and assessment programs directed toward monitoring and enhancing the condition of these resources should be accorded a high priority; and

(13) the fisheries of the Chesapeake Bay provide hundreds of millions of dollars in annual economic activity and thousands of related jobs for the region, and proper management of these vital fisheries resources must include consideration of both biological, environmental, and socioeconomic factors.

SEC. 3. PURPOSE.

It is the purpose of this Act to expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay and to achieve the goals embodied in the Chesapeake Bay Agreement.

SEC. 4. MANAGEMENT OF CHESAPEAKE BAY PROGRAM.

Section 117(a) of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

"(a)(1) The Administrator of the Environmental Protection Agency shall continue the Chesapeake Bay Program as a member of and in cooperation with the Chesapeake Executive Council. The Administrator shall continue to lead and coordinate Federal agency participation in the Federal program.

"(2) The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Liaison Office, which shall provide support to the Chesapeake Executive Council in the following areas:

"(A) providing support and coordinating Federal, State, an local efforts to improve the water quality and living resources of the Chesapeake Bay;

"(B) assisting the Bay program signatories as requested in developing and implementing specific action plans, in cooperation with appropriate Federal, State, and local authorities, to carry out the responsibilities under the Chesapeake Bay Agreement;

"(C) coordinating actions of the Environmental Protection Agency with the actions of other Federal agencies and State and local authorities in developing strategies to improve the water quality and living resources of the Bay and obtain the support of these agencies and authorities in achieving the objectives of such agreement;

"(D) collecting and making available, through publications and other appropriate means, information pertaining to the environmental quality and living resources of the Bay; and

"(E) continuing to coordinate the systemwide monitoring and data collection program to assess the impact of natural and man-induced environmental changes on the water quality, habitat, and living resources of the Bay with particular emphasis on toxic pollutants and nutrient loadings.".

SEC. 5. CHESAPEAKE BAY PROGRAM SCIENCE, RESEARCH, MONITORING, AND DATA COLLECTION.

(a) The Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration, in cooperation with the Chesapeake Executive Council, shall jointly implement comprehensive, coordinated science, research, monitoring, and data collection activities supporting the Chesapeake Bay Program.

(b) The Administrator of the National Oceanic and Atmospheric Administration shall direct relevant agency programs to be conducted in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement. The Administrator of the National Oceanic and Atmospheric Administration shall—

(1) provide information about and insight into the processes that shape the Chesapeake Bay system and affect its living resources;

(2) consult with the Chesapeake Executive Council in establishing priorities for research, monitoring, modeling, other analysis and data gathering for programs that have applicability to the Chesapeake Bay system and its living resources; and

(3) consult with the Chesapeake Executive Council in assessing the abundance, health, harvest, and potential economic value of Chesapeake Bay fisheries and the socioeconomic costs and benefits of management alternatives; and

(4) establish and staff a local office for coordinating National Oceanic and Atmospheric Administration-wide activities related to the goals and objectives of the Chesapeake Bay Agreement.

(c) The Administrators of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration shall jointly ensure that any project for which funds have been requested has undergone appropriate peer review to determine that it has acceptable scientific and technical merit.

(d) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994.

SEC. 6. BASINWIDE TOXICS REDUCTION.

(a) The Administrator of the Environmental Protection Agency shall, in cooperation with the Chesapeake Executive Council, implement the Comprehensive Basinwide Toxics Reduction Strategy which establishes basinwide goals and describes actions necessary to achieve a multijurisdictional approach for reducing toxic inputs to Chesapeake Bay and its watershed. The strategy addresses all pathways by which toxic substances can pollute the Chesapeake Bay's waters, habitats, and resources through basinwide implementation of innovative toxics reduction, prevention, and management actions.

(b) The Administrator shall undertake such research and monitoring activities as necessary to improve understanding of intermedia transfers, eventual fate and biological effects of toxics within the Bay watershed and shall develop and implement innovative toxics reductions and prevention programs.

(c) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994.

SEC. 7. POPULATION GROWTH AND DEVELOPMENT; LAND USE DATA INITIATIVE.

(a) The Administrator of the Environmental Protection Agency, in cooperation with the Chesapeake Executive Council and the National Oceanic and Atmospheric Administration, the United States Forest Service, the United States Soil Conservation Service, the United States Geological Survey, the Fish and Wildlife Service, and the Army Corps of Engineers, shall facilitate and expedite the development of a coordinated Chesapeake Bay watershed land use data base to provide information necessary to plan for and manage growth and development and associated impacts on the Chesapeake Bay system and its living resources.

(b) The data base shall incorporate resource inventories and analyses including the use of satellite and aerial imagery in conjunction with electronic geographic information systems for data storage, retrieval, and resource capability determination in order to evaluate different land use patterns on hydrological cycles, water quality, living resources, and other environmental features, and as an aid to making sound land use management decisions.

(c) The data base shall utilize a digital format that can be easily integrated into existing and developing planning and management programs and systems at Federal, State, and local agencies and institutions, so that it can have the greatest range of potential users and uses.

(d) The data base shall be approached as a model for application to the management of watersheds to protect aquatic environments, and its technical procedures shall be developed in a manner that will allow transfer to local and State governments and other areas of the nation and the world.

(e) Emphasis should be placed on the creation, maintenance, and use of an accessible, adaptable, and affordable data base in a manner that combines the best of available technology and data with the collective experience of the local, State, and Federal Governments and other major land use data suppliers and users.

(f) For the purposes of carrying out the provisions of this section, there is authorized to be appropriated $250,000 for fiscal year 1991, and $500,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 8. DEVELOPED LANDS INITIATIVE.

(a) The Administrator of the Environmental Protection Agency, in cooperation

with the Chesapeake Executive Council, shall establish a demonstration program (hereafter called the "developed lands initiative") in order to address problems associated with urban and suburban runoff. The initiative shall—

(1) identify "developed areas" consisting of subwatersheds of urban and suburban land for the purpose of water quality monitoring;

(2) establish appropriate monitoring network responsive to storm events;

(3) ensure that data collected during the monitoring effort is compatible among the participating Bay States and the District of Columbia and is designed to support management decisions necessary to balance cost and technology for the benefit of the Chesapeake Bay cleanup;

(4) ensure that data collected identifies all major sources of pollution, including atmospheric deposition and pesticides, and shall be characterized according to their contribution to a watershed; and

(5) develop management strategies to address the identified stormwater impacts.

(b) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $500,000.

SEC. 9. CHESAPEAKE BAY COMPREHENSIVE LIVING RESOURCES PROGRAM.

(a) The Administrator of the Environmental Protection Agency, the Administrator of the National Oceanic and Atmospheric Administration, and the Director of the Fish and Wildlife Service, in cooperation with the Chesapeake Executive Council, shall implement a comprehensive, coordinated living resources program for the Chesapeake Bay and its watershed, to meet the commitments in the Chesapeake Bay Agreement.

(b) The program shall include monitoring, digital mapping, periodic assessments, development and implementation of management plans; and restoration and protection of habitats of commercially, recreationally, and ecologically valuable living resources.

(c) The program shall be designed as a national model for identifying, protecting, restoring, and managing estuarine living resources and the habitats upon which they depend.

(d) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $1,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994.

SEC. 10. STUDY OF CHESAPEAKE BAY PROTECTION PROGRAM.

(a) Not later than January 1, 1994, the Administrator of the Environmental Protection Agency, in cooperation with the Chesapeake Executive Council, shall complete a study and prepare a report to the Congress which shall address at least the following issues:

(1) evaluating implementation of the Chesapeake Bay Agreement including activities of the Federal Government and State and local authorities;

(2) determining whether Federal environmental programs and other activities adequately address the priority needs identified in the Chesapeake Bay Agreement;

(3) assessing priority needs as required by the Chesapeake Bay Program management strategies and how the priorities are being met; and

(4) making recommendations for improved management of the Chesapeake Bay restoration program.

(b) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency, to carry out this section, not to exceed $250,000.

SEC. 11. AUTHORIZATIONS.

(a) Section 117(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1267(d)(1)) is amended by deleting "and 1990" and inserting in lieu thereof "1990, 1991, 1992, 1993, and 1994".

(b) Section 117(d)(2) of the Federal Water Pollution Control Act is amended by deleting "and 1990" and inserting in lieu thereof "1990, 1991, 1992, 1993, and 1994".

(c) Moneys appropriated pursuant to the authorizations under this section shall remain available until expended.

SEC. 12. DEFINITIONS.

For the purposes of this Act the term—

(1) "Chesapeake Bay Program" means the regional, intergovernmental, cooperative effort to restore and protect the Chesapeake Bay system and its living resources. The Program is directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement;

(2) "Chesapeake Bay Agreement" means the formal, voluntary agreements reached to achieve the goal of restoring and protecting the Chesapeake Bay system and its living resources. The first Agreement was signed in 1983. The second agreement was signed in 1987, by the Governors of Maryland, Pennsylvania, and Virginia, the mayor of the District of Columbia, the chairman of the tri-State Chesapeake Bay Commission, and the Administrator of the United States Environmental Protection Agency for the executive branch of the Federal Government. As used in this section, the term shall mean the existing agreements and any subsequent agreements that may be reached; and

(3) "Chesapeake Executive Council" means the signatories of the Chesapeake Bay Agreement.

STATEMENT ON FEDERAL CHESAPEAKE BAY LEGISLATION BY GOV. WILLIAM DONALD SCHAEFER

I want to comment Senator Sarbanes and all the Members of Congress who seized the initiative and put together this new legislation. The bill being introduced today marks the beginning of an important new chapter in the Chesapeake Bay clean up effort.

The Chesapeake Bay program has been a model for saving estuaries around the country. We have been successful in the Bay program because we never stand still; because we are never satisfied with the status quo; because we are constantly forging ahead; and because we work together in a strong federal-state partnership.

The time has come to take the next step. We must match the rhetoric about the need to clean up the Bay with the resources necessary to do the job. This legislation will give the federal government the resources needed to keep its promises.

Our efforts to restore the Bay took a giant leap forward in 1987 with the signing of the historic Chesapeake Bay Agreement. That Agreement strengthened the partnership between the Chesapeake Bay states and the federal government. It also set out ambitious goals for reducing pollution in the Bay. We have made much progress since then, but we still have a long way to go.

This legislation is the next step in our long march to restore and protect our nation's greatest estuary. The federal government took on many new responsibilities in the 1986 Bay Agreement. While the EPA and other federal government agencies have worked hard to meet those responsibilities, they need additional resources to meet their commitments.

This legislation will bring the federal contribution in line with its commitments. It will increase federal funding for many important Bay projects. It will boost federal support for our toxics clean up effort. And it pulls the federal government into our fight against pollution caused by urban and suburban runoff—which is a major problem throughout the Bay watershed.

Just last weekend we held a statewide Community Service Day in Maryland. Citizens from around the state helped pull litter and trash out of the Anacostia River, Rock Creek, and other tributaries that empty into the Bay. Citizens from throughout the Chesapeake Bay watershed want to clean up the Bay and they want to do it now.

We can all take pride in the progress we have made in cleaning up the Bay, but we must not become complacent. We must not look back on how far we have come. We must look forward at how much farther we still have to go.

So we are here today to look ahead and to open the next chapter in the Bay clean up effort. The next chapter calls for an expanded federal role in our fight to save the Chesapeake Bay. This bill will bring the federal government's contribution under the Bay Agreement in line with its commitments and improve coordination within the Bay Program. I thank Senator Sarbanes and his Congressional colleagues for launching this initiative and I urge the quick adoption of this important legislation.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, VA, October 15, 1990.

Hon. PAUL S. SARBANES,
Member, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: As a member of the Chesapeake Executive Council and as the Governor of the Commonwealth of Virginia, I am committed to cleaning up the Chesapeake Bay, and I endorse the reauthorization bill you are introducing.

The Chesapeake Bay system is a regional and national resource that can be restored and protected only if we work together. The principal cooperative mechanism through which we will be able to attain the goal of a permanently healthy and productive Bay is the Chesapeake Bay Program.

Congress' dedication to the Bay has been critical in the successful evolution of this unique regional enterprise. Your support for reauthorization of the program will greatly assist the challenging process of restoration and protection.

With best wishes, I am

Very truly yours,

LAWRENCE DOUGLAS WILDER.

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF THE GOVERNOR,
Harrisburg, October 16, 1990.

Hon. PAUL S. SARBANES,
Member, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: I strongly support the proposed "Chesapeake Bay Restoration Act of 1990," to reauthorize the Chesapeake Bay Program. The proposed legislation is the product of extensive discussion and debate among all Chesapeake Bay states, including Pennsylvania.

The current federal mandate under section 117 of the Clean Water Act was enacted before the 1987 Chesapeake Bay Agreement was signed. The time has come to update that legislation and build upon the federal-state partnership we established in the Bay Agreement.

Substantial progress has been made in cleaning up the Chesapeake Bay under the

existing program, but much more needs to be done. This legislation marks an important new phase in the Chesapeake Bay program. I have contacted Senator Heinz and Senator Specter to urge their support for the legislation.

Sincerely,

ROBERT P. CASEY.

CHESAPEAKE BAY FOUNDATION,
Annapolis, MD, October 12, 1990.

Hon. PAUL S. SARBANES,
U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Chesapeake Bay Foundation's strong support for the Chesapeake Bay Restoration Act of 1990. As you know, CBF feels that the leadership of the State/Federal Chesapeake Bay Program is crucial for the restoration of the Bay. This legislation is essential to ensuring the continuation and enhancement of the Bay Program's efforts.

The legislation that has been drafted represents the consensus of the Bay community, including both government and non-government organizations; as a true consensus, it is a compromise among groups with different priorities and perspectives on the Bay and its problems. I view this bill as reflecting the best judgment of all of the participants in the Bay cleanup, and I am comfortable with it as it now stands. I do not see it as legislation reflecting any one senator or representative; I hope that the entire delegations of Virginia, Maryland, and Pennsylvania will sponsor it.

I am pleased the NOAA's role in the Bay cleanup will be explicitly recognized in this legislation. The establishment of a local NOAA office for the Chesapeake Bay is a necessary part of that commitment. Our view of the appropriations in this legislation is that they belong to the Chesapeake Bay, and not to any particular Federal or State agency. The Bay Program structure appears to be adequate for ensuring the wise use of the lands.

There is a tendency to consider environmental protection a luxury that the nation cannot afford during times of fiscal austerity. The Chesapeake Bay Restoration Act is not a luxury—it is our nation's recognition that if we cannot commit ourselves to Save the Bay, we will never learn how to live on this planet without destroying it. As important as the Bay is to those of us who live near it, it is also a critical national and international model for humanity's evolution from abuse to stewardship of our land and its resources. I urge you to co-sponsor and support this bill.

Very truly yours,

WILLIAM C. BAKER,
President.

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, October 16, 1990.

Hon. PAUL S. SARBANES,
Senate Dirksen Office Building, Washington, DC

DEAR SENATOR SARBANES: I am writing to express the Chesapeake Bay Commission's strong support for the Chesapeake Bay Restoration Act of 1990. The Chesapeake Bay Commission is a tri-state legislative advisory commission created to assist the General Assemblies of Maryland, Virginia and Pennsylvania in addressing Chesapeake Bay-related issues which are of mutual concern to the three member states. This congressional reauthorization and enhancement of the Chesapeake Bay Program is certainly one such issue.

The federal-state partnership which has been established through the Chesapeake Bay Program has become a model for environmental management throughout the country. It is essential that this structure be maintained and enhanced. Over the past several months, our Commission staff in Annapolis have been active participants in developing a consensus of the entire Bay community concerning the future needs and direction of this important program.

We believe this legislation represents a true consensus of governmental and non-governmental orgainzations that are integrally involved in the Chesapeake Bay restoration and protection efforts. The bill includes important new federal initiatives in the areas of living resources protection, toxics research and population growth and development. These represent major areas in which we, the states, require additional federal assistance.

This legislation is vital to the continued success of our efforts to protect this national treasure, the Chesapeake Bay. It is an issue which I believe warrants and receives the full backing of citizens throughout the Chesapeake Bay watershed. I urge you to sign on as original sponsor of this measure.

Sincerely,

KENNETH J. COLE,
Chairman.

CHESAPEAKE BAY RESTORATION ACT OF 1990—SECTION-BY-SECTION ANALYSIS

Section 1. Short Title: Establishes the title of the bill, the "Chesapeake Bay Restoration Act of 1990."

Section 2. Findings.

Section 3. Purpose:

States that the purpose of the Act is to expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay and to achieve the goals embodied in the Chesapeake Bay Agreement.

Section 4. Management of Chesapeake Bay Program:

Provides authority for EPA to continue to lead and coordinate Federal agency participation in the Chesapeake Bay Program, in cooperation with the Chesapeake Executive Council, and to maintain a Chesapeake Bay Liaison Office.

Directs the Chesapeake Bay Liaison Office to provide support and coordinate Federal, state and local efforts in developing strategies and action plans and conducting system-wide monitoring and assessment to improve the water quality and living resources of the Bay.

Section 5. Chesapeake Bay Program Science, Research, Monitoring, and Data Collection:

Directs the Administrators of EPA and NOAA to jointly implement a comprehensive, coordinated program for science, research, monitoring and data collection of the Bay and its watershed. Establishes a local office for coordinating NOAA activities in the Bay. Directs that appropriate peer review be undertaken to ensure scientific and technical merit of projects funded by this section. Authorizes $3 million annually for the activities in this section.

Section 6. Basinwide Toxics Reduction:

Authorizes $2 million annually for EPA to implement the Comprehensive Basinwide Toxics Reduction Strategy called for under the Bay Agreement, in cooperation with the Executive Council.

Section 7. Population Growth and Development:

Provides for development of a coordinated Chesapeake Bay watershed land use database, incorporating resource inventories and analyses in a digital format, to provide information necessary to plan for and manage growth and development and associated impacts on the Bay system. Authorizes $250,000 in fiscal 1991 and $500,000 annually in fiscal years 1992-4.

Section 8. Developed Lands Initiative.

Establishes a demonstration program to address problems associated with urban and suburban runoff. Directs EPA to identify areas within subwatersheds for water quality monitoring, establish a monitoring network, identify all major sources of pollution, and develop management strategies to address the identified stormwater impacts. Authorizes $500,000 for this section.

Section 9. Comprehensive Living Resources Program.

Authorizes $1 million annually to implement the comprehensive, coordinated living resources plan called for under the Bay Agreement.

Section 10. Study of Chesapeake Bay Protection Program.

Directs EPA to undertake an assessment of the Chesapeake Bay Program and evaluate implementation of the Bay Agreement. Also directs EPA to assess priority needs for the Bay and make recommendations for improved management of the program. Authorizes $250,000 for this study.

Section 11. Authorizations.

Continues the $13 million annual authorization under Section 117 of the Federal Water Pollution Control Act.

Section 12. Definitions.●

Mr. WARNER. Mr. President, I am pleased to join as an original cosponsor of the Chesapeake Bay Restoration Act of 1991. This important legislation, which, among other things would reauthorize the Chesapeake Bay Program, is supported by a broad range of groups from States bordering the Chesapeake Bay.

Mr. President, as we introduce this legislation, my colleagues will recall the history of our efforts to save the bay. It is worth reviewing that history at this time. Early in the eighties, research revealed that an increasing oxygen shortage had caused a decline in bay resources, including oysters, clams, and submerged aquatic vegetation. This discovery led to the signing of the first Chesapeake Bay Agreement in 1983, which was designed to meet this threat to the environment.

In subsequent years Virginia, Maryland, Pennsylvania, the District of Columbia, and the Environmental Protection Agency [EPA] have forged an enviable partnership to restore and protect the Chesapeake Bay. The commitment exhibited by officials from these entities has helped to establish a firm foundation for achieving the goal of significantly improving the management of the bay's resources.

On December 15, 1987, the Chesapeake Bay Executive Council, comprised of representatives from Virginia, Maryland, Pennsylvania, the District of Columbia, and EPA, signed the 1987 Chesapeake Bay Agreement. This agreement, which set specific goals and timetables for the bay's restoration, was designed to reverse the decline

that has imperiled the Chesapeake Bay's status as a major source of jobs, seafood, recreation, and regional culture.

The agreement set an important goal requiring a 40-percent reduction in nitrogen and phosphorous by the year 2000. According to reports, the nutrient reduction plan is being implemented and progress is being made in improving the bay's management.

Despite all of the progress that has been made to date, it is clear that more action is required. The Chesapeake Bay Restoration Act of 1991 represents a crucial step in that process.

In particular, the bill would provide much-needed authority for EPA to continue to lead and coordinate Federal agency participation in the Chesapeake Bay Program, in cooperation with the Chesapeake Executive Council. The bill also directs the Administrators of EPA and the National Oceanic and Atmospheric Administration [NOAA] together to implement a comprehensive, coordinated program for science research, monitoring and data collection of the bay and its watershed. In addition, the bill would authorize funds to implement the comprehensive basinwide toxics reduction strategy called for under the bay agreement, provide for development of a coordinated Chesapeake Bay watershed land use data base, and establish a demonstration program to address problems associated with urban and suburban runoff. Finally, EPA is directed to undertake an assessment of the Chesapeake Bay Program and evalute implementation of the bay agreement.

Mr. President, the legislation introduced today represents the consensus of many individuals who are knowledgeable about the methods of preserving the bay as a precious national resource: those in the bay community, Federal, State and local governments, and many others, including nongovernment organizations. As is the case with any consensus agreement, this bill serves to reflect the best judgment of all participants.

The Governor of the Commonwealth of Virginia has strongly endorsed the Chesapeake Bay Restoration Act. Virginia State officials were active participants in developing this proposal, and they tell me that they are pleased with the result.

Mr. President, I commend my Senate colleagues from Virginia, Maryland, and Pennsylvania for their work on this bill. In particular, I applaud the work of my colleague from Maryland, Senator SARBANES, for his leadership in working with officials from all of the bay States to bring this legislation to this point. I look forward to working with the members of these delegations to enact this legislation.

Thank you, Mr. President.

By Mr. BIDEN (for himself, Mr. COHEN, Mr. DECONCINI, Mr. DODD, Mr. INOUYE, Mr. COATS, Mr. SIMON, Mr. LIEBERMAN, Mr. EXON, Mr. SARBANES, Mr. REID, Mr. HARKIN, Mr. BRYAN, Mr. AKAKA, Mr. RIEGLE, Mr. PELL, Mr. ADAMS, Mr. PACKWOOD, Mr. SHELBY, Mr. KERRY, Ms. MIKULSKI, Mr. LEVIN, Mr. CRANSTON, Mr. MCCONNELL, Mr. BOREN, and Mr. ROCKEFELLER):

S. 15. A bill to combat violence and crimes against women on the streets and in homes; to the Committee on the Judiciary.

VIOLENCE AGAINST WOMEN ACT OF 1991

• Mr. BIDEN. Mr. President, I rise today to introduce Senate bill No. 15, the Violence Against Women Act of 1991, the first comprehensive legislation to address the growing problem of violent crime confronting American women. This bill was first introduced during the 101st Congress and was unanimously approved by the Senate Judiciary Committee. Today, 25 of my colleagues join me as original cosponsors of this important legislation.

Women are the victims of a growing crime epidemic in this country. The enormity of the problem is clear: During her lifetime, one in five women will be raped, and three out of four women will be the victim of some other violent crime. Last year, more women were battered by their spouses than were married.

The need for action is urgent:

From 1974 until 1987, the rate of assaults against young women skyrocketed by close to 50 percent.

In the first 6 months of 1990 alone, the rate of rapes reported to the FBI rose 10 percent—faster than any other increase in the decade.

That makes rape one of the fastest growing crimes in the country.

This is a national outrage. The Nation's criminal justice system is not only unwilling, but also unprepared, to deal with this spiraling gender gap in crime. If increasing violence against women amounts to a national outrage, then our efforts to date to solve that growing problem should count as a national shame.

Today, it is easier to convict a car thief than a rapist; authorities are more likely to arrest a man for parking tickets than for beating his wife; and lawyers still put victims of vicious assaults on the stand to ask what clothes they were wearing at the time of the attack.

There are still counties in this country where 200 rape complaints are ignored by prosecutors; courts where victims are blamed for their own attacks; and cities where authorities refuse to arrest attackers because the bleeding victim was beaten by her spouse.

The Violence Against Women Act is the first attempt by the Congress to address both the outrage and the shame—to make violence against women one of our top law enforcement priorities.

I first introduced this legislation shortly before the end of the last Congress. Frankly, I never anticipated, nor could I have imagined, the kind of overwhelming support and interest that it generated in the short 6 months since its original introduction in the 101st Congress.

Governors, attorneys general, mayors, and police chiefs have all offered their support;

A task force of over 150 groups has come together to offer suggestions and to focus attention on the issues;

People from every State across the country have called and written; letters of support have come from organizations, large and small, liberal and conservative; from women's groups and men's groups; from victims' advocates and professional associations; from battered women's shelters and rape crisis centers; and from far, far, too many survivors of crime.

Recently, one such survivor, who is now a prosecutor, told the Judiciary Committee that this legislation is a tremendous gift for the women of America. My response to her is this: It is not a gift—it is a necessity. And it is a necessity not only for the women of this country, but for our entire society.

Violence against women breeds violence and tragedy throughout this country:

A child is 1,500 times more likely to be abused if his mother is being abused;

Close to two-thirds of all juvenile boys who murder, murder their mother's attackers;

One out of every five rape victims attempts suicide;

And over half of all homeless women and children are on the street because they are fleeing violence in the home.

No American—male or female—can continue to tolerate the level of violence directed against the women of this country. Violence against women must be one of our Nation's highest priorities and it must be one of the Senate's highest priorities during the 102d Congress.

I have reason to hope that this will be one of the Senate's highest priorities. Indeed, I am pleased to note that today, the distinguished Republican leader, Senator DOLE, is also introducing new legislation that targets violence against women. While I may disagree with some of his proposed solutions—and believe that his proposal is lacking some important elements—I know that we share the same overall goal. Together, I know we can secure swift passage of a bill that will benefit the women of this country.

The bill I introduce today, with the support of 25 of my colleagues, attacks violence against women in all its forms.

It addresses all violent crime against women, not just rape and domestic violence. It attacks the problems at all levels—from our streets to our homes, from squad cars to courtrooms, from schoolrooms to hospitals.

And it attacks the problem by offering a comprehensive solution: It makes violent crime against women a major law enforcement priority and, at the same time, it takes aim at the kind of attitudes that nurture violence; it creates new offenses and raises penalties and, at the same time, it provides new legal protections and desperately needed help to crime survivors.

Let me explain a few of the bill's key provisions in detail. The bill is divided into four main parts, best summarized by their titles: Safe Streets for Women; Safe Homes for Women; Civil Rights for Women; and Safe Campuses for Women.

TITLE I: SAFE STREETS FOR WOMEN

First, title I of the bill doubles penalties for Federal cases of rape and aggravated rape; creates new penalties for repeat sex offenders; and mandates restitution for victims of sex crimes.

Second, title I would significantly boost the number of police officers on the streets and prosecutors in courts—police and prosecutors targeting violent crimes against women. Of the $300 million authorized, $100 million will go to the hardest hit areas—areas of high intensity violence against women.

In addition to these grants, title I provides funds for more lights in parks and subway stations, authorizes new protections and services for rape victims, and makes significant changes in how Federal courts consider evidence so that irrelevant inquiries about clothing and past sexual history will be excluded.

TITLE II: SAFE HOMES FOR WOMEN

The second title of the bill addresses the crisis confronting the millions of women who are the victims of domestic violence.

Title II recognizes that we need national leadership on an issue that is indisputably of national proportion and seriousness: More than 1 million women a year need medical help because of injuries from battering.

Title II proposes that the Federal Government, for the first time, acknowledge its role in fighting crimes in the home. It creates the first Federal laws barring spouse abuse: For example, the bill declares that it is a Federal crime if an abuser follows his spouse across State lines and continues abuse or violates a stay-away order. And the bill protects women who flee their abusers by making protective court orders issued by one State valid in the 49 others. That way women won't lose protection if they happen to cross a State line.

Title II contains other provisions as well: It triples funding to shelter the abused; requires States to look at new legal protections; encourages States to increase arrest and prosecution rates; and, finally, incorporating provisions drafted by Senator COATS, it revamps existing laws and authorizes a national media campaign against spouse abuse.

TITLE III: CIVIL RIGHTS FOR WOMEN

The third title of the bill recognizes that violence against women is not only a question of criminal justice, but also of equal justice. It takes a dramatic step forward by defining gender-motivated crimes as bias or hate crimes and declaring, for the first time, that such crimes violate citizens' civil rights.

This society has long condemned, in the harshest of terms, hate beatings of blacks, Asians, or Hispanics. When the victim has been singled out because of his race or religion or the color of his skin, society condemns not only the crime but also the intentional deprivation of the survivor's civil rights.

This bill extends the same protection to the women of America. Crimes committed because of gender are not simply random acts of violence. Ninety-seven percent of all sex assaults in this country are committed against women. We all know this; indeed, we assume it; but we ignore the implications. Crimes committed because of gender should be condemned in the same terms as crimes committed because of race or religion—in terms as strong as this society can possibly muster—as violent deprivations of civil rights.

TITLE IV: SAFE CAMPUSES FOR WOMEN

The fourth title of this bill recognizes that young women are peculiarly at risk. Violence on our college campuses poses a special and growing problem: More college-age women will be raped this school year than will be struck by any other major crime.

This title addresses that problem by creating the first Federal program for college rape education and prevention, encouraging campuses across the Nation to inform their students of their rights, provide peer-to-peer counseling, and generally increase campus awareness of the dangers of rape and, in particular, acquaintance rape.

Finally, a fifth title, authored by Senator SIMON, creates a new program for educating judges about domestic violence and sexual assault.

Last year, the Judiciary Committee unanimously approved all of the provisions I have just explained. However, because of the pressures of other legislation, the bill was not brought to the floor for a vote.

Since the end of last Congress, I have continued to work to improve the legislation and, in response to comments from other Senators and interested groups, I have added three new provisions:

A new program calling for the education of young persons about domestic violence;

New protections for victims fleeing from abuse that insure the confidentiality of their whereabouts; and

An expanded campus rape program that requires colleges to prohibit and report all forms of sexual assault on-campus.

I will not take any further time to describe the contents of the bill. I ask unanimous consent that a summary and the complete text of the legislation appear in the RECORD following my remarks.

Let me close by urging my colleagues to join me in supporting this desperately needed legislation. Already, 25 Senators have indicated their support as original cosponsors. I hope that a significant number of others will be added so that we can ensure swift consideration of this legislation by the full Senate.

Let us not wait another year in silence, while rape rates skyrocket, while assault rates climb steadily for women but drop for men, and while more women are out on the streets because their only other choice is to suffer violence in their own homes.

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

S. 15

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 "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.