operating expenses from plant and capital amounts, section 1011 is an unnecessary technical requirement.

Section 602 would clarify the definition of the term "minority" for purposes of determining who is eligible for participation in the Department's Office of Minority Economic Impact programs. This proposal would merely conform the definition of the term "minority" in the Department of Energy Organization Act with current definitions used by the Office of Management and Budget to compile statistics under the Office of Federal Contracts Compliance Directive No. 15 titled "Race and Ethnic Standards for Federal Statistics and Administrative Reporting," and by the Department of Energy in 10 CFR Part 1040.3, which lays the foundation for requirements concerning non-discrimination in Department of Energy federally assisted programs. The proposal would not affect substantively who would be covered by the term "minority" in the DOE Act.

The Office of Management and Budget advises that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

J. MICHAEL FARRELL,
General Counsel.

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By Mr. MATHIAS (for himself and Mr. SIMON);

S. 2263. A bill to protect the public's right to receive and communicate information freely across the American border, and to ensure the right of international travel; to the Committee on the Judiciary.

INTERNATIONAL COMMUNICATION AND TRAVEL ACT

Mr. MATHIAS. Mr. President, today the Senator from Illinois, Mr. SIMON, and I introduced a bill amending the ideological exclusions in the McCarran-Walter Immigration Act and restrictions on travel in the Passport Act, and removing restrictions on the import and export of information. The thread that ties all of these changes together is an ideal embodied in the first amendment: The removal of barriers that inhibit the free exchange of ideas across international frontiers.

A free trade in ideas, Oliver Wendell Holmes wrote, is the theory underlying our Constitution:

When men have realized that time has upset many fighting faiths, they may come to believe the very foundation of their own conduct: that the ultimate good desired is better reached by the free trade in ideas—that the best test of truth is the power of thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes can safely be carried out.

A free flow of information and ideas among American citizens is the foundation of our democratic society. Through open and robust debate in the marketplace of ideas, American citizens inform themselves of choices that affect their lives. However, this liberty, secured by the first amendment, is thwarted by a number of laws which permit the Government to restrict the flow of information and the travel of individuals into and out of the United States. These laws can exclude foreigners from our shores and inhibit the ability of
American citizens to travel overseas on the basis of the political beliefs the individuals espouse. They can also be used to restrict the import and export of information on the basis of the political doctrines contained in the information.

Abstract ideals such as freedom of speech are promoted and articulated in tangible forms and concrete actions. If we deny citizens the right to travel, or hear the views and opinions of others, than we trample on this ideal. Diversity, dialog, and exchange of ideas are the life-giving elements—the water and air—of American tradition; exclusion, restriction, repression of ideas are the features of far more troubled, less confident nations. As President Reagan has said:

Expanding contacts across borders and permitting a free exchange or interchange of information and ideas increase confidence; sealing off one's people from the rest of the world reduce it.

To be sure, we have a legitimate right and duty to maintain proper border controls. Those controls are particularly important in this day of supersonic travel, sophisticated espionage, and increased terrorist activity. And this is all the more reason to update our laws so officials can concentrate on true threats to our national security and public welfare.

Today's telecommunications media can bring into our living rooms the images and voices of exponents of every political and artistic tendency around the globe. To deny individuals or information entry or exit not only injures our freedom but insults the intelligence of the American people. The legislation we introduce today has six major provisions. The first deals with restrictions on visitors to this country based on speech.

Sections of the 1952 McCarran-Walter Act permit our Government, acting on secret evidence, to ban from the United States a wide range of people. Many visitors overcome initial charges that brand them as everything from anarchists and Communists to professional beggars and prostitutes. But the process is a demeaning and embarrassing ritual that suggests we are not as confident, mature, and truly free a nation as we so often assert.

Under the sweeping rubric of activities "prejudicial to the public interest" or "subversive to the national security," sections 212(a) 27 and 28 of the Immigration and Nationality Act have been used to bar British actor Charlie Chaplin; Canadian author and naturalist Farley Mowat; and Japanese pacifists. Our bill would stop this. In essence the bill says that activities which would be protected by the first amendment if conducted by American citizens in the United States cannot be the sole basis for an alien's exclusion or deportation.

This bill eliminates the exclusions in section 212(a) of the Immigration and Nationality Act that are based solely on speech, nonviolent political activity, political beliefs or associations. This bill would also impose analogous restrictions on the broad authority to deport aliens contained in section 241(a) of the act. In addition, the bill permits Americans to go to court if denied the opportunity to communicate with an alien visitor because of speech-based restrictions.

Not affected by the proposed legislation is the authority of the U.S. Government to deny admission to those aliens likely to engage in criminal or terrorist activities. In addition, those who would come to this country to engage in activities that endanger the national security or jeopardize the public welfare are excludable. Finally, the President would retain the broad authority to exclude aliens by proclamation under section 212(f) of the
Immigration and Nationality Act.
The changes that would be made to the Immigration and Nationality Act would make it consistent with congressional intent when the McGovern amendment was enacted in 1977. In addition, these changes are in accord with a recent U.S. court of appeals decision ruling that temporary visas to aliens cannot be denied because of political beliefs or associations.

The free exchange of ideas may also be inhibited by restricting the rights of U.S. citizens to travel abroad. Under the Passport Act of 1926, the executive branch has the authority to restrict travel by denying or revoking passports. While travel restrictions are necessary where there is imminent danger to the public health or physical safety of U.S. travelers, at times the executive branch has abused its discretion. In the past, passports have been denied to individuals of the caliber of playwright Arthur Miller, actor and singer Paul Robeson, and Nobel prize winner Linneaus Pauling on the basis of their political beliefs. Passports were denied not only to artists, actors, and scientists, but also lawyers, congressional investigators, and even Federal judges have been denied passports on the basis of their political activities.

This bill amends the Passport Act by eliminating passport restrictions based on activities that would be protected by the first amendment to the Constitution if they were conducted in the United States. This bill doesn’t inhibit the authority of the Secretary of State to restrict passports to areas where there are health or safety risks to U.S. travelers.

In addition to denying passports, the U.S. Government has inhibited travel to certain countries by restricting or prohibiting normal business transactions incidental to travel. This bill would amend the Trading With the Enemy Act and the International Emergency Economic Powers Act to allow U.S. citizens traveling or living in foreign countries to engage in these transactions, such as the payment of living expenses.

The Trading With the Enemy Act and the International Emergency Economic Powers Act have also been used by the Government to restrict the importation of information. Under this authority, the executive branch has embargoed informational materials such as films, posters, and phonograph records. These restrictions are inconsistent with the philosophy underlying the first amendment.

Our bill amends these statutes to ensure the free and unfettered importation of informational material from abroad, thereby promoting uninhibited and fully informed debate. This bill will not affect the Government’s legitimate power in times of war or national emergency to regulate or prohibit any other transactions involving property.

The importation and dissemination of information is also limited by the Foreign Agents Registration Act, under which the Government can classify certain foreign material as "political propaganda." This label can have a chilling effect on political debate. In a free society, citizens—not the government—should decide for themselves the merits of the information they read. This bill does not affect either who must register under the Foreign Agents Act, or what materials must be registered. It only reduces reporting requirements and provides for a more neutral label-"advocacy materials"—on material indicating that it was produced by an agent of a foreign power.

Besides restrictions on the importing of information, statutes regulating exports can also inhibit the dissemination of ideas. Scientific progress, in
particular, depends on freedom of communication. Yet, under the Arms Export Control Act, the publishing of unclassified research and participation in scholarly conferences have been restricted and curtailed. Our bill amends the Arms Export Control Act to declare a policy endorsing the importance of vigorous scientific debate through scholarly interchange. Although a policy statement would not directly prevent excessive interference with scientific interchange, this provision shifts the balance a little more toward the free exchange of scholarly ideas, in acknowledgement of Albert Einstein's insight that "the progress of science presupposes freedom of expression in all realms of intellectual endeavor."

Some of my colleagues may be familiar with another bill, S. 2177, that Senator SIMON and I recently introduced. While attempting to further the same principles, it is much more limited in scope. S. 2177 focuses only on the issue of nonimmigrant visa exclusions. This legislation is a more comprehensive package, removes more barriers that stand in the way of free debate. In sum, this free trade in ideas legislation simply applies the ideal embodied in the first amendment of the Constitution to the laws governing the travel of individuals and the movement of information.

As Justice Brandeis wrote in a 1927 decision, "Those who won our independence believed that the final end of the State was to make men free to develop their faculties * * * freedom to think as you will and to speak as you think" as a "means indispensable to the discovery and spread of political truth." That belief still animates thoughtful Americans today. The legislation we introduce today strengthens the means to that important end.

I ask unanimous consent that a copy of the bill and a list of the organizations that endorse this legislation be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2263

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

SECTION. 1. This Act may be cited as the "International Communication and Travel Act of 1986".

SEC. 2. (a) Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended-

(1) in paragraph (27)-
(A) by striking out "be prejudicial to the public interest, or"; and
(B) by inserting "national" after "welfare, safety, or";
(2) by striking out paragraph (28);
(3) by redesignating paragraphs (29) through (33) as paragraphs (28) through (32), respectively; and
(4) in paragraph (28), as redesignated by paragraph (3) of this subsection-
(A) by striking out "(A)"; and
(B) by striking out "in other activity subversive" and all that follows through "1950" and inserting in lieu thereof "the overthrow of the Government of the United States by force, violence, or other unconstitutional means".
(b) Section 212(c) of such Act is amended by striking out "(30) and (31)" and inserting in lieu thereof "(29) and (30)".

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Section 212(d) of such Act is amended:
(1) by striking out paragraph (2);
(2) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively;
(3) in paragraphs (2) and (7), as redesignated by paragraph (2) of this subsection, by striking out "(29)" each place it appears and inserting in lieu thereof "(28)"; and
(4) in paragraph (2), as redesignated by paragraph (2) of this subsection, by striking out "(33)" each place it appears and inserting in lieu thereof "(32)".

Section 212(f) of such Act is amended:
(1) by striking out "aliens" the first place it appears and inserting in lieu thereof "alien";
(2) by striking out "all aliens or any class of" and inserting in lieu thereof "such alien or"; and
(3) by inserting "such alien or" after "or impose on the entry of".

Section 212 of such Act is further amended by adding at the end thereof the following new subsection:

"(m) (1) Notwithstanding any other provision of this section, no alien may be denied a visa or excluded from admission into the United States because of (A) any past or expected speech, activity, belief, affiliation, or membership which, if held or conducted within the United States by a United States citizen, would be protected by the First Amendment to the Constitution, or (B) the expected consequences of any activity with the alien may conduct in the United States if that activity would be protected by the First Amendment to the Constitution if conducted within the United States by a United States citizen.

(2) An alien granted a visa to enter the United States shall not be subjected to restrictions or conditions on the use of the visa because of (A) any past or expected speech, activity, belief, affiliation, or membership which, if held or conducted within the United States by a United States citizen, would be protected by the First Amendment to the Constitution, or (B) the expected consequences of any activity which the alien may conduct in the United States if that activity would be protected by the First Amendment to the Constitution if conducted within the United States by a United States citizen.

(3) Any citizen of the United States or other person within the jurisdiction thereof who intends to communicate in person with, including attending a function for purposes of listening to, any alien who is denied a visa, excluded from admission into the United States, or subjected to visa restrictions in violation of the provisions of this subsection, may bring a civil action on his or her own behalf against any official of the United States Government who is alleged to have acted in violation of this subsection. Any civil action under this district in which the intended communication was to have occurred, in the district of the plaintiff's residence or principal place of business, in the district in which any defendant in the action resides, or in the District of Columbia. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to grant such legal or equitable relief as will enforce the provisions of this subsection."

SEC. 3. (a) Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended:
(1) by striking out paragraph (6);
(2) by redesignating paragraphs (7) through (19) as paragraphs (6) through
(18), respectively; and
(3) in paragraph (6), as redesignated by paragraph (2) of this subsection-
(A) by striking out "(29)" each place it appears and inserting in lieu
thereof "(28)"; and
(B) by striking out ", unless the Attorney General" and all that follows
through "Communist organization".
(b) Section 241(b) of such Act is amended by striking out "subsection
(a)(11)" and inserting in lieu thereof "subsection (a)(10)".
(c) Section 241(e) of such Act is amended by striking out "or (7)".
(d) Section 241(f) of such Act is amended-
(1) in paragraph (1), by striking out "subsection (a)(19)" and inserting in
lieu thereof "subsection (a)(18)"; and
(2) in paragraph (2), by striking out "subsection (a)(11)" and inserting in
lieu thereof "subsection (a)(10)".
(e) Section 241 of such Act is further amended by adding at the end thereof
the following new subsection:
"(g) Notwithstanding any other provision of this section, no alien may be
deported because of (1) any past or expected speech, activity, belief
affiliation, or membership which, if held or conducted within the United States
by a United States citizen, would be protected by the First Amendment to the
Constitution, or (2) the consequences of any activity which the alien has
conducted or may conduct in the United States if that activity would be
protected by the First Amendment to the Constitution if conducted within the
United States by a United States citizen.".
SEC. 4. Section 1 of the Act entitled "An Act to regulate the issue and
validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C.
211a) is amended by adding at the end thereof the following: "A passport may not
be denied issuance, revoked, restricted, or otherwise limited because of any
speech, activity, belief, affiliation, or membership, within or outside the
United States, which, if held or conducted within the United States, would be
protected by the First Amendment to the Constitution. Any denial, revocation,
restriction, or other limitation of a passport shall not extend beyond that
necessary to prevent conduct not encompassed by the preceding sentence.".
SEC. 5. Section 6 of the Subversive Activities Control Act of 1950 is
repealed (50 U.S.C. 785).
SEC. 6. Section 203(b) of the International Emergency Economic Powers Act
(50 U.S.C. 1702(b)) is amended-
(1) by striking out "or" at the end of paragraph (1);
(2) by striking out the period at the end of paragraph (2) and inserting in
lieu thereof a semicolon; and
(3) by adding at the end thereof the following:
"(3) any transactions ordinarily incident to travel to and from any country;
"(4) any transactions ordinarily incident to travel within any country,
including the payment of living expenses and the acquisition of goods for
personal consumption; or
"(5) any transactions ordinarily incident to the importation, commercial or
otherwise, of publications, films, posters, phonograph records, photographs,
microfilms, microfiche, tapes, or other informational materials from any
country.".
SEC. 7. Section 5 of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(1))
is amended by adding at the end thereof the following new subsection:
"(c) The authority granted to the President in this section does not include the authority to regulate or prohibit, directly or indirectly-
"(1) the importation, commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other information materials from any country; or
"(2) any transactions-
"(A) ordinarily incident to travel to and from any country; or
"(B) ordinarily incident to travel within any country, including payment of living expenses and the acquisition of goods for personal consumption there.").
SEC. 8. (a) Section 1(j) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(j)) is amended by striking out "political propaganda" and inserting in lieu thereof "advocacy material".
(b) Section 1(o) of such Act is amended by striking out "political propaganda" and inserting in lieu thereof "advocacy material".
(c)(1) Section 4 of such Act (22 U.S.C. 614(a)) is amended by striking out in the section heading "Political Propaganda" and inserting in lieu thereof "Advocacy Material".
Section 4(a) of such Act is amended by striking out "and a statement, duly signed by" and all that follows through "transmittal".
(3) Section 4(b) of such Act is amended-
(A) by striking out "political propaganda" each time it appears and inserting in lieu thereof "advocacy material";
(B) by striking out "and such propaganda" and inserting in lieu thereof "and such material";
(C) by striking out "registered under this Act with the Department of Justice, Washington, District of Columbia, as";
(D) by striking out "and address"; and
(F) by striking out "; that, as required by this Act, his registration statement" and all that follows through "as may be appropriate".
(d) Section 4(e) of such Act is amended-
(1) by striking out "political propaganda" and inserting in lieu thereof "advocacy material"; and
(2) by striking out "propaganda" the second place it appears and inserting in lieu thereof "advocacy material".
(e)(1) Section 6(a) of such Act (22 U.S.C. 616(a)) is amended-
(A) by striking out in the first sentence "all statements concerning the distribution of political propaganda furnished" and inserting in lieu thereof "other filings made"; and
(B) by striking out in the second sentence "statements" and inserting in lieu thereof "filings".
(2) Section 6(b) of such Act is amended by striking out "propaganda material" and inserting in lieu thereof "advocacy material".
(3) Section 6(c) of such Act is amended by striking out "political propaganda" and inserting in lieu thereof "advocacy material".
(f)(1) Section 8(a) of such Act (22 U.S.C. 618(a)) is amended by striking out "or in any statement under section 4(a) hereof concerning the distribution of political propaganda".
(2) Section 8 of such Act is further amended-
(A) by striking out subsection (d); and
(B) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

(g) Section 11 of such Act (22 U.S.C. 621) is amended by striking out "political propaganda" and inserting in lieu thereof "advocacy material".

SEC. 9. Section 38(a) of the Arms Export Control Act (22 U.S.C. 2778(a)) is amended by adding at the end thereof the following new paragraph:

"(4) Decisions on issuing export licenses under this section shall take into account the policy of the United States to sustain vigorous scientific enterprise and to respect the ability of scientists and other scholars freely to communicate their research findings by means of publication, teaching, conferences, and other forms of scholarly exchange."

SEC. 10. Section 1 of Public Law 89-634 (19 U.S.C. 2051) is amended by inserting at the end thereof the following new sentence: "In carrying out this authority, visual or auditory material shall not fail to qualify as being of international educational character simply because it advocates a particular position or viewpoint."

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COALITION FOR FREE TRADE IN IDEAS

Amalgamated Clothing and Textile Workers Union
American Academy of Arts and Sciences
American Civil Liberties Union
American Friends Service Committee
American Society of Journalists and Authors, Inc.
Americans for Democratic Action
Americas Watch
Association of American Publishers (International Freedom to Publish Committee)
Association of Independent and Video Filmmakers
Authors League of America
Center for National Security Studies
Commission on Social Action of Reform Judaism
Committee to Protect Journalists
Environmental Action
Federation of American Scientists
Friends Committee on National Legislation
Fund for Free Expression
Fund for Open Information and Accountability, Inc.
Fund for Peace
Helsinki Watch
International Reading Association
Lawyers Committee for International Human Rights
League of United Latin American Citizens
Mobilization for Survival
Modern Language Association of America
National Committee Against Repressive Legislation
National Emergency Civil Liberties Committee
National Lawyers Guild
National Science Teachers Association

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By Mr. D'AMATO:
S. 2264. A bill to amend the Truth in Lending Act; to the Committee on Banking, Housing, and Urban Affairs.

CREDIT CARD DISCLOSURE ACT

Mr. D'AMATO. Mr. President, I am introducing the Credit Card Disclosure Act of 1986 in response to concerns that were addressed in a hearing on this subject conducted by the Committee on Banking, Housing, and Urban Affairs. On January 28, 1986, the Banking Committee conducted a hearing to discuss two pieces of legislation. One introduced by my colleague from Florida, Senator HAWKINS, and the other, S. 1922, the Credit Card Protection Act, which I introduced on December 11, 1985.

These bills are designed to benefit consumers by imposing limits on the interest that credit card issuers can charge cardholders. Specifically, S. 1922 imposed a floating ceiling on credit card issuers that would allow them to charge an interest rate four points above the rate charged by the Internal Revenue Service for delinquent payments. This rate is based upon a 6-month average of the prime rate and would ensure that card issuers are making a fair profit on their credit card operations rather than the excessive profits they presently enjoy.

My feelings on the rates that these issuers charge is no secret. At a time when the costs of funds to banks have fallen dramatically, these cost savings have not been reflected in the rates that credit card holders are charged. The card issuers are gouging the public by charging an average rate of 18.6 percent while the discount rate, the cost of funds to the banks, has been recently lowered to 9 percent. I find it unconscionable that some banks charge credit card interest rates as high as 21 percent when their cost of funds is 14 points lower. They are earning excessive profits at the expense of the consumer and the interest cap that was contained in S. 1922 as designed to remedy this situation.

However, the hearings revealed that S. 1922 was vehemently opposed by the banking industry. The banking industry supported raising of interest rate levels when it was to their benefit but is now opposed to lowering interest rates to realistic and reasonable rates when consumers will benefit. Despite this opposition, I remain committed to seeing that credit card interest rates are