THE WHITE HOUSE

WASHINGTON

August 5, 1991

NOTE FOR THE CHIEF OF STAFF

Please find attached a listing which the Executive Clerk's Office has prepared of the bills currently pending at the White House and a listing of the bills which passed the Congress prior to the August recess but which have not yet been received at the White House.

We have been advised that the latter group could be delivered here as early as tomorrow or Wednesday.

Hope this is helpful.

Phillip D. Brady

cc: Fred McClure

BILLS DUE; 102-1

08/05/91
09:40AM

	Bill Number	Last Day For Action	Short Title
1.	S.J.Res. 142	08/06/91	Juvenile Arthritis Awareness Week - July 28 - August 3, 1991
2.	H.J.Res. 181	08/07/91	National Senior Citizens Day - August 18, 1991
3.	H.R. 2525	08/07/91	Department of Veterans Affairs Codification Act of 1991
4.	H.R. 153	08/09/91	Veterans Judicial Review Act (U.S. Court of Veterans Appeals)
5.	S.J.Res. 40	08/13/91	National Historically Black Colleges Week - September 8 - 14, 1991
6.	H.J.Res. 264	08/14/91	Helsinki Human Rights Day -- August 1, 1991
7.	H.R. 1047	08/14/91	Veterans Compensation Act (pension and life insurance)
8.	H.R. 1455	08/14/91	Intelligence Authorization Act, Fiscal Year 1991
9.	H.R. 1779	08/14/91	Ralph H. Metcalfe Federal Building, Chicago, Illinois
10.	H.R. 2031	08/14/91	Rural Telephone Cooperative Associations ERISA Amendments Act of 1991
11.	H.R. 2901	08/14/91	Transfer of Vessels to the Government of Greece
12.	S.J.Res. 179	08/14/91	National Parks Week - beginning August 25, 1991

BILLS PASSED THE CONGRESS
BUT NOT YET RECEIVED AT THE
WHITE HOUSE

08/05/91
09:36AM

	Bill Number	Short Title
1.	H.J.Res. 166	Commodore John Barry Day - September 13, 1991
2.	H.J.Res. 309	National Sarcoidosis Awareness Day - August 29, 1991
3.	H.R. 904	African American History Study
4.	H.R. 991	Defense Production Act Extension
5.	H.R. 1006	Federal Maritime Commission Authorization
6.	H.R. 1143	American Labor History Study
7.	H.R. 1448	Women's Correctional Facility, Pocatello, Idaho
8.	H.R. 2123	District of Columbia Annual Federal Payment
9.	H.R. 2313	School Dropout Demonstration Assistance Act Authorization
10.	H.R. 2427	Energy and Water Appropriations, 1992
11.	H.R. 2506	Legislative Branch Appropriations, 1992
12.	H.R. 2699	District of Columbia Appropriations, 1992
13.	H.R. 2968	District of Columbia Congressional Review Waiver
14.	H.R. 2969	District of Columbia Budget Reductions (Reduction of Employees)
15.	H.R. 3201	Emergency Unemployment Compensation
16.	S. 1593	U.S. National Commission on Libraries and Information Science Amendments
17.	S. 1594	Terry Beirn AIDS Research Initiative
18.	S. 1608	Nutrition Information and Labeling Act Amendments
19.	S.J.Res. 72	National Rehabilitation Week - September 15 - 21, 1991

Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Letter	From Haley Barbour to John Sununu Re: Nunn-Roth Bipartisan OIRA Bill (3 pp.)	5/31/91	~~P-5~~	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Congress 1991 [1]

Open on Expiration of PRA
(Document Follows)
By QP (NLGB) on 10/28/05

Date Closed:	1/3/2005	**OA/ID Number:**	29151-001
FOIA/SYS Case #:	1998-0004-F[2]	**Appeal Case #:**	
Re-review Case #:	2005-0426-S	**Appeal Disposition:**	
P-2/P-5 Review Case #:		**Disposition Date:**	
AR Case #:		**MR Case #:**	
AR Disposition:		**MR Disposition:**	
AR Disposition Date:		**MR Disposition Date:**	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

Copy to Darman

HALEY BARBOUR

POST OFFICE BOX 960
YAZOO CITY, MISSISSIPPI 39194
(601) 746-2134
FAX (601) 746-2167

SUITE 1010
600 NEW HAMPSHIRE AVE., N.W.
WASHINGTON, D.C. 20037
(202) 333-8767
FAX (202) 338-5950

May 31, 1991

Governor John Sununu
Chief of Staff to The President
The White House
Washington, D.C. 20500

THE CHIEF of STAFF has seen

RE: NUNN-ROTH BIPARTISAN OIRA BILL

Dear Governor Sununu:

As I mentioned to you at the close of our meeting yesterday, the opportunity has arisen for a major breakthrough on OIRA. A little background on recent development follows, and I hope after reading it, you will agree with me that the time is right for the Administration to strengthen OIRA by helping pass the bipartisan Nunn-Roth bill.

On May 14, John Glenn introduced S.1044, the "Federal Information Resources Management Act". Senators Levin (D-Michigan) and Akaka (D-Hawaii) are cosponsors. No Republicans cosponsored.

Senator Glenn's statement accompanying his bill makes clear he wants to pick up where he left off last year. His bill would in trying to weaken OIRA require an Executive Order be issued by the President which sets out more stringent disclosure requirements for OIRA and the White House. His bill does not deal with important issues raised by a recent Supreme Court decision Dole v U.S. Steelworkers. The Dole decision interprets the Paperwork Reduction Act in a way which substantially narrows the scope of OIRA's responsibilities and opens the door to a frontal assault on the President's authority to review the regulatory actions of Cabinet officials. Overall the Glenn bill is a sop to the AFL-CIO and the Naderites who distrust Executive authority or hate OMB and a snub to business and conservatives. It would undermine the important role OIRA plays for the President.

On May 22, Senator Sam Nunn introduced S.1180, the "Paperwork Reduction Act of 1991". Senators Bumpers, Kasten, Roth, Bond, Rudman, Wallop, Dixon, and Baucus are cosponsors. This bipartisan bill does all the right things. It sends a political signal that OIRA should be more aggressive as the President's "traffic cop" for the regulatory system; resolves in favor of the President the issues raised by the Dole case and elaborates for the Cabinet Agencies what their "good government" responsibilities under the

Paperwork Reduction Act are. Senator Nunn and the other Senators placed no conditions on the Administration in return for support of this bipartisan package.

The Nunn bill will enjoy the support of small and big business groups, citizen groups other than the Naderites, the National Governors Association and elements of the University research community. A coalition to strengthen the Paperwork Reduction Act (BCORP) has been working to achieve the result the Nunn-Roth bill represents. They wrote the President in January asking the Administration to wait to see what bipartisan political support could be garnered for a positive bill. Now that Nunn et al have come forward, they have a bill to rally around.

Hearings are anticipated in the near future by the Small Business and the Governmental Affairs committees. Glenn is Chairman of Governmental Affairs. Bumpers and Kasten are Chairman and ranking of Small Business. Nunn is senior Democrat on Governmental Affairs; Roth is ranking Republican. The Administration is being asked to take a position on the two bills.

It is imperative we not equivocate. The President should come out four square behind the bipartisan bill. Frank Horton will be primed to lead for us in the House. We should avoid the position of saying there is merit to both bills, and we definitely should not compromise with Glenn. Glenn et al want to defang OIRA. The bipartisan sponsors of the Nunn bill already understand that. We would be foolish if we give Glenn and company any wiggle room. We should embrace the good bill and help get it passed.

You may recall the coalition letter supporting OIRA. The coalition has aligned itself with groups like NFIB to support the Nunn-Roth bill and to make sure OIRA is not eviscerated by the Naderites. As I mentioned in your office, another very strong coalition of CEO's has been put together by Marshall Hahn of Georgia-Pacific. I strongly urge you to meet with both of these groups. They are committed to the paperwork reduction effort that President Bush led in the Reagan administration, and they will work to see that OIRA's integrity and usefulness is preserved. They will fight hard for the Nunn-Roth bill, and I think you will find them exceptionally good allies.

After you have had a chance to consider this, I will touch base with Katie to see if you have determined an appropriate way to proceed. Thank you for giving this your consideration. More importantly, thank you for your support of OIRA.

Sincerely,

Haley Barbour

HB/ds

TALKING POINTS FOR SUNUNU AND DARMAN
RE: ADMINISTRATION POSITION ON CWS' HR 1270

SUBSTANTIVE POINTS

*Family Protection Act is not a mandated fringe benefit. It is an employment preference **similar to veterans reemployment.**

*Does not require employers to reinstate employees. **Employers do not have to keep job open.**

*Employers have only two requirements:

1. They must notify employees who wish to return of positions that become available **for one year after the employee has notified the employer that they wish to return.**

2. They must reinstate employees in the first position that becomes available **that the employee is qualified to perform.** The employee must prove that he/she is qualified for the position.

*Contains provision allowing employer and employee to agree to substitute a different arrangement.

*Does not require businesses to continue health insurance or benefits while employee is away from the workforce.

*Does not impose a one-size-fits-all approach. Works to preserve maximum flexibility for employers and employees.

*This bill is **much less burdensome** on businesses than the mandates in the Americans with Disabilities Act, which the Administration supported.

POLITICAL ARGUMENTS

***You can't beat something with nothing.** Members want to be for something. The administration can't keep asking members to just vote no on every issue.

*There is clearly not veto strength in the Senate.

*A lot of members who voted against H.R. 770 would vote for a mandated leave bill that was less extensive if they don't have other alternatives to vote for. For example, **many CDFers would vote for as 10 week maternity/paternity mandated leave bill.** If the proponents of mandated leave ever offer a bill less extensive than H.R. 2, a veto may not be sustained in the House.

*The Chamber of Commerce has endorsed HR 1270. The Chamber has been one of the strongest opponents of government requirements on business.

*HR 1270 changes the focus of the debate by allowing us to **fight for families** while still opposing H.R. 2. Brings groups such as Family Research Council (FRC) and several hispanic organizations into the debate on our side. As they know from child care and other issues, the grassroots support which FRC can motivate is tremendous.

Dave,

Would appreciate your consideration of HR 1210 as alternate to HR 2.

Charlie

THE CHIEF of STAFF
has seen

Summary and Explanation of the
American Family Protection Act
H.R. 1270/ S. 418
April 29, 1991

Summary of Provisions

Conditions of leave

*Employees may take leave upon the birth or adoption of a child, or to care for a seriously ill member of their immediate family.

*Serious illness is defined as an illness that poses an imminent danger of death, requires hospitalization, or requires constant in-home care.

*Employees must provide employers with written notification that they intend to take leave under this act thirty days in advance unless impossible

*Employees must have been employed for 2000 continuous hours during the 14 months preceding the leave.

*Employees may take intervening employment of up to 17 1/2 hours per week during the break in employment.

Reemployment rights

*The employee would be reinstated in the same or similar postition as his/her previous job provided that such a position is available. The employer would **not** be required to fire a replacement worker or create a new position in order to reinstate a returning employee.

*If the same or a similar postion is not available when the employee wishes to return, that employee would be granted preferred rehire status.

*The employee would be entitled to the first position that becomes available that has similar seniority, pay and status as his/her previous job, provided that the employee is qualified to perform the functions of that job.

*The employee has the burden of proof in showing he/she is qualified for the position and has kept up with all changes in technology, etc. that have occurred in the field during the break in employment.

*The employee would be required to provide the employer with a current address at which he/she may be reached.

*The employer would be required to notify the employee of all jobs of similar pay and status that the employee is qualified to perform that become available for up to one year after the employee notifies the employer that they wish to return.

*The employee would have fifteen days in which to respond to a job offer made by the employer under this act.

*Upon reinstatement, the employee would be reinstated with any seniority and benefits accrued before the break in employment.

*Employees can indicate a willingness to return up to six years after leaving for the care and nurturement of a newly born child or two years after leaving to care for a seriously ill family member.

Waiver

*Absent any coercion, employers and employees may agree to change the requirements, terms and conditions of reemployment or to substitute an employment benefit such as dental insurance.

*The agreement must be in writing. The employer must provide the employees with a written summary of their rights under this act.

Exemptions

*The employer is exempt from the requirements of this bill if circumstances have so changed between the time of the employee's notification of leave and the application for reemployment as to make reemployment unreasonable.

*The employer is not required to offer reinstatement to an employee who has had disciplinary action instituted against him/her.

Other Provisions

*Coverage is extended to Congressional employees

*Damages are limited to back pay and benefits

Background on Stenholm-Hatch Preferred Rehire Bill

The idea behind this approach is based on the Stenholm preferred rehire amendment that was made in order during last year's vote on H.R. 770. (The amendment was not offered because of procedural obstacles against it.)

If this bill were enacted, it would operate much like the Veterans Reemployment Rights Act of 1958. The Veterans Reemployment Act provides that an employee who leaves a position of employment upon induction into military service shall be entitled to reemployment in the same job they had before taking leave or a job of similar seniority, pay, and status.

The Stenholm-Hatch Bill allows employees to choose how long they wish or need to stay home to raise their children or care for a seriously ill family member while providing employers and employees with flexible arrangements. It makes it possible for employers to hire replacements for vital or high-skill job functions. In addition, the waiver requirement allows employers the flexiblity to offer a benefit package that best meets the needs of their workforce.

# # #

SIDE-BY-SIDE COMPARISON

	VETERANS REEMPLOYMENT RIGHTS ACT (U.S. Code Title 38, Chapter 43)	American Family Protection Act (A.K.A Hatch-Stenholm)
ALLOWABLE REASONS FOR BREAK IN EMPLOYMENT	Voluntary enlistment in military, draft, activation of reserves	Legitimate family purpose (i.e. caring for a child under age 6, caring for a seriously ill immediate family member)
BREAK IN EMPLOYMENT ALLOWED BEFORE APPLICATION FOR REINSTATEMENT	One tour of duty for enlisted personell, unlimited period of time for individuals who were drafted or activated from the reserves	Six years to care for a newborn or newly adopted child, two years to care for a seriously ill family member
REINSTATEMENT RIGHTS	Reinstatement in the same or similar position upon notification of desire to return. Employee must notify employer of desire to return within 90 days of discharge from military	Reinstatement if the same or similar position is available upon application for reinstatement, or if such position becomes available within one year
SENIORITY RIGHTS	Eligible for all seniority and benefits and promotions that the employee would have been eligible for had he/she not entered military service. (Escalator Principle.)	Reinstatement would be with all benefits and seniority accrued before break in employment, no seniority accrued during break in employment
REQUIRED NOTICE BEFORE LEAVING EMPLOYMENT	None. No limit on time elapsing between the time the employee leaves and the beginning of military service	Thirty days unless impossible
APPLY TO SUCCESSOR-IN-INTEREST?	Yes.	No.
BURDEN-OF-PROOF ON EMPLOYEE QUALIFICATIONS	Unless facts to the contrary are presented by the employer, it is presumed that the veteran possesses the necessary qualifications	Employee must submit a written application that demonstrates that he/she remains qualified to perform the duties of the job.

Congress of the United States

House of Representatives

Washington, DC 20515

May 14, 1991

The American Family Protection Act
Better for Businesses and Families

Dear Colleague:

We are writing to ask your support for H.R. 1270, the American Family Protection Act. This bill presents an alternative to Federally mandated leave in the debate on work and family time issues. Our bill would provide a statutory hiring preference to workers who must leave their jobs to care for young children or to care for a seriously ill family member. An employee returning to the workforce after fulfilling family responsibilities would be entitled to reinstatement to the first available position of similar pay, seniority and status for which they are qualified.

The proponents of H.R. 2 have the admirable intentions of providing relief for families. However, the legislation they promote fails to accomplish this goal. A twelve week parental leave falls far short of the amount of uninterrupted time infants need with their parents. Several polls have shown that parents want to spend at least two or three years at home raising their children -- **not twelve weeks**. Our bill provides parents with the flexibility to spend as much time at home raising their children as they want.

By getting the government into the twilight zone of mandating which fringe benefits employers must provide, H.R. 2 would actually hurt families. By mandating a particular benefit, Congress reduces the flexibility of employers to provide the benefits such as cafeteria plans, flextime and homework that employees want. In addition, workers who are not on leave might be forced to shoulder the workload of employees on leave, causing them to work longer hours and therefore have less time to spend with their families.

We have concerns about the operational difficulties and costs of implementing a leave policy. H.R. 2 would guarentee an employee taking leave unconditional and immediate reinstatement whenever he or she chooses to return from leave, regardless of the economic consequences to the employer. Reinstatement would be mandated even if the leave is taken for an indeterminate period of time or the employer has to fill the vacancy with a new, permament worker. At the beginning of the leave period, the employer -- and, in all good faith, the employee -- may have no idea when, if ever, the employee will be coming back to work. The employer is faced with the uncertainty of not knowing whether to let the position go vacant or go forward with expensive placement and training procedures for a specialized job that may require hiring a new, permament employee.

The American Family Protection Act recognizes that it is not always possible for an employer to keep a position open while an employee is on leave. It corrects the problem of forcing an employer to choose between firing a replacement employee or creating a new, unneccessary position in order to reinstate a returning employee. Our bill provides employees with a statutory assurance that their prior service with an employer will be recognized when they seek re-employment after taking extended time off to care for young children or seriously ill family members.

We reject the assumption that assistance to families must come at the expense of harming businesses. **Families want options, not an inflexible mandate.** The American Family Protection Act provides employers and employees the flexibility to work together to meet their mutual concerns. A summary of our bill is reproduced on the back. If you have any questions, or would like to be added as a cosponsor, contact Ed Lorenzen at 5/6605. Sincerely,

Charles W. Stenholm, M.C.

Fred S. Upton, M. C.

Summary of Provisions of H.R. 1270

Conditions of leave

*Employees may take leave upon the birth or adoption of a child, or to care for a seriously ill member of their immediate family.

*Serious illness is defined as an illness that poses an imminent danger of death, requires hospitalization, or requires constant in-home care.

*Employees must provide employers with written notification that they intend to take leave under this act thirty days in advance unless impossible

*Employees must have been employed for 2000 continuous hours during the 14 months preceding the leave.

Reemployment rights

*The employee would be reinstated in the same or similar postition as his/her previous job provided that such a position is available. The employer would not be required to fire a replacement worker or create a new position in order to reinstate a returning employee.

*If the same or a similar postion is not available when the employee wishes to return, that employee would be granted preferred rehire status. The employee would be entitled to the first position that becomes available that has similar seniority, pay and status as his/her previous job, provided that the employee is qualified to perform the functions of that job.

*The employee has the burden of proof in showing he/she is qualified for the position and has kept up with all changes in technology, etc. that have occurred in the field during the break in employment.

*The employer would be required to notify the employee of all jobs of similar pay and status that the employee is qualified to perform that become available for up to one year after the employee notifies the employer that they wish to return. The employee would have fifteen days in which to respond to a job offer made by the employer under this act.

*Upon reinstatement, the employee would be reinstated with any seniority and benefits accrued before the break in employment.

*Employees can indicate a willingness to return up to six years after leaving for the care and nurturement of a newly born child or two years after leaving to care for a seriously ill family member.

Waiver

*Absent any coercion, employers and employees may agree to change the requirements, terms and conditions of reemployment or to substitute an employment benefit such as dental insurance.

*The agreement must be in writing. The employer must provide the employees with a written summary of their rights under this act.

Exemptions

*The employer is exempt from the requirements of this bill if circumstances have so changed between the time of the employee's notification of leave and the application for reemployment as to make reemployment unreasonable.

*The employer is not required to offer reinstatement to an employee who has had disciplinary action instituted against him/her.

Other Provisions

*Coverage is extended to Congressional employees

*Damages are limited to back pay and benefits

THE WHITE HOUSE
WASHINGTON

Date_____

Parental Leave

TO: KATIE WINKLER JOHN

FROM: JACK HOWARD
Special Assistant to the President
for Legislative Affairs

CHARLIE STENHOLM WANTED THE GOVERNOR TO HAVE THIS

THE CHIEF of STAFF has seen

CHARLES W. STENHOLM
17TH DISTRICT
TEXAS

COMMITTEES:
AGRICULTURE
VETERANS AFFAIRS

CHAIRMAN OF
SUBCOMMITTEE ON LIVESTOCK,
DAIRY, AND POULTRY

Congress of the United States
House of Representatives
Washington, DC 20515

Please Respond to:

WASHINGTON OFFICE:
☐ 1226 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-6605

☐ DISTRICT OFFICES:
P.O. BOX 1237
STAMFORD, TX 79553
(915) 773-3623

☐ P.O. BOX 1101
ABILENE, TX 79604
(915) 673-7221

February 20, 1991

The Honorable
House Office Building
House of Representatives
Washington. D. C., 20515

Dear

Few issues have been around as long or have inspired as strong emotions as the issue of family and medical leave. Concerted efforts on both sides of this issue have resulted in a political stalemate. As you know, legislation identical to the bill vetoed last year has been reintroduced as H.R. 2 and is apparently on a legislative fast-track.

I remain strongly opposed to legislation that mandates which employment benefits an employer must provide. I believe that we need to encourage employers and employees to work together to find arrangements that meet the legitimate family needs of employees while maintaining the flexibility necessary for an employer to keep a business operating efficiently. For this reason, I have worked closely with Senator Orrin Hatch to craft a bill which we believe balances the needs of American families with those of all employers. I plan to introduce the product of our efforts, the "American Family Protection Act of 1991", when Congress returns from the Lincoln/Washington District Work Period. Senator Hatch has already introduced similar legislation, S. 418, in the Senate.

This bill is intended to shift the focus of the debate away from the terms set by the proponents of H.R. 2. Instead of compromises that merely "split the difference" with the mandate in H.R. 2, the Stenholm-Hatch Bill is an alternative that approaches the issue from an entirely different perspective. This bill dismisses the premise that assistance to families can be provided only by placing further restraints on businesses.

I have enclosed a summary of this legislation for your review. If you have any questions, or would like to cosponsor this bill, feel free to contact me or Ed Lorenzen (5/6605) of my staff.

Sincerely yours,

Charlie

Charles W. Stenholm
Member of Congress

CWS:esl

Congressional Record

Vol. 137 WASHINGTON, WEDNESDAY, MARCH 6, 1991 No. 38

House of Representatives

THE AMERICAN FAMILY PROTECTION ACT

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1991

Mr. STENHOLM. Mr. Speaker, I am pleased to come to the House floor today to introduce the American Family Protection Act. This bill presents an alternative approach to the issue of family leave, an issue that has received considerable attention in the past year. This bill will provide the basis for a possible substitute amendment when the Family and Medical Leave Act of 1991 is considered by the House of Representatives in the near future.

Mr. Speaker, it is no secret that I have strong reservations about federally mandated parental and family and medical leave. The Government should not be in the business of setting the benefit priorities for American workers. H.R. 2 would begin to get the Government into the twilight zone of fringe benefits—something very different from basic labor standards of wages, hours, and safety—and that is someplace it doesn't belong. A poll released last week demonstrated clearly that the overwhelming majority of the American public agrees that the Federal Government should not mandate which benefits employers should provide.

I also have serious concerns about the operational difficulties and costs of implementing a leave policy. The costs of recruiting and training temporary replacements is substantial, especially for highly skilled positions. Even worse, many employers will find it impossible to recruit temporary replacements for an indeterminate period of time. This is of particular concern to employers in rural areas, such as my west Texas district.

Despite my opposition to H.R. 2, I recognize that American families are under tremendous strain and need assistance. In an increasing number of families, both parents are forced to work by economic necessity. Despite a seemingly inexhaustible supply of parental love, parents are unable to be present at many of the times of need of their children and miss many important events in their children's lives. We took a major step last fall in assisting families by passing historic child care legislation, which included as its centerpiece tax credits that relieved the tax burden on low-income families with children. I worked closely with my colleague, NANCY JOHNSON, on the issue of child care, and am pleased to be working with her again on the American Family Protection Act.

The proponents of H.R. 2 have the admirable intentions of providing further relief from the burdens families face. However, the legislation they promote falls well short of the standards they set for themselves. Although there is considerable debate about the nature of the bonding process between parents and children, I know of no scholar who would claim that parents can truly bond with their children in 12 weeks. A 1988 USA Today poll found that "missing big events in their children's lives" is the thing parents dislike most about their current day care situation. William Galston and Elaine Ciulla Kamark of the Progressive Policy Institute wrote in a 1990 report that "Government will never have the resources or the ability to replace what children lose when they lose supportive families. This suggests that the focus of public policy should be to look for ways to create stable families, not substitute families."

It is my hope that the American Family Protection Act can achieve this goal. It allows employees to take a break in employment to care for a child up to age 6, and to leave their jobs for up to 2 years to care for a seriously ill family member. They would be entitled to their old job, or a job of similar pay, seniority, and status upon their return if such job is available, provided they are qualified to perform the functions of the job. The employer would have to notify the employee of subsequently available positions, and reinstate them in the first position of similar pay, status, and benefits that the employee is qualified to fill. However, an employer would not be required to fire a replacement worker in order to reinstate the employee returning to the work force.

My bill allows the employee and employer even further flexibility. If the employee and employer agree that a benefit, such as employer assistance in locating and paying for child care, would be in the best interest of both the employer and the employee, they may substitute such an agreement for the requirements of this bill. This would encourage employers to work with employees to best meet the needs of the work force.

I know that some of my colleagues who agree with me on the problems of mandate may be concerned that support for this bill would be inconsistent with their opposition to mandates. This bill does not mandate an employment benefit. It completely eliminates the biggest flaw in H.R. 2: Mandated reinstatement after leave, regardless of the nature of the job, regardless of how serious the employer's need to plan his or her operations with certainty.

I am enthusiastic about this legislation because it will allow this body to support the principle that the workplace should be flexible; that the needs and the agreements of individual entrepreneurs and workers is more important than a Federal fiat. It is my hope that this legislation, by encouraging employers and employees to continue the trend of cooperation in addressing family needs, will further strengthen American families.

I am submitting for the RECORD summaries of this legislation I am introducing today. I urge all of my colleagues to take a careful look at this bill and to consider our arguments when the issue comes to the House floor. The future of American families may depend on what we do in this body.

AN INTERNATIONAL DAILY NEWSPAPER

FRIDAY, APRIL 19, 1991 50¢ ($1.00 CANADIAN)

THE CHRISTIAN SCIENCE MONITOR

VOL. 83, NO. 101

GOBET/AFP

To Be Effective, Family Leave Should Be Flexible

By Orrin G. Hatch

FOR millions of American families, the conflicts between work and family are unavoidable. Congress is currently struggling with the question of how best to help these families cope with them.

One proposal before Congress, the Family and Medical Leave Act, would establish an unprecedented federal mandate that prescribes new, unearned employee benefits along with complex federal rules and regulations.

Another, more realistic approach focuses on protection of employee seniority, earned benefits, and accrued pay status and offers greater flexibility to both employees and employers.

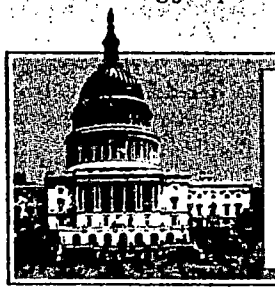
The latter approach is embodied in the American Family Protection Act. It provides up to six years of leave for parents to bond with children and up to two years to care for seriously ill elderly relatives, children, or close family members. The differences between this legislation and other approaches warrant analysis.

As designed, federally prescribed mandates are inflexible, ineffective, and discriminatory in impact. Here are the facts:

■ "Bonding" is the interaction between parent and child that begins immediately after birth and foreshadows the infant's later socio-emotional development. Without this post-birth intimacy, many children are at high risk of developmental difficulty. Facilitating this bonding must be a central objective of any legislation in this area.

According to the experts, the first four to six months are critical in this bonding process. More precisely, they note, bonding is a continuous process lasting years. By any standard, the 12 weeks allowed in the Family and Medical Leave Act are not enough.

■ Providing job protection for individuals who must care for seriously ill children, elderly parents, or close family members is another objective of national legislation. But, by definition, a serious illness is one that may not run its course within the allowed 12-week period.



VIEWS FROM CAPITOL HILL

■ Mandated benefits are not free. Accepting this reality, proponents of that approach exempt from coverage small businesses with fewer than 50 employees. But this would make almost 50 percent of the nation's working parents – those whose employers are least likely to have their own leave programs – ineligible for bonding or medical-emergency benefits. A mandated benefit, therefore, has a discriminatory impact.

Because The American Family Protection Act does not establish new mandated benefits but preserves those already in effect, there is no need to exempt small employers, who include about 95 percent of all US employers. Instead of an inflexible federal mandate, parents would be free to choose the length of time right for their circumstances.

How does the American Family Protection Act work?

For example, Mary Smith is free to spend more time with her newborn – as much as six years. When she decides to return to work, she would simply apply for reemployment. If the same or similar job is available, the employer must rehire her. If the same or similar job is not then available, the employer is obligated to notify Mary of such an opening for up to a year later.

This concept of preferred rehire has been successfully used to assist veterans of the armed forces seeking reentry into the civilian labor force.

It doesn't make sense to mandate a new employee benefit that will impose unprecedented obligations and new costs on employers, particularly when the tradeoffs necessary to make the costs bearable render the benefit inadequate to fulfill its purpose. This mandate makes even less sense when it exempts almost half of the labor force.

But, even more important, families deserve the right to choose. Congress can help families the most by giving them options, and that is precisely what the American Family Protection Act does.

■ *Orrin G. Hatch of Utah is the ranking Republican member of the Senate Labor and Human Resources Committee.*

U.S. Chamber of Commerce
1615 H St., NW
Washington, DC 20062

Media Relations Department (202) 463-5682

NEWS

FOR IMMEDIATE RELEASE

Contact: Thomas Love

COMMENT ON THE AMERICAN FAMILY PROTECTION ACT
BY RICHARD L. LESHER, PRESIDENT
U.S. CHAMBER OF COMMERCE

WASHINGTON, May 14 -- Rep. Charles Stenholm, D-Texas, and Sen. Orrin Hatch, R-Utah, are to be praised for introducing the American Family Protection Act as a workable alternative to mandated leave.

The Stenholm-Hatch proposal answers two major problems with mandated leave. First, it allows an employee to take up to six years to handle family responsibilities rather than 12 weeks -- clearly too short a time for many emergencies. Second, it gives a preferred rehire right, similar to veterans' rehire, rather than making leave a mandated benefit with automatic reinstatement.

This provides needed flexibility for both the employer and employee. It allows an employer to plan for and maintain the necessary staff to function efficiently rather than having to hold a job open or fill it with a temporary employee. It allows the employee to take the time needed to bond with a child or handle a serious medical problem while insuring the opportunity to return to work if an appropriate vacancy occurs.

###

91-87

SER®-Jobs for Progress National, Inc.

1355 River Bend Drive, Suite 240, Dallas, Texas 75247, (214) 631-3999, FAX (214) 630-0132
Cultivating America's Greatest Resource: People

May 6,

The Honorable Orrin G. Hatch
U.S. Senator
135 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Hatch:

On behalf of SER, I wish to commend you for introducing a key piece of legislation in the Senate in the form of bill S. 418, the American Family Protection Act of 1991.

I have studied the bill and firmly believe that it will go far in "...strengthen(ing) the family structure of the United States by providing protection for eligible individuals who desire or need to leave employment for a legitimate family purpose..."

Given the success of SER's Family Learning Center program in providing literacy and job skills training, we can attest to the advantages of focusing on the traditional family unit as the source on which to build and support a positive learning environment. Our experience also indicates that the family unit as the focal point of learning, produces social and economic benefits which extend to the immediate community.

Ensuring early childhood bonding between child and parent and availing an employee a balance between work and family are crucial to preserving these inherent strengths of the family unit. This is especially true now with more women having to enter the work force to sustain their families. Today, women must work to help husbands earn an adequate living and, as single-female heads-of-household, women must work because they are the only income-earners in the family.

These changes alone have placed an enormous strain on the support environment on which members of the family used to rely. When coupled with the prospects of a long-term illness of a family member, the burden places families at severe economic risk. Thus, it is imperative to establish a policy which helps preserve the support environment and safeguards the family structure in the face of these economic changes and personal tragedies.

The bill you have introduced in the Senate, the American Family Protection Act of 1991, encompasses the provisions to protect the family in these instances. It is also fair to the employer. It is in the employer's best interest to ensure an employee's family remains socially and economically stable and intact. The "time-off" an employee is granted to bear and rear a child or to care for a family member will instill loyalty, increase productivity, and assure the employer of a highly motivated employee when he/she returns.

Moreover, the balance between work and family will build a positive environment in the workplace and a healthy, productive relationship between employer and employee. An employer will also benefit to the extent that retaining loyal employees in the long-run will become a necessity when one considers the imminent changes associated with a shrinking labor force, the aging of the population, and the increasing number of women entering the workforce.

The American Family Protection Act of 1991 also provides flexibility in the conditions of reemployment, it provides an adequate time span to permit early childhood bonding following birth or to provide personal or medical care for a family member with a serious health condition, and it provides ample recourse to employee and employer where either fails to comply with the provisions of the Act.

More importantly, the American Family Protection Act of 1991 helps preserve the family structure, which benefits the community and the nation - and this is in all our best interests. SER is proud to enlist its support of this important legislation and urge your colleagues to join you to protect the American family.

Sincerely,

Pedro L. Viera
President

PLV/ac

SEN1-LTR.DOC

FAMILY
RESEARCH
COUNCIL

Gary L. Bauer
President

FOR IMMEDIATE RELEASE
Tuesday, May 14, 1991

CONTACT: Carrie Howard
(202) 393-2100

GROUP APPLAUDS 'FAMILY TIME' BILL WHICH PUTS KIDS FIRST

Citing polls showing growing public concern about the effects of parental absence on children, Family Research Council president Gary L. Bauer today urged Congress to adopt legislation which would make it easier for parents to spend more time with their children.

"America is suffering from a serious family time famine," Bauer said. "Accordingly, any legislation designed to ease work-family tensions must have promoting parent-child interaction as its top priority."

Bauer applauded a parental leave alternative introduced by Congressman Charlie Stenholm (D-TX) and Senator Orrin Hatch (R-UT) which would allow family-oriented workers to interrupt employment for up to six years after the birth or adoption of a child. Comparing this six-year standard to the 12-week maximum found in the Family and Medical Leave Act, Bauer said research included in a paper officially released today by the Family Research Council demonstrates conclusively that "children need more than 12 weeks and mothers want more than 12 weeks."

700
Thirteenth St., NW
Suite 500
Washington, DC
20005
(202) 393-2100
FAX (202) 393-2134

The FRC report cites Census Bureau data showing that most mothers currently do not return to paid employment during the 12 weeks immediately following childbirth and that decisions to return to employment are often influenced by the length of maternity leave offered.

Thus, to the extent that parental leave legislation would establish normative expectations that employed women should return to paid work within weeks of giving birth, Bauer said the Family and Medical Leave Act actually could reduce the amount of time mothers spend with their children. Conversely, the Stenholm-Hatch Bill is apt to increase the amount of time mothers devote to caring for young children by giving employed mothers an opportunity to stay home with children without significantly risking future employability.

In addition, Bauer expressed concern that, despite its gender-neutral veneer, job-guaranteed parental leave legislation also could reduce paternal involvement in children's lives by crowding out other employment arrangements --- like home-based employment and flextime -- which family-oriented men are more apt to take than paternity leave. Citing a recent study which shows that employers typically spread a maternity leave-taker's workload among existing employees rather than hiring a temporary replacement, Bauer said passage of the Family and Medical Leave Act could cause some employed fathers to work longer hours with less schedule and workplace flexibility in order to take up the slack left behind by leave-taking employees. Bauer said the Stenholm-Hatch Bill would

have no similar adverse effect on paternal time with children, and he said the Stenholm-Hatch Bill's fairness and flexibility no doubt help to explain why business groups (such as the U.S. Chamber of Commerce) and minority groups (such as the League of United Latin American Citizens) have embraced this proposal.

In calling for passage of the Stenholm-Hatch proposal, Bauer also urged lawmakers to adopt pro-child tax relief proposals which would make it more affordable for parents to spend time with children. Bauer praised Congressman Frank Wolf's bill to increase the tax exemption for children (which now has more than 150 cosponsors) and a bill introduced by Senator Charles Grassley (R-IA) which would expand the Young Child Tax Credit (YCTC).

The YCTC, which Congress adopted last year, is designed to address tax discrimination against mothers who take time off from employment to care for their own children.

Bauer said he was surprised that Senator Albert Gore (D-TN) and Congressman Thomas Downey (D-NY) had introduced a tax bill last week which would exacerbate the tax code's bias against parental childrearing by eliminating the Young Child Tax Credit.

"The Gore-Downey proposal to increase the tax bias against mothers who take time off from their jobs to care for young children seems inconsistent with the purported goals of the parental leave bill they both support," Bauer said. "Apparently, these lawmakers want to 'turn back the clock' and return to the days when the tax code was even more biased against spending time with children."

THE WHITE HOUSE
WASHINGTON

5-20-91

TO: Governor Sununu
C. Boyden Gray

FROM: **FRED McCLURE**
Assistant to the President
for Legislative Affairs

☒ FYI
☐ Comment
☐ Action

THE CHIEF of STAFF has seen

Senator Don Nickles (R-OK), Chairman of the Republican Policy Committee forwarded the attached documents to all Republican Senate Offices.

These documents were handed out at a press conference that Senators Mitchell and Boren held on campaign finance reform.

Thought you might find them of interest.

The attached "Summary of Democratic Leadership Substitute Election Ethics Act of 1991" (5/15/91) was distributed at a press conference held by Senators Mitchell and Boren at noon today (5-15).

The summary was prepared by the sponsors of the bill, not RPC.

5/15/91

SUMMARY OF DEMOCRATIC LEADERSHIP SUBSTITUTE ELECTION ETHICS ACT OF 1991

Voluntary Flexible Spending Limits

A system of voluntary flexible spending limits would be established, based on state voting age population, ranging from $950,000 to $5,500,000 for Senate general election campaigns. Primary spending limits amounting to 67% of the general election limit up to $2,750,000 would be established. The general election limit could be increased by up to 25 percent of the spending limit to the extent of $100 contributions received from individuals residing in the candidate's State.

Benefits for Eligible Candidates

Candidates who raise a threshold amounting to 10% of the general election spending limit in individual contributions of $250 or less (50% in-State) and who agree to voluntarily abide by spending limits would be eligible to receive certain benefits:

A. Broadcast Vouchers: Vouchers amounting to 20% of the general election limit would be provided to purchase television advertising in segments of between one and five minutes.

B. Low Cost Mail: First class mail would be available at one quarter the regular rate for candidate mailings. Third class rates would be 2 cents lower than first class. Candidates would be permitted to spend up to 5 percent of the general election limit on such mailings.

C. Broadcast Rates: Current law lowest unit charge provisions would be modified to require broadcasters to charge eligible candidates during the general election no more than 50% of the lowest unit charge for the same amount of time for the same time of day and day of week. Eligible candidates would be entitled to the lowest unit charge during the 45 day period prior to a primary.

D. Independent Expenditures: Eligible candidates would receive public funds to respond to independent broadcast ads exceeding $10,000 from any source during the general election period.

E. Contingent Public Financing: Eligible candidates would receive additional public funding if an opposing candidate exceeds the spending limits.

PAC Limitations

Political Action Committees would be prohibited from making contributions or expenditures for the purpose of influencing elections for federal office.

Soft Money

Political party committees would be prohibited from using soft money, not regulated under federal law, for any activities in connection with a federal election. Activities in connection with a federal election include get-out-the-vote activities, voter registration, generic and mixed election activities including general public advertising, and campaign materials, maintenance of voter files and other activities affecting a federal election during a federal election period. Party committee spending on mixed federal-state activities in connection with federal elections would be subject to overall limits.

State party contribution limits would be increased to the amount permitted to national parties. Federal office holders and candidates would be prohibited from soliciting soft money contributions. The contribution/expenditure exceptions in current law that permit unlimited State party spending for "volunteer activities" that affect a federal election and GOTV for presidential elections would be repealed. State parties would be permitted to spend 4 cents per voter for presidential elections.

Bundling

Bundling in excess of the contribution limits would be prohibited by all political committees and lobbyists, and individuals acting on behalf of those entities or on behalf of corporations, labor unions, or trade associations.

Broadcast Rules

A. Lowest Unit Rate: All eligible candidates would be entitled to purchase television broadcast time during a general election at 50% of the lowest unit charged for same amount of time for the same time of day and day of week. During the 45 day period prior to a primary eligible candidates would be entitled to purchase time at the lowest unit charge.

B. Candidate Accountability: All candidates would be required to appear at the end of their television advertisement conveying the message that the advertisement was paid for by the candidate.

C. Disclosure: Non-eligible candidates would be required to disclose in all advertisements that the candidate has not agreed to spending limits.

D. Vouchers: Vouchers amounting to 20 percent of the general election spending limit would be provided to eligible candidates to purchase prime time television advertisements of at least one minute but not more than five minutes. Broadcast stations would be required to make these longer time periods available to candidates.

Independent Expenditures

The types of activities and relationships which are expenditures in coordination, consultation or concert with a candidate -- and therefore not independent -- would be more broadly defined. Under this definition, expenditures by political committees required to register as lobbyists would not be independent and would count against the contribution limit.

Primary spending limits would increase by the amount of independent expenditures intended to assist opponents of a candidate. The general election spending limit would be increased and public funds made available to eligible candidates who are the target of more than $10,000 of independent expenditures from any one source. Broadcast stations would be required to make time available immediately after the independent broadcast for the candidate to respond.

Personal Loans

Candidates agreeing to spending limits would be prohibited from spending more than $250,000 of their own funds for election to the Senate. Contributions could not be received after an election to repay personal loans of the candidate.

501(c) Organizations

Federal office holders and candidates would be prohibited from raising any funds for 501(c)(3) organizations organized to conduct voter registration or get-out-the-vote drives.

Miscellaneous

Leadership PACs would be prohibited. Individual contributions in excess of $10,000 would have to reported to the FEC. Dependent children below voting age would not be permitted to contribute to federal election campaigns.

FEC Reform

With respect to preliminary matters such as decisions to investigate violations the recommendation of the General Counsel would be sustained if supported by the votes of 3 Commissioners. Provisions are included to shorten time periods of FEC action, authorize the FEC to seek court injunctions, and increase minimum penalty amounts for violations of the law.

#####

May 15, 1991
Publication: SR-12-General Government

dpc special report

Major Issues: S. 3
Campaign Finance Reform, As reported April 11, 1991 (S. Rept. 102-37)

democratic policy committee

DPC Staff Contact: Greg Billings (4-3232)

dpc

Democratic Policy Committee
United States Senate
Washington, D.C. 20510

George J. Mitchell, Chairman
Thomas A. Daschle, Co–Chairman

Major Issues

I. Spending Limits

Republicans maintain that problems in the Senate election campaign process can be addressed without spending limits.

Democrats know the facts.

- Spending limits are the essential element of true campaign finance reform because only through limits will candidates cease their chase for more money.
- Spending limits, set at reasonable levels, inherently benefit challengers because incumbents typically have vastly greater fundraising abilities. The spending limits in **S. 3** basically limit incumbent, not challenger, spending. As a result, spending limits will make Senate elections far more competitive.
- Spending limits prevent incumbents from amassing huge campaign war chests, which scare off challengers.
- Campaign finance reforms without spending limits result in only marginal changes in the campaign financing system without addressing the heart of the problem: the endless pursuit of money required to run modern Senate campaigns.

II. Republican Use of Public Financing

Republicans maintain that public funds should not be used to clean up the Federal election campaign system.

Democrats know the facts.

- Republicans have used tens of millions of dollars in public funds for their political campaigns.
- Republican presidential candidates and the Republican Party have accepted some $241 million in public funds for the primary and general elections since the presidential system of spending limits and public campaign resources began in 1976. All but one Republican presidential candidate has accepted public funds.
- President Reagan was the top recipient of public funds, having received a total of $90.5 million for his presidential bids in 1976, 1980, and 1984. President Bush, who with Mrs. Bush checked "yes" on the presidential election checkoff on his Federal tax returns, accepted some $60.2 million in 1980 and 1988. Senate Minority Leader Robert Dole (R-KS) received some $8.1 million during those elections.
- The Republican party has accepted $32.2 million in publicly funded grants to pay for all of its presidential conventions since 1976. Republican party campaign committees have spent millions of dollars in public funds as postal subsidies for political mailings.

III. Success of the Presidential System

Most Republicans maintain that the presidential system does not work, is a bureaucratic nightmare, and that one of every four dollars is spent on legal and accounting expenses.

Democrats, and even one Republican, know the facts.

- *"There's far too much emphasis on money and far too much time spent collecting it. It's the most corrupting thing I see on the congressional scene. ... The problem is so bad we ought to start thinking about Federal financing [of House and Senate campaigns]. ... It was an anathema to me ... but in my experience with the [Reagan] presidential campaigns, it worked, and it was a breath of fresh air."*

  Former Senator Paul Laxalt (R-NV), chair,
  Reagan presidential campaigns, 1976, 1980 and 1984

- The Watergate scandal and the ensuing public outcry were the impetus for the adoption of landmark legislation to dramatically change and clean up the way presidential campaigns were financed. Twenty years ago, presidential campaigns were financed by the wealthiest, most influential, and secretive individuals in our society. The centerpiece of reform legislation to deal with that problem was a system of campaign spending limits and public campaign resources.

- The reform legislation recognized that in a nation of 200 million people, the costs of reaching voters with a campaign message had outrun what a private fund-raising system could accountably raise.

- Equally important, the Federal income tax presidential campaign fund one dollar check-off ensures that challengers to a sitting President, who cannot call on the vast array of government programs and offices to bolster their campaigns, will have a more equal chance to bring their candidacies to the people.

- Even though the Federal check-off is not widely advertised, more than 32 million Americans have made it clear that they believe in our system of free elections, by checking "yes."

- This system cannot be deemed a failure because more people do not participate. That would be equivalent to saying low voter turnout is an indictment of free elections.

- Despite the success of the current system, the 1988 presidential election showed that there are problems — namely tens of millions of dollars in Federally illegal contributions as large as $100,000, each laundered through State political parties. **S. 3** would shut down these political party soft money abuses.

Democrats also know there are more advantages to public financing.

- Public financing has minimized the role of special interest PAC contributions in presidential campaigns.

  - Less than two percent of the total campaign receipts of all presidential candidates in 1988 came from PACs, while PAC contributions to congressional candidates have jumped from $12.5 million in 1974 to $150 million in 1990.

- Public financing makes elections more financially competitive for challengers.

  - In the three general elections in which an incumbent President was challenged (1976, 1980, and 1984), public financing provided equal amounts for the incumbents and the challengers, a total of $91.6 million each for incumbents and challengers. Challengers won two of these three races.

  - By contrast, Senate incumbents in 1990 had a total of $145 million in campaign funds, almost three times as much as their challengers. Thirty-one of the 32 Senate incumbents won reelection, the highest reelection rate in the Senate since 1960.

- The presidential public financing system has broadened grass roots democracy by bringing more small contributors into the political system, with some 32.5 million taxpayers checking "yes" on their Federal tax returns for the presidential campaign fund.

- A nationwide University of Michigan study in 1988 found that while six percent of the public said they contributed money to a candidate and six percent said they contributed to a political party during the election year, 27 percent said they contributed through the dollar tax check-off.

IV. S. 3 Benefits Challengers, Not Incumbents

Republicans maintain that spending limits inherently benefit incumbents and that **S. 3** is designed to perpetuate a Democratic majority in the Senate.

Democrats know the facts.

- The current campaign finance system overwhelmingly benefits incumbents and the spending limits in **S. 3** for the most part limit incumbent spending, not challenger spending. In the 1990 elections, Senate incumbents spent $129 million compared to $47 million by challengers, nearly a 3 to 1 margin. Senate incumbents outspent challengers in 26 out of 28 races. Thirteen of the 28 challengers were unable to raise even 50 percent of the proposed spending limits in **S. 3**. Twenty-three of the 28 were unable to reach the spending limits.

- The **S. 3** system of public campaign resources and spending limits would enable challengers to compete by:

  - imposing generous spending limits which primarily affect incumbents; and,

  - providing substantial campaign resources to all candidates in the form of postal and broadcast benefits that will increase the ability of challengers to communicate with voters.

- If **S. 3** had been in effect in the 1990 Senate elections, the 28 challengers would have received a net benefit (spending limits affecting incumbents and benefits of greater relative value to underfunded challengers) of $2.5 million each, or a total of $70.8 million for all 28 races.

- **S. 3** would increase total net resources for Senate challengers to $18.6 million and decrease total net resources for incumbents to a $52.2 million.

- Spending will continue to escalate still further — and the gap between incumbent and challenger widen further — until reasonable limits are placed on campaign spending.

V. Republican Attempts to Suppress Political Speech By Non-profit Organizations

Republicans support provisions which prohibit free speech.

During Senate consideration of campaign finance reform legislation last year, Senator Mitch McConnell (R-KY) offered an amendment that would effectively prohibit tax-exempt, non-profit organizations from participating or intervening in any political campaign. This would be accomplished by subjecting such organizations to income tax on their dues and other income. This amendment was supported by almost every Senate Republican and is now included in campaign finance reform legislation introduced by Republicans in this Congress. It is expected that this assault on the political speech of non-profit organizations will be undertaken again when **S. 3** is considered on the Senate floor.

Democrats know the facts.

- Under current law, 501(c)(3) charitable organizations — the contribution which entitles the donor to a tax deduction — may not "participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office." The Republicans would like to extend this rule to all other non-profit, 501(c) organizations — the contributions which do *not* entitle the donor to a tax

deduction. These organizations include civic and business leagues, labor unions, agricultural organizations, veterans organizations, fraternal societies, and other organizations operated on a non-profit basis for the mutual benefit of their members.

- According to a long line of cases and IRS rulings interpreting this language in the Internal Revenue Code section 501(c)(3), the Republican amendment would prevent veterans organizations, labor unions, business leagues, and agricultural organizations from communicating with their membership to inform them of the voting records of Members of Congress. Such organizations could not endorse candidates, conduct voter registration, or provide candidate ratings to their members under this amendment.

- It is illogical policy, and most likely unconstitutional, to prohibit non-profit 501(c) organizations from communicating basic electoral information to their members. And, it should be understood that the amendment is basically a prohibition on speech because the sanction — forfeiting such organizations tax exemption — is so drastic that non-profit organizations would not pay the price.

Republicans argue that the government is conferring a tax benefit on such organizations — by not subjecting them to taxation on their dues income, and, therefore, that the government is justified in imposing a condition on such benefit.

Democrats know the facts.

- The Republican position ignores the fundamental distinction between 501(c) non-profit organizations and 501(c)(3) charities. The former are non-profit, mutual benefit organizations which are established to facilitate collective action for their membership. Their income is tax exempt, not because the government has decided to confer a valuable tax benefit, but because the income of such organizations is not earned for a profit-making purpose. Contributions to such organizations are not deductible because the organization operates for the private benefit of its members.

- In contrast, 501(c)(3) charities receive a valuable tax benefit, in the form of tax deductible contributions, because of the public benefits to be derived from their operation. The government prohibits their involvement in politics because they are in effect a substitute for government, performing functions that otherwise are performed by government.

Republicans maintain that the McConnell amendment would not prohibit political speech but would simply require that such speech take place through affiliated organizations, political committees separately established by the 501(c) organization.

Democrats know the facts.

- The Republican's position misstates the law. The IRS has been clear that the current law prohibition on 501(c)(3) organizations intervening in political campaigns absolutely precludes such organizations from maintaining affiliated political organizations to conduct such activities.

- The effect of the McConnell amendment should be understood by all of those who would vote for it. A veterans organization could not inform its membership that a congressional candidate is opposed to and votes against all veterans programs. An agricultural organization could not inform its members that a candidate is opposed to agricultural price supports. A labor union could not inform its members that a candidate is opposed to issues important to working Americans.

- The McConnell amendment would be a major assault on a fundamental right of Americans in a Democratic society—the right to be well informed of the voting record and position of their elected representatives.

Republicans maintain that current law in effect subsidizes political speech because the income that funds the speech is not subject to taxation.

Democrats know the facts.

- The Republican view indicates an ignorance of current tax law under 527(f) of the Internal Revenue Code. That provision requires that tax exempt 501(c) organizations pay taxes on that portion of their income devoted to political speech.

VI. The Political Activities of Labor Organizations

Republicans maintain that current election law enables labor organizations to provide unfair and substantial benefits to Democrats and that **S. 3** perpetuates that system. To deal with that situation, Republican campaign finance reform legislation is largely devoted to measures which are designed to prevent labor organizations from engaging in political activities on behalf of their members.

Democrats know the facts.

- Labor organizations, like corporations, are already subject to stringent limitations on their political activities and **S. 3** includes additional limitations.

- Under current Federal election law, labor organizations (and corporations) are prohibited from making any expenditures or contributions in connection with elections to public office. An exception is provided in the law that permits labor organizations (and corporations) to establish and maintain PACs. In addition, labor organizations (and corporations) are permitted to communicate with their members (and shareholders) and to conduct nonpartisan voter registration and get-out-the-vote campaigns aimed at their members (and shareholders) and their families. That is the limit of activities to which labor unions can get involved under Federal election law.

- Current substantial soft money spending at the State party level permits labor organizations to participate heavily in those Federal election activities that are permitted to be allocated to non-Federal purposes under current law. The Democratic bill, **S. 3**, deals with that situation by requiring all State party spending which affects a Federal election to be subject to Federal limitations, including those described above for labor organizations.

- The Republican bills ignore the soft money problem now occurring at the State party level and essentially codify current FEC regulations. Labor organizations would be permitted to continue current soft money practices if not for separate provisions in the Republican bills that prohibit all non-profit, tax exempt organizations from intervening in political campaigns. As a result, the Republican bill effectively prohibits labor organizations from participating in political campaigns, while preserving the soft money role of corporations.

VII. Gerrymandering

Republicans maintain that additional Federal statutory standards should be applied to State legislature redistricting activities to ensure that congressional districts are drawn fairly.

Democrats know the facts.

- Republican proposals to impose additional Federal standards for redistricting are designed merely to create confusion and delay in State legislatures, to create the impression that congressional districts are being drawn unfairly, and to transfer State legislative redistricting decisions to the Federal courts.

- Line-drawing activities now are occurring in all states and several States either have completed their work or are nearing its completion. Federal legislation at this point would be highly disruptive of the process. Federal legislation would also represent a major attack on Federalism as laid out in the Constitution, which leaves it to the States to determine the boundaries of congressional districts.

- State legislatures already are subject to the requirements of the *Voting Rights Act* to give fair representation to minority groups and to one-man-one-vote constitutional requirements as interpreted by the Supreme Court in the *Baker* v. *Carr* line of cases going back more than 30 years. In *Karcher* v. *Doggett*, the Supreme Court has provided further constitutional guidance to the States by requiring absolutely that congressional districts be of almost exactly equal population.

- The Republican campaign finance reform bills include provisions which would impose a series of additional standards on State legislatures. Those standards include the requirements that congressional districts:
  - be contiguous;
  - not dilute the voting strength of any political party;
  - be compact in form;
  - not divide any counties; and,
  - minimize division of cities, towns, villages or other political subdivisions.
- While additional Republican standards may appear reasonable on their face, they are generally inconsistent with each other and clearly unworkable with the constitutional requirements of the *Karcher* decision. A congressional district can be compact, it can be contiguous, it can be drawn without dividing any county, or diluting the strength of any political party. But it would be virtually impossible to satisfy all four standards. They often are mutually exclusive. It would be impossible to satisfy these four standards as well as constitutional requirements of the *Karcher* decision.
- The difficulty in satisfying the four standards is particularly acute in large geographical areas in which one party predominates, whether it be the Republican party or the Democratic party. In order to achieve population parity and any kind of political parity, the congressional district will have to be drawn to divide counties, cross political subdivisions, and be less than compact in form.
- Republicans are aware of the division problems, and it is not really their intent to have congressional districts drawn to satisfy all four standards. Instead, by putting forth these inconsistent standards, Republicans can appear to favor fairly drawn congressional districts, while making Democrats look the opposite. And in the event that such standards actually are adopted into law, Republicans are not concerned that State legislatures will find the law impossible to implement. Republicans would prefer that the Republican-dominated Federal judiciary decide how best to draw congressional districts.

VIII. FEC Administrative Burdens in S.3

Republicans maintain that the provision of public benefits and spending limits in **S. 3** will impose enormous administrative burdens on the Federal Elections Commission (FEC). They maintain the FEC must hire a huge auditing staff, will subject candidates to audit harassment, and will fail to complete audits from one election cycle before the next elections are held.

Democrats know the facts.

- The FEC projects that in order to comply with the audit requirements of **S. 3**, eight additional auditors would be needed. CBO estimates that the cost of **S. 3** for the FEC would be $1 million a year. The system proposed under **S. 3** is not at all comparable to the presidential system. First, only 10 percent of eligible Senate candidates would be required to be audited under the legislation. That works out to a maximum of seven audits if all 66 Senate candidates voluntarily agree to participate in the spending limits system.

- The scope of the audits for eligible Senate candidates under **S. 3** will not be as cumbersome as the presidential system for the FEC audit staff because Senate campaigns will not be encumbered with the equivalent of State-by-State limits that complicate a presidential audit. The FEC has estimated that 50 percent of the attention demanded by a presidential audit is required because the campaigns exceed one or more of the State spending limits. That is why the FEC has requested those State-by-State limits be repealed.

- The FEC never actually testified that it would have to hire additional auditors. In past floor statements and in Rules Committee hearings, Senator McConnell has stated that the FEC testified it would have to hire 2,500 additional auditors to audit publicly financed congressional elections. However, Senator McConnell himself suggested that number to the FEC during a Rules Committee hearing, and did not receive a clear reply that the number was incorrect. On that basis, he feels free to repeat his erroneous assertion even though CBO, working with the FEC, has estimated **S. 3** will require the hiring of eight auditors.

- Senator McConnell's statements, declaring that one of every four dollars spent in a presidential campaign is devoted to hiring accounting and legal staff to comply with the strictures of the public financing/spending limit law, are erroneous statements. Senator McConnell is referring to a study which includes a table that lists legal and accounting costs as a percentage of total expenditures. But that category also includes fund-raising costs, which during a presidential primary can be considerable. In fact, since the law permits up to 20 percent of presidential election expenses to be allocated to fund raising, campaigns typically assign a large percentage of costs to that category. Senator McConnell's figures are wrong; legal and accounting costs do not comprise more than six percent of presidential campaign expenditures.

IX. State and Local Governments Are Moving Toward Clean, Publicly Funded Campaigns

In recent years, a number of State and local governments have adopted campaign finance reform laws that provide candidates with clean public campaign resources.

New Jersey instituted a partial public financing program in 1977. It allows viable candidates to run for governor who might not otherwise have been able to because of limited personal wealth. The deputy director of the New Jersey Election Law Enforcement Commission notes that the system has eliminated undue influence from gubernatorial elections.

In the 1989 New York City mayoral election, all the primary candidates agreed to participate in the public financing system, except Ronald Lauder who spent $13 million of his own money and lost to his opponent Rudoph Guliani.

Last year, Los Angeles city voters approved a measure to create a system of campaign spending limits and public campaign resources for their mayoral and municipal elections.

Florida Governor Lawton Chiles has championed a major overhaul of the State's campaign finance system. This system would set aside $4 million a year for public financing of Statewide races and $2.5 million for gubernatorial general election candidates who agree to a $5 million spending limit.

The Speaker of the Minnesota House of Representatives says that spending limits and public financing have helped increase the number of individuals participating in the political process in Minnesota. He maintains that the new system has brought more volunteers into legislative races, helped increase voter turnout and steadily decreased the number of unopposed candidates running in each election. In addition, he says that the system has increased electoral competition.

X. The Influence of Large Donors on the Political Process

Earlier this year in an article about the Keating Five, Senator Rudman was reported to have asserted that pending campaign finance reform bills did not deal with the issues investigated by the Ethics Committee.

Democrats know the facts.

- **S. 3** deals directly and comprehensively with the abuses associated with the campaign contributions of Charles Keating and other wealthy individuals. Keating gave $100,000 in non-Federal money to a 1988 presidential candidate, contributed $850,000 to a 501(c) organization formed to conduct voter registration activities, contributed $85,000 in non-Federal dollars to a state political party, contributed $200,000 to a non-Federal political committee maintained by a member of Congress, and contributed thousands of dollars in bundled contributions to several Senators.

- **S. 3** deals with these abuses of the campaign finance laws in several ways. It would:

  - prohibit the use of non-Federal (soft) money by political party committees for use in activities that affect Federal campaigns. Keating gave these kinds of contributions to a Republican presidential candidate in 1988 and to a Democratic state party.

  - prohibit candidates and Federal officeholders from raising funds for 501(c) organizations organized to conduct voter registration and GOTV drives.

- prohibit Federal officeholders and candidates from maintaining political committees other than their principal campaign committee used for their election to Congress.
- prohibit Federal officeholders and candidates from raising non-Federal (soft) money.
- severely limit the ability of individuals to bundle large contributions to candidates as a means of evading the contribution limits of current law.

XI. The Failure of Republicans to Deal with the Problems of Soft Money

All Republican campaign finance reform bills essentially preserve the current system whereby non-Federal, soft money is used by party committees to affect Federal elections. The Republican bill would effectively sanction the practice of wealthy individuals giving $100,000 contributions to political candidates.

S. 3 deals comprehensively with this issue by requiring that all party committee spending which affects a Federal election be funded with money permissible under Federal election law. **S. 3** also includes provisions prohibiting Federal officeholders and candidates from raising soft money for political campaigns and for nonpolitical purposes. To the extent large corporate, labor, and individual contributors can give large sums of money to Federal officeholders, for whatever purpose, **S. 3** would limit such activities.

> In its broadest sense, soft money refers to the use of money unregulated by Federal law to affect Federal elections. It includes funds spent by both political party committees and other organizations to affect Federal elections.

The expenditure of private funds by organizations desiring to participate in the election process can be troubling at times but does not raise issues of undue influence that undermines public perceptions of the honesty of politicians. In contrast, when candidates raise money from large donors to be used by party committees for activities that affect Federal elections, important policy issues arise about the influence of large contributors on the political process.

For example, in the last presidential election 241 wealthy individuals and corporations gave $100,000 to the Bush campaign. Most of those individuals and companies had interest in legislation before the Federal government. Some were rewarded with ambassadorships. This is the type of activity that gave rise to the 1974 legislation that passed Congress after the Watergate scandal laid bare the type of influence welded by super wealthy campaign contributors.

Republican campaign finance reform bills focus on a nonproblem — the expenditure of money by non-profit organizations to influence Federal elections, instead of dealing with the obvious abuses associated with this type of soft money contribution to Federal officeholders and candidates. The Republican legislation would remove the tax exemption of any non-profit organization which "participates or intervenes in an election". This includes an endorsement of a political candidate or the communication of information to an organization's members with respect to the voting record of a candidate. The Republicans call this "sewer money" and they vow to clean it up.

In other words, the Republicans believe that a non-profit organization should not be permitted to educate its members about the views of a candidate. This is wrong according to Republicans. But it is alright for wealthy individuals and corporations to give $100,000 contributions to candidates for purposes of influencing a Federal election.

What they have done is to create a straw man in order to deflect attention from the fact that they are unwilling to deal with the real soft money problem arising from large contributions made to Federal candidates and officeholders.

THE WHITE HOUSE

WASHINGTON

May 15, 1991

91 MAY 15 PM 5:33

Leg 1991

MEMORANDUM FOR THE PRESIDENT

FROM: **MARLIN FITZWATER**

SUBJECT: **CONGRESSIONAL REACTION TO GATES NOMINATION**

Reaction from the Senate Intelligence Committee was mostly positive, as was overall Senate reaction. Some opponents of Gates' 1987 nomination, including Sens. Cranston (currently on the panel) and Specter (no longer on the panel), voiced positive reaction to the nomination. Sen. Metzenbaum issued the only outwardly negative comment; neutral comments came from panel members Bradley & Glenn and Sen. Mitchell. This memorandum was compiled from media reports filed after the announcement through 12:00 p.m. today.

+ indicates generally positive response
- indicates generally negative response
o indicates neutral response

SENATE INTELLIGENCE COMMITTEE

Democrats: Boren (chairman), Nunn, Hollings, Bradley, Cranston, DeConcini, Metzenbaum, Glenn

Republicans: Murkowski (ranking member), Rudman, Warner, Danforth, D'Amato, Gorton, Chafee

+ SEN. BOREN (supported '87 nomination)

"Barring some new revelation, I would be inclined to vote for Mr. Gates, and I think the Senate probably would be, too."

(Susan Spencer, CBS)

Boren said Monday he expected Gates would face some stiff questioning about his Iran-Contra role. Nonetheless, Boren predicted Gates could win confirmation. Boren Tuesday praised Gates as "an extremely able and nonpartisan professional" who "has vigorously supported a policy of cooperation by the executive branch with the congressional intelligence oversight process." However, Boren promised, "The committee will engage in a very thorough and careful confirmation process conducted in a timely manner."

(Tom Raum, AP)

"He [Gates] was a real architect of the (CIA Director) Webster policy of total candor with the committee."

(Laurence McQuillan, Reuter)

BOREN (continued)

Boren said he believed the Senate would approve Gates this time because of his performance since 1987 and because a committee inquiry had found no evidence of Iran-contra wrongdoing by him. "I never found any evidence that he was a co-conspirator, that he took any action, gave any orders to further the wrongdoing." He said he believed the late CIA Director Casey deliberately did not tell Gates of the illegal activity so that Gates could credibly testify to Congress that the CIA was not involved in it. Boren said Gates had performed "tremendous public service" since 1987, currently as Bush's deputy national security adviser.

(Jim Adams, Reuter)

Boren and Murkowski warned, however, that they were predicting Gates's approval on the assumption that the hearings would not disclose he was involved in the scandal, or some other wrongdoing they know nothing of now. **(Jim Adams, Reuter)**

+ SEN. MURKOWSKI

Murkowski agreed that "Iran-Contra will certainly come up but... (confirmation hearings) should eliminate any concerns some may have." **(Jim Adams, Reuter)**

"Some will see if they can milk any more out of this [Iran-contra], but I don't think they can." **(Waldman & Shaw, Newsday)**

+ SEN. NUNN

"He's done an excellent job" as Deputy National Security Adviser.

(Waldman & Shaw, Newsday)

Nunn said the panel would certainly look at Gates' role in the Iran-contra affair, but is unlikely to plow new ground. "To use it [the nomination] as an excuse to open up a new area of inquiry, I wouldn't be in favor of it."

(Devroy & Kenworthy, Washington Post)

+ SEN. CRANSTON (opposed '87 nomination)

Cranston noted that he had explored Iran-contra questions in the context of Bush's nomination of Donald Gregg to be ambassador to South Korea. "The evidence was very strong" against Gregg, he said, but added: "From what we know now, Gates' role seems to have been much more ambiguous." **(Jim Drinkard, AP)**

"I am favorably disposed toward the nomination. I will, of course, wait until his confirmation hearing is completed before making a final decision." **(Andrew Rosenthal, New York Times)**

+ SENS. CRANSTON & HOLLINGS

Hollings & Cranston said they were inclined to support the nomination. **(Major Garrett, Washington Times)**

+ SEN. GORTON

Gorton said through a spokesman that there were "valid questions that deserve answers" about the Iran-contra period. But he said he supported the nomination and that Gates is "extremely qualified and has tremendous experience in the intelligence community."
(Andrew Rosenthal, New York Times)

+ SEN. RUDMAN

"Unless there's something I don't know about, I don't think there'll be much of a problem. Barring something unexpected, I would expect to support him."
(Seib & Mossberg, Wall Street Journal)

Rudman called for a careful review of Gates' testimony on the Iran-contra affair before the Senate Intelligence Committee on Dec. 4, 1986. "There were serious questions about whether he was entirely candid with the committee about what he knew," Rudman said, although he added: "I don't think anything in the record indicates Gates was a participant in the events leading up to Iran-contra."
(Gerstenzang & Fritz, Los Angeles Times

+ SEN. D'AMATO

"It would be premature to take a position on Mr. Gates' confirmation until the hearing process is over. But I believe he is fully qualified for the job and unless disqualifying information should be revealed during the hearing, the President's choice should be honored." **(Andrew Rosenthal, New York Times)**

o- SEN. BRADLEY

"I intend to pursue the most important unresolved questions about Mr. Gates' record, his view on the future challenges and direction of the intelligence community and its role in protecting U.S. interests." **(Andrew Rosenthal, New York Times)**

Bradley said that "serious questions" [on Iran-contra] remain. "We deserve to give his nomination a thorough look," adding that another issue is "where he will take the agency."
(Waldman & Shaw, Newsday)

o SENS. BRADLEY & GLENN

Glenn & Bradley said they were neutral on the nomination.
(Major Garrett, Washington Times)

+ SEN. DECONCINI

"He's pretty well liked up here" on Capitol Hill. "He's friendly. He makes a good impression." ... "People want to put it [Iran-contra] away," said DeConcini. **(Jim Drinkard, AP)**

DeConcini said he is eager to explore with Gates his knowledge of the Iran-contra affair and his role in preparing "testimony that was untruthful." Even so, DeConcini said that Gates is unlikely to run into significant opposition in the Senate.
(Devroy & Kenworthy, Washington Post)

- **SEN. METZENBAUM**

"Four years ago, Mr. Gates suddenly withdrew from consideration as CIA director amid serious questions about his possible role in the Iran-contra scandal. Those questions remain.... I am surprised and disappointed that President Bush has made such a controversial choice." **(Devroy & Kenworthy, Washington Post)**

+ **ANONYMOUS INTELLIGENCE COMMITTEE AIDE**

An Intelligence Committee aide said the staff has been reviewing Gates' past testimony and comparing it with what has been learned since 1987 through a congressional investigation and through the prosecutions of figures like Oliver North and John Poindexter. That review has turned up only a few, relatively minor, discrepancies, said the aide, who spoke on condition of anonymity. "Our impression is that there may not be a whole lot more than what was on the table the last time." **(Jim Drinkard, AP)**

RANK-AND-FILE SENATORS

+ **SEN. SPECTER (Intelligence Committee member in 1987; Gates' main GOP opponent in '87)**

"I believe Iran-Contra has been investigated enough.... We are not likely to learn anything new. My real concerns turn on what is going to happen from here on," he said, adding that Gates' past performance is relevant only insofar as it might predict future behavior. **(Jim Drinkard, AP)**

Specter has been favorably impressed by Gates' professional performance since 1987. "There's a great deal to be said about having someone direct the CIA who knows the CIA," adding that Iran-contra had been investigated enough. **(Laurence McQuillan, Reuter)**

"When I look at Mr. Gates' nomination I am concerned about him as an individual, but I'm even more concerned about what is going to happen as to congressional oversight." Specter said Gates has impressed him in his current job but questioned whether Gates would be forthcoming with Congress. **(Major Garrett, Washington Times)**

Specter said that Gates' role in preparing Casey's testimony remained a "relevant factor" in judging how he would perform as DCI. "I believe the critical question is what kind of...director Bob Gates will be." However, Specter and others on the Hill said the nomination should not serve as a springboard to reopening either the Iran-contra investigation or the Gary Sick 1980 allegations. **(Devroy & Kenworthy, Washington Post)**

+ **SEN. COHEN (ranking member of Intelligence Committee in '87)**

Cohen said he believed Gates would be confirmed although "there will be a hard look at some of the issues" from the Iran-contra period. **(Andrew Rosenthal, New York Times)**

o **SEN. MITCHELL**

Mitchell said he expects Gates' role in the Iran-Contra scandal to be an issue in his confirmation hearings. But Mitchell said he will not decide on whether to support or oppose Gates' nomination "until the hearing process is completed." **(Tom Raum, AP)**

o **SEN. BIDEN**

Biden predicted the nomination would revive questions of whether Bush helped arrange a deal whereby freedom for U.S. hostages in Iran would be delayed until Ronald Reagan became President. **(Maureen Santini, New York Daily News)**

"I think that the President is not unmindful of the fact that in nominating Mr. Gates, who may or may not be confirmed, that the Iran-contra issue will be raised again." **(Susan Spencer, CBS)**

+ **SEN. DOLE**

Dole called Gates "a seasoned pro who has earned the respect of members on both sides of the aisle with his expertise, dedication and commitment to America's national security." **(Tom Raum, AP)**

"I have watched him operate under pressure, counseling presidents, Cabinet members and congressmen. He has the right stuff to meet this important new challenge." **(Major Garrett, Washington Times)**

+ **SEN. HATCH**

"He's very honest, and very nonpartisan in his approach. If there were covert actions on his watch, I think they would be very well put together, and carefully monitored." **(Lardner & Pincus, Washington Post)**

HOUSE MEMBERS

- **REP. HAMILTON**

Hamilton, who was chairman of the House Iran-Contra committee in 1987, framed the questions that linger over Gates. "If Casey knew, is it possible Bob Gates did not know" about the diversion of funds to the contras and North's resupply network?" Hamilton asked in an interview Tuesday. "It certainly raises doubts." Casey and Gates "worked very closely together." **(Terence Hunt, AP)**

+ **REP. SHUSTER**

Gates is not only bright and experienced, but "calm and level-headed," said Shuster, ranking minority member of the House Intelligence Committee. "He has a coolness that's necessary in an intelligence officer. If one responds emotionally to a very tense situation, you can end up making bad decisions." **(Meddis & Lee, USA Today)**

###

United States Senate
REPUBLICAN POLICY COMMITTEE
RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-7064
202-224-2946

leg 1991

May 15, 1991

MEMORANDUM TO: All Republican Senate Offices

FROM: Republican Policy Committee

SUBJECT: CAMPAIGN FINANCE REFORM DOCUMENTS DISTRIBUTED BY DEMOCRATIC LEADERSHIP TODAY

At noon today, Senators Mitchell and Boren held a press conference on campaign finance reform and the enclosed documents were distributed. We thought you might find them of interest.

The attached "Summary of Democratic Leadership Substitute Election Ethics Act of 1991" (5/15/91) was distributed at a press conference held by Senators Mitchell and Boren at noon today (5-15).

The summary was prepared by the sponsors of the bill, not RPC.

5/15/91

SUMMARY OF DEMOCRATIC LEADERSHIP SUBSTITUTE ELECTION ETHICS ACT OF 1991

Voluntary Flexible Spending Limits

A system of voluntary flexible spending limits would be established, based on state voting age population, ranging from $950,000 to $5,500,000 for Senate general election campaigns. Primary spending limits amounting to 67% of the general election limit up to $2,750,000 would be established. The general election limit could be increased by up to 25 percent of the spending limit to the extent of $100 contributions received from individuals residing in the candidate's State.

Benefits for Eligible Candidates

Candidates who raise a threshold amounting to 10% of the general election spending limit in individual contributions of $250 or less (50% in-State) and who agree to voluntarily abide by spending limits would be eligible to receive certain benefits:

A. Broadcast Vouchers: Vouchers amounting to 20% of the general election limit would be provided to purchase television advertising in segments of between one and five minutes.

B. Low Cost Mail: First class mail would be available at one quarter the regular rate for candidate mailings. Third class rates would be 2 cents lower than first class. Candidates would be permitted to spend up to 5 percent of the general election limit on such mailings.

C. Broadcast Rates: Current law lowest unit charge provisions would be modified to require broadcasters to charge eligible candidates during the general election no more than 50% of the lowest unit charge for the same amount of time for the same time of day and day of week. Eligible candidates would be entitled to the lowest unit charge during the 45 day period prior to a primary.

D. Independent Expenditures: Eligible candidates would receive public funds to respond to independent broadcast ads exceeding $10,000 from any source during the general election period.

E. Contingent Public Financing: Eligible candidates would receive additional public funding if an opposing candidate exceeds the spending limits.

PAC Limitations

Political Action Committees would be prohibited from making contributions or expenditures for the purpose of influencing elections for federal office.

Soft Money

Political party committees would be prohibited from using soft money, not regulated under federal law, for any activities in connection with a federal election. Activities in connection with a federal election include get-out-the-vote activities, voter registration, generic and mixed election activities including general public advertising, and campaign materials, maintenance of voter files and other activities affecting a federal election during a federal election period. Party committee spending on mixed federal-state activities in connection with federal elections would be subject to overall limits.

State party contribution limits would be increased to the amount permitted to national parties. Federal office holders and candidates would be prohibited from soliciting soft money contributions. The contribution/expenditure exceptions in current law that permit unlimited State party spending for "volunteer activities" that affect a federal election and GOTV for presidential elections would be repealed. State parties would be permitted to spend 4 cents per voter for presidential elections.

Bundling

Bundling in excess of the contribution limits would be prohibited by all political committees and lobbyists, and individuals acting on behalf of those entities or on behalf of corporations, labor unions, or trade associations.

Broadcast Rules

A. Lowest Unit Rate: All eligible candidates would be entitled to purchase television broadcast time during a general election at 50% of the lowest unit charged for same amount of time for the same time of day and day of week. During the 45 day period prior to a primary eligible candidates would be entitled to purchase time at the lowest unit charge.

B. Candidate Accountability: All candidates would be required to appear at the end of their television advertisement conveying the message that the advertisement was paid for by the candidate.

C. Disclosure: Non-eligible candidates would be required to disclose in all advertisements that the candidate has not agreed to spending limits.

D. Vouchers: Vouchers amounting to 20 percent of the general election spending limit would be provided to eligible candidates to purchase prime time television advertisements of at least one minute but not more than five minutes. Broadcast stations would be required to make these longer time periods available to candidates.

Independent Expenditures

The types of activities and relationships which are expenditures in coordination, consultation or concert with a candidate -- and therefore not independent -- would be more broadly defined. Under this definition, expenditures by political committees required to register as lobbyists would not be independent and would count against the contribution limit.

Primary spending limits would increase by the amount of independent expenditures intended to assist opponents of a candidate. The general election spending limit would be increased and public funds made available to eligible candidates who are the target of more than $10,000 of independent expenditures from any one source. Broadcast stations would be required to make time available immediately after the independent broadcast for the candidate to respond.

Personal Loans

Candidates agreeing to spending limits would be prohibited from spending more than $250,000 of their own funds for election to the Senate. Contributions could not be received after an election to repay personal loans of the candidate.

501(c) Organizations

Federal office holders and candidates would be prohibited from raising any funds for 501(c)(3) organizations organized to conduct voter registration or get-out-the-vote drives.

Miscellaneous

Leadership PACs would be prohibited. Individual contributions in excess of $10,000 would have to reported to the FEC. Dependent children below voting age would not be permitted to contribute to federal election campaigns.

FEC Reform

With respect to preliminary matters such as decisions to investigate violations the recommendation of the General Counsel would be sustained if supported by the votes of 3 Commissioners. Provisions are included to shorten time periods of FEC action, authorize the FEC to seek court injunctions, and increase minimum penalty amounts for violations of the law.

#####

May 15, 1991
Publication: SR-12-General Government

dpc special report

democratic policy committee

Major Issues: S. 3
Campaign Finance Reform, As reported April 11, 1991 (S. Rept. 102-37)

DPC Staff Contact: Greg Billings (4-3232)

Democratic Policy Committee
United States Senate
Washington, D.C. 20510

George J. Mitchell, Chairman
Thomas A. Daschle, Co-Chairman

Major Issues

I. Spending Limits

Republicans maintain that problems in the Senate election campaign process can be addressed without spending limits.

Democrats know the facts.

- Spending limits are the essential element of true campaign finance reform because only through limits will candidates cease their chase for more money.
- Spending limits, set at reasonable levels, inherently benefit challengers because incumbents typically have vastly greater fundraising abilities. The spending limits in **S. 3** basically limit incumbent, not challenger, spending. As a result, spending limits will make Senate elections far more competitive.
- Spending limits prevent incumbents from amassing huge campaign war chests, which scare off challengers.
- Campaign finance reforms without spending limits result in only marginal changes in the campaign financing system without addressing the heart of the problem: the endless pursuit of money required to run modern Senate campaigns.

II. Republican Use of Public Financing

Republicans maintain that public funds should not be used to clean up the Federal election campaign system.

Democrats know the facts.

- Republicans have used tens of millions of dollars in public funds for their political campaigns.
- Republican presidential candidates and the Republican Party have accepted some $241 million in public funds for the primary and general elections since the presidential system of spending limits and public campaign resources began in 1976. All but one Republican presidential candidate has accepted public funds.
- President Reagan was the top recipient of public funds, having received a total of $90.5 million for his presidential bids in 1976, 1980, and 1984. President Bush, who with Mrs. Bush checked "yes" on the presidential election checkoff on his Federal tax returns, accepted some $60.2 million in 1980 and 1988. Senate Minority Leader Robert Dole (R-KS) received some $8.1 million during those elections.
- The Republican party has accepted $32.2 million in publicly funded grants to pay for all of its presidential conventions since 1976. Republican party campaign committees have spent millions of dollars in public funds as postal subsidies for political mailings.

III. Success of the Presidential System

Most Republicans maintain that the presidential system does not work, is a bureaucratic nightmare, and that one of every four dollars is spent on legal and accounting expenses.

Democrats, and even one Republican, know the facts.

- *"There's far too much emphasis on money and far too much time spent collecting it. It's the most corrupting thing I see on the congressional scene. ... The problem is so bad we ought to start thinking about Federal financing [of House and Senate campaigns]. ... It was an anathema to me ... but in my experience with the [Reagan] presidential campaigns, it worked, and it was a breath of fresh air."*

  Former Senator Paul Laxalt (R-NV), chair,
  Reagan presidential campaigns, 1976, 1980 and 1984

- The Watergate scandal and the ensuing public outcry were the impetus for the adoption of landmark legislation to dramatically change and clean up the way presidential campaigns were financed. Twenty years ago, presidential campaigns were financed by the wealthiest, most influential, and secretive individuals in our society. The centerpiece of reform legislation to deal with that problem was a system of campaign spending limits and public campaign resources.

- The reform legislation recognized that in a nation of 200 million people, the costs of reaching voters with a campaign message had outrun what a private fund-raising system could accountably raise.

- Equally important, the Federal income tax presidential campaign fund one dollar check-off ensures that challengers to a sitting President, who cannot call on the vast array of government programs and offices to bolster their campaigns, will have a more equal chance to bring their candidacies to the people.

- Even though the Federal check-off is not widely advertised, more than 32 million Americans have made it clear that they believe in our system of free elections, by checking "yes."

- This system cannot be deemed a failure because more people do not participate. That would be equivalent to saying low voter turnout is an indictment of free elections.

- Despite the success of the current system, the 1988 presidential election showed that there are problems — namely tens of millions of dollars in Federally illegal contributions as large as $100,000, each laundered through State political parties. **S. 3** would shut down these political party soft money abuses.

Democrats also know there are more advantages to public financing.

- Public financing has minimized the role of special interest PAC contributions in presidential campaigns.

  - Less than two percent of the total campaign receipts of all presidential candidates in 1988 came from PACs, while PAC contributions to congressional candidates have jumped from $12.5 million in 1974 to $150 million in 1990.

- Public financing makes elections more financially competitive for challengers.

  - In the three general elections in which an incumbent President was challenged (1976, 1980, and 1984), public financing provided equal amounts for the incumbents and the challengers, a total of $91.6 million each for incumbents and challengers. Challengers won two of these three races.

  - By contrast, Senate incumbents in 1990 had a total of $145 million in campaign funds, almost three times as much as their challengers. Thirty-one of the 32 Senate incumbents won reelection, the highest reelection rate in the Senate since 1960.

- The presidential public financing system has broadened grass roots democracy by bringing more small contributors into the political system, with some 32.5 million taxpayers checking "yes" on their Federal tax returns for the presidential campaign fund.

- A nationwide University of Michigan study in 1988 found that while six percent of the public said they contributed money to a candidate and six percent said they contributed to a political party during the election year, 27 percent said they contributed through the dollar tax check-off.

IV. S. 3 Benefits Challengers, Not Incumbents

Republicans maintain that spending limits inherently benefit incumbents and that **S. 3** is designed to perpetuate a Democratic majority in the Senate.

Democrats know the facts.

- The current campaign finance system overwhelmingly benefits incumbents and the spending limits in **S. 3** for the most part limit incumbent spending, not challenger spending. In the 1990 elections, Senate incumbents spent $129 million compared to $47 million by challengers, nearly a 3 to 1 margin. Senate incumbents outspent challengers in 26 out of 28 races. Thirteen of the 28 challengers were unable to raise even 50 percent of the proposed spending limits in **S. 3**. Twenty-three of the 28 were unable to reach the spending limits.

- The **S. 3** system of public campaign resources and spending limits would enable challengers to compete by:

  - imposing generous spending limits which primarily affect incumbents; and,

  - providing substantial campaign resources to all candidates in the form of postal and broadcast benefits that will increase the ability of challengers to communicate with voters.

- If **S. 3** had been in effect in the 1990 Senate elections, the 28 challengers would have received a net benefit (spending limits affecting incumbents and benefits of greater relative value to underfunded challengers) of $2.5 million each, or a total of $70.8 million for all 28 races.

- **S. 3** would increase total net resources for Senate challengers to $18.6 million and decrease total net resources for incumbents to a $52.2 million.

- Spending will continue to escalate still further — and the gap between incumbent and challenger widen further — until reasonable limits are placed on campaign spending.

V. Republican Attempts to Suppress Political Speech By Non-profit Organizations

Republicans support provisions which prohibit free speech.

During Senate consideration of campaign finance reform legislation last year, Senator Mitch McConnell (R-KY) offered an amendment that would effectively prohibit tax-exempt, non-profit organizations from participating or intervening in any political campaign. This would be accomplished by subjecting such organizations to income tax on their dues and other income. This amendment was supported by almost every Senate Republican and is now included in campaign finance reform legislation introduced by Republicans in this Congress. It is expected that this assault on the political speech of non-profit organizations will be undertaken again when **S. 3** is considered on the Senate floor.

Democrats know the facts.

- Under current law, 501(c)(3) charitable organizations — the contribution which entitles the donor to a tax deduction — may not "participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office." The Republicans would like to extend this rule to all other non-profit, 501(c) organizations — the contributions which do *not* entitle the donor to a tax

deduction. These organizations include civic and business leagues, labor unions, agricultural organizations, veterans organizations, fraternal societies, and other organizations operated on a non-profit basis for the mutual benefit of their members.

- According to a long line of cases and IRS rulings interpreting this language in the Internal Revenue Code section 501(c)(3), the Republican amendment would prevent veterans organizations, labor unions, business leagues, and agricultural organizations from communicating with their membership to inform them of the voting records of Members of Congress. Such organizations could not endorse candidates, conduct voter registration, or provide candidate ratings to their members under this amendment.

- It is illogical policy, and most likely unconstitutional, to prohibit non-profit 501(c) organizations from communicating basic electoral information to their members. And, it should be understood that the amendment is basically a prohibition on speech because the sanction — forfeiting such organizations tax exemption — is so drastic that non-profit organizations would not pay the price.

Republicans argue that the government is conferring a tax benefit on such organizations — by not subjecting them to taxation on their dues income, and, therefore, that the government is justified in imposing a condition on such benefit.

Democrats know the facts.

- The Republican position ignores the fundamental distinction between 501(c) non-profit organizations and 501(c)(3) charities. The former are non-profit, mutual benefit organizations which are established to facilitate collective action for their membership. Their income is tax exempt, not because the government has decided to confer a valuable tax benefit, but because the income of such organizations is not earned for a profit-making purpose. Contributions to such organizations are not deductible because the organization operates for the private benefit of its members.

- In contrast, 501(c)(3) charities receive a valuable tax benefit, in the form of tax deductible contributions, because of the public benefits to be derived from their operation. The government prohibits their involvement in politics because they are in effect a substitute for government, performing functions that otherwise are performed by government.

Republicans maintain that the McConnell amendment would not prohibit political speech but would simply require that such speech take place through affiliated organizations, political committees separately established by the 501(c) organization.

Democrats know the facts.

- The Republican's position misstates the law. The IRS has been clear that the current law prohibition on 501(c)(3) organizations intervening in political campaigns absolutely precludes such organizations from maintaining affiliated political organizations to conduct such activities.

- The effect of the McConnell amendment should be understood by all of those who would vote for it. A veterans organization could not inform its membership that a congressional candidate is opposed to and votes against all veterans programs. An agricultural organization could not inform its members that a candidate is opposed to agricultural price supports. A labor union could not inform its members that a candidate is opposed to issues important to working Americans.

- The McConnell amendment would be a major assault on a fundamental right of Americans in a Democratic society—the right to be well informed of the voting record and position of their elected representatives.

Republicans maintain that current law in effect subsidizes political speech because the income that funds the speech is not subject to taxation.

Democrats know the facts.

- The Republican view indicates an ignorance of current tax law under 527(f) of the Internal Revenue Code. That provision requires that tax exempt 501(c) organizations pay taxes on that portion of their income devoted to political speech.

VI. The Political Activities of Labor Organizations

Republicans maintain that current election law enables labor organizations to provide unfair and substantial benefits to Democrats and that **S. 3** perpetuates that system. To deal with that situation, Republican campaign finance reform legislation is largely devoted to measures which are designed to prevent labor organizations from engaging in political activities on behalf of their members.

Democrats know the facts.

- Labor organizations, like corporations, are already subject to stringent limitations on their political activities and **S. 3** includes additional limitations.

- Under current Federal election law, labor organizations (and corporations) are prohibited from making any expenditures or contributions in connection with elections to public office. An exception is provided in the law that permits labor organizations (and corporations) to establish and maintain PACs. In addition, labor organizations (and corporations) are permitted to communicate with their members (and shareholders) and to conduct nonpartisan voter registration and get-out-the-vote campaigns aimed at their members (and shareholders) and their families. That is the limit of activities to which labor unions can get involved under Federal election law.

- Current substantial soft money spending at the State party level permits labor organizations to participate heavily in those Federal election activities that are permitted to be allocated to non-Federal purposes under current law. The Democratic bill, **S. 3**, deals with that situation by requiring all State party spending which affects a Federal election to be subject to Federal limitations, including those described above for labor organizations.

- The Republican bills ignore the soft money problem now occurring at the State party level and essentially codify current FEC regulations. Labor organizations would be permitted to continue current soft money practices if not for separate provisions in the Republican bills that prohibit all non-profit, tax exempt organizations from intervening in political campaigns. As a result, the Republican bill effectively prohibits labor organizations from participating in political campaigns, while preserving the soft money role of corporations.

VII. Gerrymandering

Republicans maintain that additional Federal statutory standards should be applied to State legislature redistricting activities to ensure that congressional districts are drawn fairly.

Democrats know the facts.

- Republican proposals to impose additional Federal standards for redistricting are designed merely to create confusion and delay in State legislatures, to create the impression that congressional districts are being drawn unfairly, and to transfer State legislative redistricting decisions to the Federal courts.

- Line-drawing activities now are occurring in all states and several States either have completed their work or are nearing its completion. Federal legislation at this point would be highly disruptive of the process. Federal legislation would also represent a major attack on Federalism as laid out in the Constitution, which leaves it to the States to determine the boundaries of congressional districts.

- State legislatures already are subject to the requirements of the *Voting Rights Act* to give fair representation to minority groups and to one-man-one-vote constitutional requirements as interpreted by the Supreme Court in the *Baker* v. *Carr* line of cases going back more than 30 years. In *Karcher* v. *Doggett*, the Supreme Court has provided further constitutional guidance to the States by requiring absolutely that congressional districts be of almost exactly equal population.

- The Republican campaign finance reform bills include provisions which would impose a series of additional standards on State legislatures. Those standards include the requirements that congressional districts:
  - be contiguous;
  - not dilute the voting strength of any political party;
  - be compact in form;
  - not divide any counties; and,
  - minimize division of cities, towns, villages or other political subdivisions.
- While additional Republican standards may appear reasonable on their face, they are generally inconsistent with each other and clearly unworkable with the constitutional requirements of the *Karcher* decision. A congressional district can be compact, it can be contiguous, it can be drawn without dividing any county, or diluting the strength of any political party. But it would be virtually impossible to satisfy all four standards. They often are mutually exclusive. It would be impossible to satisfy these four standards as well as constitutional requirements of the *Karcher* decision.
- The difficulty in satisfying the four standards is particularly acute in large geographical areas in which one party predominates, whether it be the Republican party or the Democratic party. In order to achieve population parity and any kind of political parity, the congressional district will have to be drawn to divide counties, cross political subdivisions, and be less than compact in form.
- Republicans are aware of the division problems, and it is not really their intent to have congressional districts drawn to satisfy all four standards. Instead, by putting forth these inconsistent standards, Republicans can appear to favor fairly drawn congressional districts, while making Democrats look the opposite. And in the event that such standards actually are adopted into law, Republicans are not concerned that State legislatures will find the law impossible to implement. Republicans would prefer that the Republican-dominated Federal judiciary decide how best to draw congressional districts.

VIII. FEC Administrative Burdens in S.3

Republicans maintain that the provision of public benefits and spending limits in **S. 3** will impose enormous administrative burdens on the Federal Elections Commission (FEC). They maintain the FEC must hire a huge auditing staff, will subject candidates to audit harassment, and will fail to complete audits from one election cycle before the next elections are held.

Democrats know the facts.

- The FEC projects that in order to comply with the audit requirements of **S. 3**, eight additional auditors would be needed. CBO estimates that the cost of **S. 3** for the FEC would be $1 million a year. The system proposed under **S. 3** is not at all comparable to the presidential system. First, only 10 percent of eligible Senate candidates would be required to be audited under the legislation. That works out to a maximum of seven audits if all 66 Senate candidates voluntarily agree to participate in the spending limits system.

- The scope of the audits for eligible Senate candidates under **S. 3** will not be as cumbersome as the presidential system for the FEC audit staff because Senate campaigns will not be encumbered with the equivalent of State-by-State limits that complicate a presidential audit. The FEC has estimated that 50 percent of the attention demanded by a presidential audit is required because the campaigns exceed one or more of the State spending limits. That is why the FEC has requested those State-by-State limits be repealed.

- The FEC never actually testified that it would have to hire additional auditors. In past floor statements and in Rules Committee hearings, Senator McConnell has stated that the FEC testified it would have to hire 2,500 additional auditors to audit publicly financed congressional elections. However, Senator McConnell himself suggested that number to the FEC during a Rules Committee hearing, and did not receive a clear reply that the number was incorrect. On that basis, he feels free to repeat his erroneous assertion even though CBO, working with the FEC, has estimated **S. 3** will require the hiring of eight auditors.

- Senator McConnell's statements, declaring that one of every four dollars spent in a presidential campaign is devoted to hiring accounting and legal staff to comply with the strictures of the public financing/spending limit law, are erroneous statements. Senator McConnell is referring to a study which includes a table that lists legal and accounting costs as a percentage of total expenditures. But that category also includes fund-raising costs, which during a presidential primary can be considerable. In fact, since the law permits up to 20 percent of presidential election expenses to be allocated to fund raising, campaigns typically assign a large percentage of costs to that category. Senator McConnell's figures are wrong; legal and accounting costs do not comprise more than six percent of presidential campaign expenditures.

IX. State and Local Governments Are Moving Toward Clean, Publicly Funded Campaigns

In recent years, a number of State and local governments have adopted campaign finance reform laws that provide candidates with clean public campaign resources.

New Jersey instituted a partial public financing program in 1977. It allows viable candidates to run for governor who might not otherwise have been able to because of limited personal wealth. The deputy director of the New Jersey Election Law Enforcement Commission notes that the system has eliminated undue influence from gubernatorial elections.

In the 1989 New York City mayoral election, all the primary candidates agreed to participate in the public financing system, except Ronald Lauder who spent $13 million of his own money and lost to his opponent Rudoph Guliani.

Last year, Los Angeles city voters approved a measure to create a system of campaign spending limits and public campaign resources for their mayoral and municipal elections.

Florida Governor Lawton Chiles has championed a major overhaul of the State's campaign finance system. This system would set aside $4 million a year for public financing of Statewide races and $2.5 million for gubernatorial general election candidates who agree to a $5 million spending limit.

The Speaker of the Minnesota House of Representatives says that spending limits and public financing have helped increase the number of individuals participating in the political process in Minnesota. He maintains that the new system has brought more volunteers into legislative races, helped increase voter turnout and steadily decreased the number of unopposed candidates running in each election. In addition, he says that the system has increased electoral competition.

X. The Influence of Large Donors on the Political Process

Earlier this year in an article about the Keating Five, Senator Rudman was reported to have asserted that pending campaign finance reform bills did not deal with the issues investigated by the Ethics Committee.

Democrats know the facts.

- **S. 3** deals directly and comprehensively with the abuses associated with the campaign contributions of Charles Keating and other wealthy individuals. Keating gave $100,000 in non-Federal money to a 1988 presidential candidate, contributed $850,000 to a 501(c) organization formed to conduct voter registration activities, contributed $85,000 in non-Federal dollars to a state political party, contributed $200,000 to a non-Federal political committee maintained by a member of Congress, and contributed thousands of dollars in bundled contributions to several Senators.
- **S. 3** deals with these abuses of the campaign finance laws in several ways. It would:
    - prohibit the use of non-Federal (soft) money by political party committees for use in activities that affect Federal campaigns. Keating gave these kinds of contributions to a Republican presidential candidate in 1988 and to a Democratic state party.
    - prohibit candidates and Federal officeholders from raising funds for 501(c) organizations organized to conduct voter registration and GOTV drives.

- prohibit Federal officeholders and candidates from maintaining political committees other than their principal campaign committee used for their election to Congress.
- prohibit Federal officeholders and candidates from raising non-Federal (soft) money.
- severely limit the ability of individuals to bundle large contributions to candidates as a means of evading the contribution limits of current law.

XI. The Failure of Republicans to Deal with the Problems of Soft Money

All Republican campaign finance reform bills essentially preserve the current system whereby non-Federal, soft money is used by party committees to affect Federal elections. The Republican bill would effectively sanction the practice of wealthy individuals giving $100,000 contributions to political candidates.

S. 3 deals comprehensively with this issue by requiring that all party committee spending which affects a Federal election be funded with money permissible under Federal election law. **S. 3** also includes provisions prohibiting Federal officeholders and candidates from raising soft money for political campaigns and for nonpolitical purposes. To the extent large corporate, labor, and individual contributors can give large sums of money to Federal officeholders, for whatever purpose, **S. 3** would limit such activities.

> In its broadest sense, soft money refers to the use of money unregulated by Federal law to affect Federal elections. It includes funds spent by both political party committees and other organizations to affect Federal elections.

The expenditure of private funds by organizations desiring to participate in the election process can be troubling at times but does not raise issues of undue influence that undermines public perceptions of the honesty of politicians. In contrast, when candidates raise money from large donors to be used by party committees for activities that affect Federal elections, important policy issues arise about the influence of large contributors on the political process.

For example, in the last presidential election 241 wealthy individuals and corporations gave $100,000 to the Bush campaign. Most of those individuals and companies had interest in legislation before the Federal government. Some were rewarded with ambassadorships. This is the type of activity that gave rise to the 1974 legislation that passed Congress after the Watergate scandal laid bare the type of influence welded by super wealthy campaign contributors.

Republican campaign finance reform bills focus on a nonproblem — the expenditure of money by non-profit organizations to influence Federal elections, instead of dealing with the obvious abuses associated with this type of soft money contribution to Federal officeholders and candidates. The Republican legislation would remove the tax exemption of any non-profit organization which "participates or intervenes in an election". This includes an endorsement of a political candidate or the communication of information to an organization's members with respect to the voting record of a candidate. The Republicans call this "sewer money" and they vow to clean it up.

In other words, the Republicans believe that a non-profit organization should not be permitted to educate its members about the views of a candidate. This is wrong according to Republicans. But it is alright for wealthy individuals and corporations to give $100,000 contributions to candidates for purposes of influencing a Federal election.

What they have done is to create a straw man in order to deflect attention from the fact that they are unwilling to deal with the real soft money problem arising from large contributions made to Federal candidates and officeholders.

SENATE RECORD VOTE ANALYSIS—TEMPORARY

102nd Congress
1st Session

Vote No. 53

May 7, 1991, 2:49 p.m.
Page S–5380 (Temp. Record)

VERTICAL PRICE FIXING/Cloture

SUBJECT: **Consumer Protection Against Price-Fixing Act of 1991 . . . S. 429. Mitchell motion to close debate on the motion to proceed to S. 429.**

ACTION: CLOTURE MOTION AGREED TO, 61-37

SYNOPSIS: S. 429, the Consumer Protection Against Price-Fixing Act of 1991, would amend the Sherman Act of 1890, which regulates vertical agreements in the chain of consumer goods distribution, and establishes as *per se* illegal any price-fixing agreement along that chain. S. 429 would liberalize evidentiary standards for proving the existence of a vertical price-fixing agreement; it would expand the definition of what actually constitutes a price-fixing agreement, and codify and expand the *per se* rule of illegality for vertical price fixing.

On April 25, Senator Mitchell moved to proceed to S 429. The motion to proceed is a debatable motion. Subsequently, Senator Mitchell sent to the desk, for himself and others, a motion to limit debate on the motion to proceed to S. 429.

NOTE: A three-fifths majority (60) vote is required to invoke cloture. The Senate subseqently voted to invoke cloture on the bill itself. See vote No. 54.

Those favoring the motion to invoke cloture contended:

We urge our colleagues to invoke cloture on the motion to proceed to S. 429, the Consumer Protection Against Price-Fixing Act of 1991. This bill is the most important piece of consumer-protection legislation the Senate will consider this Congress. S. 429 has the simple purpose of making clear in the antitrust laws that prices are to be fixed by the market, not by conspiratorial agreements to eliminate competition and fix high prices.

This bill is about the right of a retailer to sell his product at whatever price he decides upon, without government intervention. In our economic system, we believe businesses ought to be free to decide how they will do business, how they will sell a product, how they will price a product.

(See other side)

YEAS (61)

Republicans (11 or 26%)	Democrats (50 or 91%)	
Brown	Adams	Inouye
Cohen	Akaka	Kennedy
D'Amato	Baucus	Kerrey
Gorton	Bentsen	Kerry
Grassley	Biden	Kohl
Hatfield	Bingaman	Lautenberg
Jeffords	Bradley	Leahy
Murkowski	Breaux	Levin
Packwood	Bryan	Lieberman
Rudman	Bumpers	Metzenbaum
Specter	Burdick	Mitchell
	Byrd	Moynihan
	Conrad	Nunn
	Cranston	Pell
	Daschle	Reid
	DeConcini	Riegle
	Dodd	Robb
	Exon	Rockefeller
	Ford	Sanford
	Fowler	Sarbanes
	Glenn	Sasser
	Gore	Shelby
	Graham	Simon
	Harkin	Wellstone
	Hollings	Wirth

NAYS (37)

Republicans (32 or 74%)		Democrats (5 or 9%)
Bond	Lott	Boren
Burns	Lugar	Dixon
Chafee	Mack	Heflin
Coats	McCain	Johnston
Cochran	McConnell	Mikulski
Craig	Nickles	
Danforth	Pressler	
Dole	Roth	
Domenici	Seymour	
Durenberger	Simpson	
Garn	Smith	
Gramm	Stevens	
Hatch	Symms	
Helms	Thurmond	
Kassebaum	Wallop	
Kasten	Warner	

NOT VOTING (1)

Republicans (0)	Democrats (1)
	Pryor—3

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

Price fixing undermines competition and hurts everyone, especially consumers, who have lost $20 billion a year as a result of such practices. Manufacturers are setting product prices for their outlets, and not allowing discounters to sell at a lower price. Some discount stores have lost product lines because competitors complained, and the manufacturers have withdrawn their product line, effectively eliminating economic competition in some cases.

S. 429 will end such unfair business practices, and, without raising taxes, adding to the deficit, or creating a new bureaucracy, it will save American consumers $20 billion per year.

This bill is neither Democratic nor Republican, neither pro-East nor pro-West. It is a bill which will protect consumers and free trade in every part of the country; consumers who have recently been stripped of these protections by Supreme Court decisions making antitrust laws unenforceable.

The people who oppose this bill are big manufacturers who do not want strong antitrust laws, the U.S. Chamber of Commerce, the Business Roundtable; people who stand to profit by the failure of this bill. In support of this bill are groups such as the Consumer Federation of America, Public Citizen, and the Consumer's Union. Who should we believe is going to act in the interest of the consumer?

The argument that price fixing is in the interest of the consumer because it allows manufacturers to assure full service to customers is totally fallacious. Manufacturers can already require that service departments, warranties, and even clean showrooms are necessary conditions for the sale of their products. Price fixing serves nothing but to hinder competition and cheat consumers.

This bill will protect our retail market and American consumers in three ways. First, S. 429 would codify the established principles which hold that resale price-fixing agreements are, *per se*, unlawful, based on the obvious fact that such practices are harmful to competition. Second, it would clarify the evidentiary standards for the establishment of the existence of an illegal vertical price-fixing agreement, which has been made nearly impossible due to recent Supreme Court rulings. Finally, it clarifies the practices that constitute illegal price fixing.

It is particularly disturbing that the Senate is being denied the right even to consider this bill by blocking its introduction on the floor. We again urge our colleagues to vote in favor of the cloture motion so that we may have the chance to consider and pass this important pro-consumer legislation.

Those opposing the motion to invoke cloture contended:

First Argument:

This legislation has been before the Judiciary Committee three times, and each time it has lost support. Given the strength of competition in the retail industry, S. 429 is a superfluous bill that will do little more than lead to excessive lawsuits between retailers and manufacturers. Current law clearly states that vertical price fixing is a *per se* violation of the Sherman Act. This debate is not about the merits of retail price maintenance, but about the kind of evidence needed to prosecute such violations in court. S. 429 expands the kind of activities that will be considered illegal, while easing the burden of proof needed to get a conviction.

It is manifest that these provisions would have a crushing negative impact on American business. It would upset a long line of established antitrust principles, and serve to inhibit communications between manufacturers and their distributors. S. 429 would interfere with the right of a manufacturer to choose the appropriate outlet for his product. Further, S. 429 would choke the free flow of information between manufacturers and consumers that is crucial to the free market, by instilling a fear of lawsuits in manufacturers in every industry.

Under the new definition of price fixing in this bill, even innocent and laudable communications can constitute illegal behavior, and the evidentiary standards it proposes will make it far too easy to obtain a conviction. In addition, it will expose our manufacturers to excessively high damages. The final result of this bill will be to encourage industries to leave the country, and bog down domestic productivity with lawsuits. We urge our colleagues to consider well the great harm that this bill would do, and then vote against this cloture motion to bring it to the floor.

Second Argument

The reason this bill is before the Senate today is because a backroom deal was forged by some of our colleagues, who circumvented the normal procedure followed by the Senate, and abrogated the Senate's rules. This legislation was never approved by Committee. S. 429 is before us because concessions were extorted from some Senators by others, who threatened to block some key legislation in the waning hours of the last Congress unless their demands were met. This is no way for a deliberative, democratic, legislative body to operate. Agreements obtained in one session of Congress should not bind a subsequent Congress, and a deal cut by a few should not bind a majority. The agreement by which this bill came to the floor should have no standing in this Congress, and we urge our colleagues to vote against cloture on the motion to proceed to S. 429.

SENATE RECORD VOTE ANALYSIS—TEMPORARY

102nd Congress
1st Session

Vote No. 54

May 8, 1991, 5:59 p.m.
Page S-5490 (Temp. Record)

VERTICAL PRICE FIXING/Cloture

SUBJECT: **Consumer Protection Against Price-Fixing Act of 1991 . . . S. 429. Mitchell motion to close debate on S. 429.**

ACTION: CLOTURE MOTION AGREED TO, 63-35

SYNOPSIS: S. 429, the Consumer Protection Against Price-Fixing Act of 1991, would amend the Sherman Act of 1890, which regulates vertical agreements in the chain of consumer goods distribution, and establishes as *per se* illegal any price-fixing agreement along that chain. S. 429 would liberalize evidentiary standards for proving the existence of a vertical price-fixing agreement; it would expand the definition of what actually constitutes a price-fixing agreement, and codify and expand the *per se* rule of illegality for vertical price fixing.

On March 7, Senator Mitchell sent to the desk, for himself and others, a motion to close debate on S. 429. Following the vote on the cloture motion, the Senate passed S. 429 by voice vote. During consideration of the bill, the Senate also adopted a Brown substitute amendment by voice vote. As amended by the Brown substitute, the bill would require specific proofs to establish price-fixing violations. The amendment provides that in any court action alleging a conspiracy to set prices (other than a maximum price) the court must first find that there is sufficient evidence of an illegal vertical price-fixing conspiracy in order to send the case to trial. For the purpose of the amendment, the court must find the existence of "sufficient evidence" that a manufacturer received an expressly or reasonably implied demand by a dealer to terminate another dealer in order to eliminate price competition, and that such a request was "the major cause" of termination of, or refusal to supply, the claimant.

Such a request would be deemed to be the major cause of termination or refusal to supply the claimant if there is evidence of aquiescence to the demand, or if there were threats or actions to curtail or eliminate price competition by the claimant or other retailers.

Policy decisions by manufacturers to change to exclusive distributorship networks are expressly exempted from lawsuit liability. Judges, at the summary judgment stage of a price-fixing lawsuit, would be required to consider any actual, *bona fide* non-price business justification for the termination of a client, such as service, adequate product information, and warranties. Finally, S. 429, as amended, would expressly maintain that maximum price-fixing agree-

(See other side)

YEAS (63)

Republicans (13 or 30%)	Democrats (50 or 91%)	
Brown	Adams	Inouye
Chafee	Akaka	Kennedy
Cohen	Baucus	Kerrey
D'Amato	Bentsen	Kerry
Domenici	Biden	Kohl
Gorton	Bingaman	Lautenberg
Hatfield	Bradley	Leahy
Jeffords	Breaux	Levin
Kassebaum	Bryan	Lieberman
Murkowski	Bumpers	Metzenbaum
Rudman	Burdick	Mitchell
Specter	Byrd	Moynihan
Warner	Conrad	Nunn
	Cranston	Pell
	Daschle	Reid
	DeConcini	Riegle
	Dodd	Robb
	Exon	Rockefeller
	Ford	Sanford
	Fowler	Sarbanes
	Glenn	Sasser
	Gore	Shelby
	Graham	Simon
	Harkin	Wellstone
	Hollings	Wirth

NAYS (35)

Republicans (30 or 70%)	Democrats (5 or 9%)
Bond	Boren
Burns	Dixon
Coats	Heflin
Cochran	Johnston
Craig	Mikulski
Danforth	
Dole	
Durenberger	
Garn	
Gramm	
Grassley	
Hatch	
Helms	
Kasten	
Lott	
Lugar	
Mack	
McCain	
McConnell	
Nickles	
Packwood	
Pressler	
Roth	
Seymour	
Simpson	
Smith	
Stevens	
Symms	
Thurmond	
Wallop	

NOT VOTING (1)

Republicans (0)	Democrats (1)
	Pryor—3

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

ments would not be *per se* illegal, but would take into consideration all relevant factors affecting competition in the market. Vertical agreements to discontinue sales to other dealers shall be expressly illegal if discount pricing was the major cause of such termination, whether or not a specific price was agreed upon. S. 429 would not affect application of the rule of reason standard to vertical location clauses or vertical territorial restraints under antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

NOTE: A three-fifths majority (60) vote is required to invoke cloture.

Those favoring the motion to invoke cloture contended:

This is the most important bill for consumers that this Congress will consider. S. 429 will protect retailers from the threat of being driven out of business by big manufacturers and competing retailers, who, unless this bill is passed, will be able to fix prices and shut out the competition. It will protect the right of consumers to purchase goods at fair and competitive prices. Unless this bill passes, consumers will face the prospect of buying goods from monopolies at unfairly inflated prices. The Consumer Protection Against Price-Fixing Act will preserve the fundamental principles of competition in a free market.

Some of our colleagues would like to prevent the Senate from getting the chance to vote on this bill by filibustering. We urge our colleagues to vote in the affirmative on the motion to close debate on the bill, so we can pass this critical legislation.

Those opposing the motion to invoke cloture contended:

In the 100 years since the Sherman Act was passed, no other legislation has posed as great a threat to the well established antitrust principles, to American business, or to the consumer, as S. 429. It will open up a pandora's box of litigation that will not serve to help consumers, but will serve to ruin American manufacturers and threaten American jobs. It is an invitation for retailers to sue any manufacturer that doesn't want to sell them its products, and virtually guarantees them success of their lawsuit. Far from codifying established standards for business practices, it will leave them subject to legal action so blurred and broad, that it will be almost impossible for industries to do business in this country. It is hard to argue that destroying American business is the best way to serve the American consumer. We urge our colleagues to vote against the motion to invoke cloture on S. 429.

SENATE RECORD VOTE ANALYSIS—TEMPORARY

102nd Congress
1st Session

Vote No. 55

May 9, 1991, 2:02 p.m.
Page S-5601 (Temp. Record)

GRAMM-RUDMAN-HOLLINGS SUSPENSION/Rejection

SUBJECT: **A joint resolution suspending certain provisions of the Emergency Deficit Control and Reduction Act of 1985 . . . S.J. Res. 137. On agreeing to the resolution.**

ACTION: JOINT RESOLUTION DEFEATED, 5-92

SYNOPSIS: S.J. Res. 137, in effect:

- suspends the Federal budget target for fiscal years (FY) 1991 and 1992;
- nullifies any sequestration orders signed by the President;
- nullifies the spending caps for FY 1991 and FY 1992 as instituted by the Omnibus Reconciliation Act of 1990 (See vote No. 326, 101st Congress, 2d Session);
- nullifies the "pay-as-you-go" rules for spending by Appropriation subcommittees for fiscal years 1991 and 1992; and
- eliminates most Gramm-Rudman-Hollings Budget Act points of order for fiscal years 1991 and 1992.

NOTE: Upon notification to Congress by the Congressional Budget Office and/or the Office of Management and Budget that either has forecast that the economy has entered a recession (defined as two subsequent quarters of negative growth in the Gross National Product), the Senate Majority Leader must introduce a resolution identical to S.J. Res. 137 in the Senate, which is then referred to the Budget Committee. If the Committee does not act on the resolution within five days (in session), it is automatically discharged and placed on the Senate Calendar. Upon placement on the Calendar, the Senate has five days (in session) to consider it.

The Congress received notification from the Congressional Budget Office on April 30, 1991.

Those favoring the resolution contended:

The Gramm-Rudman-Hollings law is poor legislation. In prosperous times it is ineffectual, and it has very deleterious consequences if enforced during a recession. The drafters of this legislation fully understood that it could exacerbate a recession, so they included a provision to allow Congress to suspend Gramm-Rudman-Hollings during recessionary periods. We must exercise that option now.

(See other side)

YEAS (5)

Republicans (0 or 0%)	Democrats (5 or 9%)
	Harkin
	Pell
	Riegle
	Sarbanes
	Wellstone

NAYS (92)

Republicans (41 or 100%)		Democrats (51 or 91%)	
Brown	Lott	Adams	Hollings
Burns	Lugar	Akaka	Inouye
Chafee	Mack	Baucus	Johnston
Coats	McCain	Bentsen	Kennedy
Cochran	McConnell	Biden	Kerrey
Cohen	Murkowski	Bingaman	Kerry
Craig	Nickles	Boren	Kohl
D'Amato	Packwood	Bradley	Lautenberg
Danforth	Pressler	Breaux	Leahy
Dole	Roth	Bryan	Levin
Domenici	Rudman	Bumpers	Lieberman
Durenberger	Seymour	Burdick	Metzenbaum
Gorton	Simpson	Byrd	Mikulski
Gramm	Smith	Conrad	Mitchell
Grassley	Specter	Cranston	Moynihan
Hatch	Stevens	Daschle	Nunn
Hatfield	Symms	DeConcini	Reid
Helms	Thurmond	Dixon	Robb
Jeffords	Wallop	Dodd	Rockefeller
Kassebaum	Warner	Exon	Sanford
Kasten		Ford	Sasser
		Fowler	Shelby
		Glenn	Simon
		Gore	Wirth
		Graham	Wofford
		Heflin	

NOT VOTING (3)

Republicans (2)	Democrats (1)
Bond—2	Pryor—3
Garn—2	

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

Compiled and written by the staff of the Senate Republican Policy Committee — Don Nickles, Chairman

Gramm-Rudman-Hollings is quite simply a politically popular abdication of responsibility. The American public is rightly concerned about the size of the national deficit, and wants Congress to reduce it. However, Congress' solution, strict deficit targets with strong enforcement provisions, has put the Government into a fiscal straitjacket. All policy goals are subsumed by the one overarching goal of deficit reduction. When the economy is expanding, the need to provide Government services is not as great as when in a decline, so the effects of this policy are not as pronounced. However, when in a recession, the effects are devastating for Americans.

A recession increases the Government's obligation to provide unemployment compensation and the whole panoply of social services that are required by those people who are hurt by the recession. Gramm-Rudman-Hollings does not allow us to help these people. Instead, it requires that because revenue declines in a recession, so too must services decline. In other words, when people need the services more, they must get less. The fact is that the deficit and recession are two different problems, each of which has to be solved in its own separate way and in its own separate time. During a recession, the very real human problems of joblessness, homelessness, and declining standards of living must be addressed before the deficit, not after.

We are currently in a recession, and have been for eleven months. Unemployment now exceeds eight million workers. So far, the prescription offered by the Administration is to be patient; it will end soon. This is the same advice given by President Hoover during the Great Depression. How long should Americans be patient? How many must lose their jobs, lose their homes, and accept lower standards of living before we act?

Congress should invest in America. Job training programs, unemployment compensation, nutrition programs, and educational aid all in the long run save this country money by making sure that we become more productive in the future. We urge our colleagues to join us in abandoning our myopic, short-sighted commitment to deficit targets. The true way to achieve lasting prosperity is to invest in America, not to starve it.

Those opposing the resolution contended:

After much work last year, we agreed upon a plan to reduce the Federal deficit nearly $500 billion over five years. Approval of S.J. Res. 137 would suspend the enforcement of this hard-won deficit reduction package, which is something we believe is wholly unwarranted at this time. Therefore, we oppose passage of the joint resolution.

First, it is unnecessary to suspend Gramm-Rudman-Hollings in order to address the current recession. A credible deficit reduction package, responsibly enforced, will free the Federal Reserve sufficiently to allow it to lower interest rates. Lower rates will stimulate the economy far more than any loosening of the Gramm-Rudman-Hollings strictures. Also, Gramm-Rudman-Hollings is no longer the straitjacket our opponents make it out to be. It allows explicitly for emergency spending that will not count against the spending caps, and forestalls automatic across-the-board cuts and sequestration. We have also eliminated the counterproductive requirement to accelerate deficit reductions during economic decline. This removes many of the potentially deleterious effects of the Gramm-Rudman-Hollings statutes.

Historically, most of the anti-recessionary policies we have undertaken in the name of fighting economic downturns have come into full effect long after the recession was over, feeding the ensuing inflation, and making the next recession worse. This historical trend argues convincingly against suspending the important spending restraints in Gramm-Rudman-Hollings. Any increased spending would merely be late, ineffectual, and inflationary.

Finally, passage of S.J. Res. 137 would remove the protections against uncontrolled spending incorporated into the Gramm-Rudman-Hollings law, and unravel the hard-won gains of last year's Budget Reconciliation agreement. With our current high deficit, we can not afford a spending spree, which would be far more likely to occur once the Gramm-Rudman-Hollings restraints have been rescinded. S.J. Res. 137 would throw out all the mandatory caps on defense, domestic discretionary spending, and points of order against excess spending, allowing us to spend the Nation deeper into recession. We should reaffirm our commitment to reversing the deficit by standing up for the five-year plan approved by Congress, and rejecting S.J. Res. 137.

VOTE NO ON S.429,

THE "CONSUMER PROTECTION AGAINST PRICE-FIXING ACT OF 1991"

- **S.429 was *defeated* in the Senate Judiciary Committee, 8 - 6 and reported "without recommendation."**
- **Vertical price fixing (between manufacturers and dealers) has been *per se* illegal since 1911; S.429 does nothing to change that.**
- **S.429 fashions a cloak of conspiracy where none exists; perfectly legitimate business conduct runs the risk of being labeled as part of a totally fictional price fixing conspiracy.**
- **The retail discount industry is thriving under current law; no change is necessary.**

* * * * *

Chamber of Commerce of the United States
National Association of Manufacturers
ABCD: The Microcomputer Industry Association
American Apparel Manufacturers Association
American Frozen Food Institute
American Furniture Manufacturers Association
American Paper Institute
American Petroleum Institute
American Ski Federation
American Textile Manufacturers Institute, Inc.
Association of Home Appliance Manufacturers
Association of International Automobile Manufacturers
The Beer Institute
Citizens for a Sound Economy
The Construction Industry Manufacturers Association
Competitive Enterprise Institute
Computer & Business Equipment Manufacturers Association
Distilled Spirits Council
Electronic Industries Association
Equipment Manufacturers Institute
Financial Executives Institute
Maryland Chamber of Commerce
Mississippi Manufacturers Association
National Association of Retail Druggists
National Automobile Dealers Association
National Electrical Manufacturers Association
National Office Machine Dealers Association
Portable Power Equipment Manufacturers Association
Sporting Goods Manufacturers Association
U. S. Business & Industrial Council
3M
A. O. Smith Corporation
American Standard, Inc.
Apple Computer, Inc.
ARCO
Armco, Inc.
Armstrong World Industries
Atomic Ski USA
Attitash Ski Resort
Benjamin Moore & Co.
Blount, Inc.
BP America
Burlington Industries, Inc.
Canon USA, Inc.
Canton North America, Inc.
Casio, Inc.
Caterpillar, Inc.
Compaq Computer Corporation
Coors Brewing Company
Corning Incorporated
Crystal Brands, Inc.
Denon America, Inc.
The Dow Chemical Company
Dresser Industries, Inc.
The Dupont Company
Dynascan Corporation
Eastman Kodak Company
Estee Lauder
Flow Boy Manufacturing
FMC Corporation
Ford Motor Company
Fort Howard Company
Gehl Company
Gates-Mills, Inc.
General Motors Company
Georgia Pacific Corporation
The Goodyear Tire & Rubber Company
W. L. Gore & Associates
Harley-Davidson, Inc.
Head Sportswear, Inc.
Heublein, Inc.
Hewlett-Packard Company
Household International
IBM Corporation
ICI Americas, Inc.
ITT Corporation
James River
Jockey International, Inc.
Joseph E. Seagram & Sons, Inc.
Karsten (Ping Golf Club) Manufacturing Corporation
Kenwood USA Corporation
Kimberly-Clark Corporation
Lenox Inc.
Lion Rock International
Londontown Corporation
Mack Trucks, Inc.
The Mews
Milliken & Company
Mitsubishi Electric Sales America, Inc.
Mobil Corporation
Motorola, Inc.
NEC Technologies, Inc.
NEC America, Inc.
Nevica USA
Nike, Inc.
North American Philips Corporation
Okemo Mountain Ski Resort
Outboard Marine Corporation
Owens-Corning Fiberglas
Parker, Hannifin Corporation
Pass & Seymour/Legrand
Peavey Electronics Corporation
Pendleton Woolen Mills
Pepsico, Inc.
PPG Industries, Inc.
Raytheon Company
Rockwell International
Rohm & Haas Company
Russell Corporation
Santa Fe Ski Company
Scott Paper Company
Sharp Electronics Corporation
Siemens Corporation
Snap-On Tools
Sony Corporation of America
Springs Industries, Inc.
Stratton Mountain
Sun Ice
Tenneco, Inc.
Texas Instruments Inc.
Textron Inc.
The Trane Company
Tropicana Products, Inc.
Thomson Consumer Electronics, Inc.
The Toro Company
Tom's Foods, Inc.
TRW, Inc.
Union Camp Corporation
United Technologies Corporation
Whirlpool Corporation
Xerox Corporation
Zenith Electronics Corporation

THE WHITE HOUSE

WASHINGTON

May 22, 1991

Dear Mitch:

In my State of the Union address in January, I expressed my strong desire to achieve genuine campaign finance reform this year. We must curtail special interest influence in elections, promote electoral competition, and increase the participation of individual citizens and the political parties.

Since my first year as President, I have called for abolishing political action committees that are subsidized by corporations, unions, or trade associations. That critical step, combined with measures to reduce unfair advantages of incumbency, would markedly improve both the perception and the reality of our electoral process.

I hope that Congress does not waste this opportunity for reform on efforts to insulate incumbents further, by limiting overall speech in campaigns to challenge them, or on new schemes to provide taxpayer subsidies for congressional elections.

The legislative initiative which you and many of your colleagues recently introduced would eliminate political action committees and accomplish several other reforms I have proposed in the past, including tighter regulation of "soft money" and the use of union dues for political purposes. In addition, your bill promotes electoral competition in several respects consistent with my previous proposals.

Spending limits, on the other hand, would disadvantage challengers and thereby entrench incumbents further. Ironically, spending limits tend to favor powerful special interests over individuals, because these interests would retain the financial and organizational resources to work around the limits. Therefore, I intend to veto any campaign finance "reform" legislation which features spending limits or taxpayer financing of congressional campaigns.

Further, I am deeply opposed to campaign reform legislation that proposes different rules concerning political action committees for the Senate and House. We must not further balkanize ethics and election reform.

As you know, there are two critical ingredients to campaign reform: curbing the divisive role of special interests and enhancing the quality of representation through real electoral competition. I believe both of these goals can be achieved and are essential to revitalizing our electoral process.

I look forward to working with you and your colleagues to enact meaningful campaign finance reform consistent with these aims.

Sincerely,

The Honorable Mitch McConnell
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

May 21, 1991

Dear Mitch:

In my State of the Union address in January, I expressed my strong desire to achieve genuine campaign finance reform this year. We must curtail special interest influence in elections, promote electoral competition, and increase the participation of individual citizens and the political parties.

Since my first year as President, I have called for abolishing political action committees that are subsidized by corporations, unions, or trade associations. That critical step, combined with measures to reduce unfair advantages of incumbency, would markedly improve both the perception and the reality of our electoral process.

I hope that Congress does not waste this opportunity for reform on efforts to insulate incumbents further, by limiting overall speech in campaigns to challenge them, or on new schemes to provide taxpayer subsidies for congressional elections.

The legislative initiative which you and many of your colleagues recently introduced would eliminate political action committees and accomplish several other reforms I have proposed in the past, including tighter regulation of "soft money" and the use of union dues for political purposes. In addition, your bill promotes electoral competition in several respects consistent with my previous proposals.

5/22
per L. Casey
Mitch McConnell edits

~~The~~ spending limits ~~endorsed in the Boren/Mitchell substitute amendment~~ on the other hand, would disadvantage challengers and thereby entrench incumbents further. Ironically, spending limits tend to favor powerful special interests over individuals, because these interests would retain the financial and organizational resources to work around the limits. Therefore, I intend to veto any campaign finance "reform" legislation which features spending limits ~~funded at the taxpayer's expense.~~ or taxpayer financing of ~~campaigns~~ congressional campaigns.

Further, I am deeply opposed to campaign reform legislation that proposes different rules concerning political action committees for the Senate and House. We must not further balkanize ethics and election reform.

As you know, there are two critical ingredients to campaign reform: curbing the divisive role of special interests and enhancing the quality of representation through real electoral competition. I believe both of these goals can be achieved and are essential to revitalizing our electoral process.

I look forward to working with you and your colleagues to enact meaningful campaign finance reform consistent with these aims.

Sincerely,

The Honorable Mitch McConnell
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

May 21, 1991

Dear Mitch:

In my State of the Union address in January, I expressed my strong desire to achieve genuine campaign finance reform this year. We must curtail special interest influence in elections, promote electoral competition, and increase the participation of individual citizens and the political parties.

Since my first year as President, I have called for abolishing political action committees that are subsidized by corporations, unions, or trade associations. That critical step, combined with measures to reduce unfair advantages of incumbency, would markedly improve both the perception and the reality of our electoral process.

I hope that Congress does not waste this opportunity for reform on efforts to insulate incumbents further, by limiting overall speech in campaigns to challenge them, or on new schemes to provide taxpayer subsidies for congressional elections.

The legislative initiative which you and many of your colleagues recently introduced would eliminate political action committees and accomplish several other reforms I have proposed in the past, including tighter regulation of "soft money" and the use of union dues for political purposes. In addition, your bill promotes electoral competition in several respects consistent with my previous proposals.

The spending limits endorsed in the Boren/Mitchell substitute amendment would disadvantage challengers and thereby entrench incumbents further. Ironically, spending limits tend to favor powerful special interests over individuals, because these interests would retain the financial and organizational resources to work around the limits. Therefore, I intend to veto any campaign finance "reform" legislation which features spending limits funded at the taxpayer's expense.

Further, I am deeply opposed to campaign reform legislation that proposes different rules concerning political action committees for the Senate and House. We must not further balkanize ethics and election reform.

As you know, there are two critical ingredients to campaign reform: curbing the divisive role of special interests and enhancing the quality of representation through real electoral competition. I believe both of these goals can be achieved and are essential to revitalizing our electoral process.

I look forward to working with you and your colleagues to enact meaningful campaign finance reform consistent with these aims.

Sincerely,

The Honorable Mitch McConnell
United States Senate
Washington, D.C. 20510

U.S. Senator
MITCH McCONNELL

Room 120
Russell Senate Office Building

Phone: (202) 224-2541
FAX: (202) 224-2499

W A S H I N G T O N

FROM: Senator McConnell

TO: Gov. John Sununu

PAGES TO FOLLOW: 3

RE: EXTREMELY URGENT!

John –

I'm on the Senate floor. We are on the Critical Amendment on taxpayer funding and spending limits. It will be voted on at 10 A.M tomorrow.

Please call me back – tonight, if possible

THE WHITE HOUSE

WASHINGTON

May 21, 1991

Dear Mitch:

In my State of the Union address in January, I expressed my strong desire to achieve genuine campaign finance reform this year. We must curtail special interest influence in elections, promote electoral competition, and increase the participation of individual citizens and the political parties.

Since my first year as President, I have called for abolishing political action committees that are subsidized by corporations, unions, or trade associations. That critical step, combined with measures to reduce unfair advantages of incumbency, would markedly improve both the perception and the reality of our electoral process.

I hope that Congress does not waste this opportunity for reform on efforts to insulate incumbents further, by limiting overall speech in campaigns to challenge them, or on new schemes to provide taxpayer subsidies for congressional elections.

The legislative initiative which you and many of your colleagues recently introduced would eliminate political action committees and accomplish several other reforms I have proposed in the past, including tighter regulation of "soft money" and the use of union dues for political purposes. In addition, your bill promotes electoral competition in several respects consistent with my previous proposals.

The spending limits endorsed in the Boren/Mitchell substitute amendment would disadvantage challengers and thereby entrench incumbents further. Ironically, spending limits tend to favor powerful special interests over individuals, because these interests would retain the financial and organizational resources to work around the limits. Therefore, I intend to veto any campaign finance "reform" legislation which features spending limits funded at the taxpayer's expense.

Further, I am deeply opposed to campaign reform legislation that proposes different rules concerning political action committees for the Senate and House. We must not further balkanize ethics and election reform.

As you know, there are two critical ingredients to campaign reform: curbing the divisive role of special interests and enhancing the quality of representation through real electoral competition. I believe both of these goals can be achieved and are essential to revitalizing our electoral process.

I look forward to working with you and your colleagues to enact meaningful campaign finance reform consistent with these aims.

Sincerely,

The Honorable Mitch McConnell
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

May 21, 1991

Dear Mitch:

In my State of the Union address in January, I expressed my strong desire to achieve genuine campaign finance reform this year. We must curtail special interest influence in elections, promote electoral competition, and increase the participation of individual citizens and the political parties.

Since my first year as President, I have called for abolishing political action committees that are subsidized by corporations, unions, or trade associations. That critical step, combined with measures to reduce unfair advantages of incumbency, would markedly improve both the perception and the reality of our electoral process.

I hope that Congress does not waste this opportunity for reform on efforts to insulate incumbents further, by limiting overall speech in campaigns to challenge them, or on new schemes to provide taxpayer subsidies for congressional elections.

The legislative initiative which you and many of your colleagues recently introduced would eliminate political action committees and accomplish several other reforms I have proposed in the past, including tighter regulation of "soft money" and the use of union dues for political purposes. In addition, your bill promotes electoral competition in several respects consistent with my previous proposals.

The spending limits endorsed in the Boren/Mitchell substitute amendment would disadvantage challengers and thereby entrench incumbents further. Ironically, spending limits tend to favor powerful special interests over individuals, because these interests would retain the financial and organizational resources to work around the limits. Therefore, I intend to veto any campaign finance "reform" legislation which features spending limits funded at the taxpayer's expense.

Further, I am deeply opposed to campaign reform legislation that proposes different rules concerning political action committees for the Senate and House. We must not further balkanize ethics and election reform.

As you know, there are two critical ingredients to campaign reform: curbing the divisive role of special interests and enhancing the quality of representation through real electoral competition. I believe both of these goals can be achieved and are essential to revitalizing our electoral process.

I look forward to working with you and your colleagues to enact meaningful campaign finance reform consistent with these aims.

Sincerely,

The Honorable Mitch McConnell
United States Senate
Washington, D.C. 20510

LEGISLATIVE ISSUES UPDATE
Agenda
February 13, 1991

APPROPRIATIONS
- Desert Storm Supplemental
- FY 1991 Supplement

BANKING DEREGULATION - REFORM

BUDGET ISSUES
- Budget Agreement Enforcement Matters
- Balanced Budget Amendment
- Line Item Veto

CAMPAIGN FINANCE REFORM

CIVIL RIGHTS

COMMUNICATIONS
- Cable TV
- AT&T Consent Decree
- Spectrum Allocation

CRIME/DRUGS

DEFENSE
- Desert Storm Burdensharing/Costs
- B-2
- SDI

EDUCATION ISSUES
- Higher Education Reauthorization
- Excellence in Education Act

ENVIRONMENTAL ISSUES
- Clean Water Reauthorization
- EPA Cabinet Status
- Global Warming
- RCRA Reauthorization

EXPORT ADMINISTRATION ACT

HATCH ACT

HEALTH
- Food Safety
- Orphan Drugs

HIGHWAY BILL REAUTHORIZATION

INTELLIGENCE REAUTHORIZATION

LABOR ISSUES
- Family Medical Leave
- Strike Breakers

NATIONAL ENERGY STRATEGY

PRODUCT LIABILITY TORT REFORM

PUERTO RICO PLEBISCITE

SAVINGS AND LOAN (RTC FUNDING)

SOCIAL SECURITY
- Earnings Test
- Payroll Cut

Central Objectives for Bush Administration Highway Legislation

leg 91

- Identify and focus investment on a 150,000-mile National Highway System for greater positive impacts on sustainable domestic economic growth and on global competitiveness.

- Provide stability and growth in Federal funding--a 37-percent increase in obligation limitation for FY's 1992-1996 over FY's 1987-1991. This, together with the encouragement of greater State, local, and private funding will reach further towards meeting needs. A 5-year bill will provide stability for State transportation planning efforts and permit transition to the new program.

- Increased funding for bridges--31 percent more budget authority for FY's 1992-1996 than for FY's 1987-1991--to strengthen these critical links in the transportation chain.

- Promote environmentally sound and more energy efficient surface transportation.

- Develop longer lasting and safer facilities and provide congestion relief. A doubling of the Highway R&D activity in 1992, represents a continuing increase in emphasis on the deployment of new technology.

- Increase motor carrier productivity by advancing an expanded national system, continuing deregulation and relief from burdensome paperwork.

- Give greater flexibility and discretion for State and local governments and decreased Federal requirements in the urban/rural program but greater focus on managed performance in the national system.

- Encourage broad flexibility in the use of Federal transit and Federal-aid highway funds for transit or highway projects, giving State and local governments the ability to address regional and local transportation priorities.

The new National Highway System will include the Interstate System, the strategic defense highway network and other principal arterials reflecting current patterns of interstate and interregional travel. This system will be identified through local, state and Federal government interaction. Flexibility to accommodate future shifts in mobility needs will be provided. Safety, congestion, pavement, and bridge management systems will help ensure high level performance on this system.

A new Urban and Rural Program within the Federal-aid highway program will consolidate funding for most non-NHS highway projects. FHWA approvals to advance projects in this program will be minimal. With State and local concurrence areas will be able to use these funds for transit projects where such projects are most effective in enhancing mobility. 2/1/91

SURFACE TRANSPORTATION '91
To Jobs...To Homes...To Market

Thirty-five years ago, President Eisenhower and freshman Senator Prescott Bush defined the Interstate Highway vision. That vision has mapped the Nation's economic development and prosperity for the past generation -- politically, economically, and socially. Now through the President's National Transportation Policy, we've defined a new bipartisan vision for the coming generation of surface transportation -- one which meets the evolving mobility needs of the Next American Century, linking America and the world.

THEMES

1) **Productivity and Jobs** (transportation accounts for 17% of GNP and 25% of export dollars)

o Increasing long-term investment for productivity and international competitiveness;

o Leveraging increased investment from the private sector;

o Ancillary short term benefit of job creation from construction (30,000 to 50,000 jobs per $1B);

o Flexibility of federal funding to empower state and local governments to make more efficient use of scarce resources;

o Accountability by states to protect federal investment.

2) **Mobility**: (congestion costs interstate commerce over $35B/year)

o Linking trained workers with communications and transportation;

o Apply advanced technologies -- IVHS (smart cars/highways) and High Speed Rail/Maglev to relieve congestion;

o Sound management techniques to keep roads and transit working;

o Keep rural America connected.

3) **Environmental Sensitivity** (transportation responsible for more than 50% of urban air pollution and consumes 25% of refined petroleum products)

o Improve local transit and highway operations to reduce fuel consumption and waste;

o Flexibility of federal funding allows states to address clean air and make environmentally sound transportation decisions;

o Congestion management systems promote more efficient use of energy and less air pollution.

4) **Safety** (45,000 lives lost each year: equivalent of one medium-jetliner crash each day)

o Support the war on drunk driving and other safety problems.

Leg 1991

Brent Ericksen

102nd CONGRESS
1st Session

S. RES. ____

Expressing the sense of the Senate that the United States should take a leadership position in calling for worldwide carbon dioxide emissions reductions at the first meeting of the Intergovernmental Negotiating Committee on a Framework Convention on Climate Change to be held in Washington, D.C on February 4th - 14th, 1991.

IN THE SENATE OF THE UNITED STATES

January __, 1991

Mr. Mitchell (for himself, and Mr. _____.) submitted the following resolution, which was _____.

RESOLUTION

Whereas, human activities substantially increase the atmospheric concentrations of the greenhouse gases: carbon dioxide, methane, chlorofluorocarbons and nitrous oxide;

Whereas, an increase in the concentration of greenhouse gases enhances the natural greenhouse effect, resulting on average in an additional warming of the Earth's surface and an excess of radioactive energy available to alter the climate system;

Whereas, carbon dioxide has been responsible for over half the enhanced greenhouse effect in the past, and is likely to remain so in the future;

Whereas, the scientific assessment of the Intergovernmental Panel on Climate Change (IPCC) concluded in August 1990 that under a business-as-usual scenario for emissions of carbon dioxide and other greenhouse gases, a global warming of five to ten degrees Fahrenheit above pre-industrialized levels is likely by the end of the next century, bringing the Earth to its warmest level in at least 150,000 years;

Whereas, many scientific studies show that rapid global warming would create grave risks of precipitous climate shifts, with effects including extreme heat waves and droughts in agricultural and urban areas, amplified warming at mid and high altitudes, sea level rise and resultant flooding of coastal areas, an increase in the frequency and severity of hurricanes and other extreme weather events, and the potential destruction of forests over broad expanses;

Whereas, environmental stresses of this magnitude have the potential to cause unprecedented agricultural, economic, and social and political disruptions;

Whereas, the Ministerial Declaration of the Second World Climate Conference in November 1990, adopted by more than one hundred governments, including the United States, calls for the negotiation of a treaty to limit climate change in order to protect society and the environment "without further delay based on the best available knowledge" with the ultimate global objective "to stabilize greenhouse gas concentrations at a level that would prevent dangerous anthropogenic interference with climate.";

Whereas, the Declaration further states that "the potentially serious consequences of climate change give sufficient reasons to begin by adopting response strategies even in the face of significant uncertainties.";

Whereas, the United Nations General Assembly has established an Intergovernmental Negotiating Committee for a Framework Convention on Climate Change responsible for negotiating an international climate protection agreement in time for signature at the United Nations Conference on Environment and Development in June 1992;

Whereas, the first negotiation session will be hosted by the United States from February 4th to 14th, 1991;

Whereas, Germany, Denmark, Austria, Australia, and New Zealand have already proposed to reduce emissions of carbon dioxide and other greenhouse gases; and that seventeen other countries (Belgium, Canada, Finland, France, Great Britain, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, and Switzerland) have proposed, individually or collectively, to stabilize or reduce their carbon dioxide emissions by the year 2000;

Whereas, the United States emits more carbon dioxide than any other nation and has the highest per capita emissions of carbon dioxide;

Whereas, a large fraction of the emissions of carbon dioxide from the United States could be controlled at a savings, no cost, or low cost and that such measures would contribute to the competitiveness of American business and the overall economy;

Whereas, the National Energy Strategy, which has been in preparation for the last eighteen months, presents an opportunity to develop targets for reductions in United States emissions of carbon dioxide and mechanisms for implementing such targets;

Therefore be it resolved, it is the policy of the United States (1) to specify reductions in the national emissions of carbon dioxide and other greenhouse gases by a date certain, and (2) to assume a leadership position in negotiating an international climate protection treaty that contains specific commitments to reduce emissions of carbon dioxide and the following elements:

- An agreement by industrialized nations to reduce their current emissions of carbon dioxide;
- An agreement by developing nations to limit their growth in carbon dioxide emissions from fossil fuel combustion so that total emissions from the industrialized and developing world are significantly reduced;
- An agreement by all countries to stop the release of carbon dioxide due to deforestation, by preservation of existing forests and reforestation;
- An agreement by all countries to take available steps to cut emissions of other greenhouse gases, including methane;

- The establishment of an international fund, to help developing countries achieve these objectives;

- The establishment of a mechanism of continuing international cooperation for development of efficient policies for future emissions reductions necessary to meet the objective of stabilizing greenhouse gas emissions at safe levels.

Be it further resolved, that the United States should support, at the February negotiating session, the establishment of a process that will allow negotiations of substantive provisions to accomplish each of these elements, for inclusion in the convention that is to be concluded in June 1992.

Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02. Memo	From C. Boyden Gray to POTUS Re: Options for a Constitutional Amendment Limiting Congressional Terms (4 pp.)	1/18/91	P/5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Congress 1991 [1]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 4/21/08

Date Closed:	1/3/2005	**OA/ID Number:**	29151-001
FOIA/SYS Case #:	1998-0004-F[2]	**Appeal Case #:**	
Re-review Case #:	2005-0426-S	**Appeal Disposition:**	
P-2/P-5 Review Case #:		**Disposition Date:**	
AR Case #:		**MR Case #:**	
AR Disposition:		**MR Disposition:**	
AR Disposition Date:		**MR Disposition Date:**	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

THE WHITE HOUSE

WASHINGTON

91 JAN 18 PM 6:35

January 18, 1991

1991 Leg

MEMORANDUM FOR THE PRESIDENT

FROM: C. BOYDEN GRAY cmh

SUBJECT: Options for a Constitutional Amendment Limiting Congressional Terms

We are currently preparing a draft constitutional amendment to limit the term of service of U.S. Senators and Representatives. Before we can draft such an amendment, we need your guidance on several key provisions. This memorandum explains briefly the various state provisions recently enacted and sets forth the options available to us.

BACKGROUND

Three states, California, Colorado, and Oklahoma, have recently adopted some form of term limitation for their state legislators. One state, Colorado, has also amended its Constitution to limit the terms of its U.S. Senators and Representatives as well. Each of these proposals differs slightly from the other two in regards to the term of service permitted, whether the limitation applies to total service or merely prohibits serving consecutive terms, and whether the limitation covers service in both houses of the legislature.

California. California's constitutional amendment finds that the "increased concentration of political power in the hands of incumbent representatives has made our electoral system less free, less competitive, and less representative," resulting in "a class of career politicians," who have "become representatives of the bureaucracy, rather than of the people whom they are elected to represent." The amendment limits the terms of state senators to two four-year terms and state representatives to three two-year terms.

Colorado. The Colorado amendment limits the terms of U.S. Senators to two consecutive six-year terms and the terms of U.S. Representative to six consecutive two-year terms. State senators are limited to two consecutive four-year terms; and state representatives to four consecutive two-year terms. Terms are considered consecutive unless they are at least four years apart.

Oklahoma. The Oklahoma amendment provides that no one shall be eligible to serve more than 12 years in the Oklahoma State Legislature. The amendment specifically provides that years in

the legislature need not be consecutive and that years of service in both the Senate and the House of Representatives shall be included in determining eligibility.

OPTIONS IN DRAFTING A CONSTITUTIONAL AMENDMENT

As the various proposals of California, Colorado, and Oklahoma demonstrate, there are a number of ways of approaching term limitations. We need your guidance on three interrelated questions: (1) How long shall U.S. Senators and Representatives be allowed to serve? (2) Shall the limitation apply to total terms or only to consecutive terms? (3) Shall the limitation apply to service in both houses? Each of these options are discussed briefly below.

(1). Limit on Term of Service. Fundamental to any term limitation proposal is the limit on the number of years or the number of terms that a senator or representative may serve. The term of service limit most frequently mentioned is 12 years for Senators and Representatives, although Colorado and California permit state senators to serve longer than state representatives. A further option as to whether the time limitation applies to consecutive terms only or to total years of service is addressed below.

(a). Term Limits for U.S. Senators. Anything less than two terms (12 years) would seem unreasonably short; anything more than 12 years would seem to defeat the purpose for the amendment. The 12 year limit is reasonable and finds support in the press and in the three states that have enacted term limitations.

DECISION: The term limit amendment shall provide that no U.S. Senator shall serve more than two terms.

_____ Approve

_____ Approve as modified

_____ Disapprove

(b). Term Limits for U.S. Representatives. There is no compelling argument for limiting Representatives to a different term of service than Senators, and different term limits would undoubtedly deflect debate from the principle of term limits to the nuances.

DECISION: The term limit amendment shall provide that no U.S. Representative shall serve more than six terms.

_____ Approve

_____ Approve as modified

_____ Disapprove

(2). Limiting Total Terms or Consecutive Terms. There are two basic options here. One option (followed by California and Oklahoma) limits the total number of terms or years that state senators and representatives may serve without regard to whether the terms were served consecutively. This option reflects a philosophy that the legislature should be representative of the public, and that that can best be accomplished by rotating public office. This proposal gives finality to public service in the legislature. On the other hand, this option would prevent the electorate from selecting citizens with prior legislative experience.

A second option (followed by Colorado) would prohibit U.S. Senators and Representatives from serving more than a specified number of consecutive terms. Under this option a U.S. Senator, for example, could serve two terms, sit out for a term and then stand for election again. This proposal is similar to laws in many states which apply to gubernatorial terms and similar to the limitation on Presidential terms found in the 22nd Amendment to the U.S. Constitution. It has the advantage of allowing the electorate to choose experienced representatives for office, while at the same time preventing those individuals from exploiting the perquisites of elective office -- immediate access to the press, access to Congressional media facilities, and the frank -- to retain the seat in perpetuity. This proposal would slow, but not prevent, lengthy service in the House or Senate.

DECISION:

_____ The term limitation amendment shall limit total terms or total service.

_____ The term limitation amendment shall limit consecutive terms.

(3). Limiting Service in Both Houses or a Single House. (This option need be considered only if the decision in (2) is to limit total terms or total service.) There are again two basic options. Under the first (adopted by Oklahoma), service in both houses is considered in determining eligibility. This option

effectively rotates the seats and prevents a member who has served the limit from using the perquisites of office to run for a seat in the other house.

Under the second option (followed by California and Colorado) members of one house, who are no longer eligible for re-election to that house, may run for a seat in the other body. This option focuses more narrowly on rotating membership in a single house.

DECISION:

_____ The limitation on total service shall include service in both houses of Congress.

_____ The limitation on total service shall apply to service in a single house in Congress.

Lent:

PATRIOTISM IN GULF

OPIPY PASS GOOD B. LEGISLATION

NUKE LICENSING ROF,

AWWR -

IN TERMS OF THE CONSUMER —

PUSH...

CABLE RATES —

REGULATION...

Sylvia

ECONOMY —

BANKS / OVERREGULATION

DEALERS —

Michel

DEFICIENCY ON UNEMPLOYM.

Bob Graham

(1) SCOREKEEPING...

REGARDLESS -

STATUTE ON BOOKS

∴ CAN'T BE CHANGED BY RULE.

LETTER TO SPEAKER...

PRES. CALL SPEAKER...

(2) DIVISION ON OTHER SIDE ON BUDGET...

D's CONCERNED ABOUT...

SCALE BACK AS DESIGNED...

1990 NOT ONLY - VIEW AS CAPS -

SEND SOME PROPOSALS ↑ CAPS -

(3)

Bill Gradison

DOMESTIC AGENDA -

DON'T UNDERESTIMATE J WITH FORD AS CHAIRMAN

FORD IS PARTISAN

AGENDA IS LABOR -

LAST CHANCE GONE IN EDUCATION

Chalmers

SOCIAL SECURITY -

MANY BILLIONS TO J EARNINGS LIMIT

Bill Bromfield

E Adm Act

ENT FOR AMERICANS

WORRIED ABOUT FOREIGN AID -

COMPLETE REFORM

NUKE NON PROLIFERATION

SOCIAL SECURITY:

STABLE —

DON'T REDUCE PAYROLL TAX

FUND RUNS OUT FASTER

* PUSH 9 IN EARNINGS LIMITATION

BIG ISSUE IS HEALTH CARE

ACTIVE TASK FORCE

UNN EXPENSES INCREASING!!!

MAL-PRACTICE

* PAPERWORK / RED TA

S/L - PRES. ATTACK IN STATE OF UNION

DEPOSIT INSURANCE

HOW RESUMP

PRES. TALK ABOUT SAVING DEPOSITORS

NOT POLITICAL PLOY —

Chalmers -

IT DIDN'T HAPPEN ON OUR WATCH.

MICKEY:

STATE OF THE UNION

DOMESTIC AGENDA

GROWTH PACKAGE

INT. TARGET TAX CREDIT

AFFORDABLE HOUSING/MIDDLE INC.

ENERGY INDEP.

CRIME & DRUG PROBLEM

SPENDING CUTS

BUDGET

CHILD CARE

½ CRIME

CLEAN AIR BILL

ADA

FARM BILL

HOUSING BILL

Gary Lewis

PRES → PUBLIC —

TALK ABOUT ..."

Bill Archer

LINE ITEM VETO

Sylvia

IN 1957 THE PRESIDENT'S BUDGET PASSED

McCollum

FREEZE

Michel

VETERANS

Conte

THREE DRAFTING ERRORS

COLA FOR VETS QUESTION

BOB MICHAEL:

FIGHT OMB VS. CBO.

S/L CONSENT REQUEST.

EXTENDERS THAT EXPIRE

Chalmers Wylie

① RTC - $10.B. ANNUNZIO OBJECTED.

BRADY $47B.

THEY $5B, 5... etc.

ASK FOR $47B. RIGHT AWAY.

STOP PLAYING GAMES -

② VOUCHER PROGRAM -

HOW CHECK USE OF FUNDS.

③ DEPOSIT INSURANCE REFORM.

RECOMMEND CLEAN SHOT.