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Senate

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord, You stand knocking at the door of our hearts and this Senate Chamber. Once again You make the first move. You come to us in a new way each day. We have learned that yesterday's experience of fellowship with You or guidance from You will not be sufficient for today's challenges. You seek entrance into every facet of our lives and our work. The latch always is on the inside. Today, we have a choice to open the door or leave it shut in Your face.

All-powerful Lord, You have the secret of victorious living. It is Your indwelling, impelling power within us that makes the difference between a great or a grim day. We are alarmed by the number of days spent in self-propelled effort, simply because we didn't begin the day by opening the door of our hearts to You.

Who are we to deserve such attention from You? Then we remember that it is Your grace and not our goodness that motivates Your persistence. You have work to do here in this Senate and You plan to do it through us. Come, Lord; You are welcome. Reign supreme in this Chamber and in our hearts. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

THE CHAPLAIN

Mr. LOTT. Mr. President, I want to say what a great pleasure it is to have a Chaplain who puts us to bed with prayer at night, as he did last night at the Library of Congress, and gets us started off with prayer in the morning on the floor of the Senate. We appreciate him very much.

SCHEDULE

Mr. LOTT. Mr. President, today, the Senate will resume consideration of Senate Joint Resolution 18, the Hollings resolution on a constitutional amendment on campaign expenditures. It is my hope the minority leader and I can reach an agreement as to when the Senate will complete action on this resolution. I have discussed this with the Senator from South Carolina. I still think maybe there is a possibility we can get an agreement and get a vote on it tonight, but if not tonight, we will converse with the sponsor of Senate Joint Resolution 18 and see when we could get a vote on it. If not tonight, it could actually not occur until Tuesday morning. But we will discuss that and make an announcement later on today.

Rollcall votes are possible throughout today's session. It is also possible that prior to completing our business this week, the Senate may be asked to consider the independent counsel resolution. The Judiciary Committee is scheduled to meet today. Hopefully, they can take some action in this area, hopefully in a bipartisan way. That would be helpful.

In addition, it is my hope we will be able to reach a time agreement for consideration of the nomination of Merrick Garland to be the U.S. circuit judge for the District Circuit. I am thinking about the probability of that occurring on Tuesday, maybe Tuesday morning, with a time agreement. We had been thinking perhaps 3 hours equally divided would be sufficient, but we will need to get a final arrangement on that. We do have some Senators who want to speak on this nomination.

I think a lot of the concern on this one is not so much with the nominee as with the circuit. The D.C. circuit actually has one of the lowest caseloads in the country, and it is declining. It has declined pretty perceptively, even in the last year or so. There is a question about how much need there is for additional judges on that circuit. So there will be some discussion about that.

Again, I hope that rollcall vote can occur on Tuesday morning. We maybe could have done it today or Friday, but because of the constitutional amendment and other issues pending, we felt Tuesday morning would give us time to work it out. I expect the Senate to convene on Monday, but this time I do not anticipate any rollcall votes during Monday's session. I would like to note that, again, for the Democratic leader, that while we may be in session, I don't foresee at this time the need to have a recorded vote during the day on Monday. I do know there are Senators who have commitments who necessarily have to be away from the city, but we will want to have votes as soon as we can on Tuesday.

Mr. President, I have no further comments at this time. I will be glad to yield the floor to the Democratic leader.

The PRESIDING OFFICER (Mr. ROBERTS). The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, let me thank the distinguished majority leader for his announcements regarding the schedule. I agree completely with his assessment of the need to define a time agreement for Merrick Garland. I hope 3 hours can be sufficient. I can't imagine that we would need more than that amount of time. Obviously, there are issues unrelated to Mr. Garland that need to be addressed.

I was interested in the Judicial Conference statement just this week, the 27-judge group, chaired by Chief Rehnquist, actually called upon Congress to create more judges. The group

agreed to seek the authorization for 12 new appellate judgeships, 26 trial court judgeships, and 18 bankruptcy court judgeships, over and above the 93 vacancies that exist today. This is going to become an increasingly important matter for the Senate.

I intend to work closely with the majority leader to see if we can't resolve the question of nominations and confirmations relating to judges. I appreciate very much his leadership and cooperation that he has demonstrated in working through the Cabinet-level appointments that we have been able to address so far this year.

Mr. President, I will also say, in talking with a number of my colleagues who want the opportunity to express themselves on the constitutional amendment, I am not sure that our side will be prepared to agree to a time certain for a vote today, but I will certainly work with the distinguished majority leader to see if we can't find a mutually convenient time with which to begin bringing this debate to a close.

Mr. LOTT. Will the distinguished Senator yield?

Mr. DASCHLE. Yes, I will yield.

Mr. LOTT. Mr. President, if we need additional time, we can have time tomorrow and could even have some time on Monday for debate. I am not trying to push it to an early conclusion. I just want to make sure Members are aware that when everybody feels like they have had their say, we will be prepared to set the vote, whether it is this afternoon or Tuesday.

Mr. DASCHLE. Mr. President, if I can regain the floor for a moment to say, given the accommodation of the majority leader, I think it is imperative that we use this time. I was pleased yesterday. I don't think there was a quorum call, and I think it was indicative of the kind of interest there is on the issue and the kind of debate that it generated. I hope we don't see quorum calls today. I hope we can maximize the use of the time. I think we all know the outcome of this debate, so it isn't necessarily the outcome that is driving the interest as much as just the philosophical approach we take to a very important issue.

But, nonetheless, I appreciate very much the majority leader's interest in accommodating Senators to allow for the debate and we maximize the use of the time. I yield the floor.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, there will be 1 hour under the control of the Senator from New Mexico.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I ask unanimous consent 10 minutes be yielded to me from the time of the Senator from New Mexico. I request about 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. FRIST, Mr. DOMENICI, Mr. BENNETT and Mr. SPECTER pertaining to the submission of Senate Resolution 63 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. SPECTER. Mr. President, in the absence of any other Senators on the floor seeking recognition, I ask unanimous consent to proceed as in morning business for a period of up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPORT FOR THE FBI

Mr. SPECTER. Mr. President, I have sought recognition to voice support for FBI Director Louis Freeh, who has been subject to some criticism in a variety of quarters, including on the floor of the U.S. Senate. I do so as someone who is thoroughly familiar with the work of FBI Director Freeh and of his organization. I have worked with the Federal Bureau of Investigation for many, many years, going back to my days as an assistant district attorney of Philadelphia, when I prosecuted the Local 107 Teamsters and got the first conviction of teamsters resulting from the McClellan committee investigation. I worked with the FBI as an assistant counsel on the Warren Commission. I have seen a great deal of the FBI's work since being in the Senate and working as a member of the Judiciary Committee.

I think the FBI does a good job—not a perfect job, not a job without substantial problems, and not a job where, on some occasions, they don't make mistakes, but a good job. I have seen Director Freeh's work in some detail, specifically, on the oversight hearings that the Senate Subcommittee on Terrorism conducted on Ruby Ridge, where I served as chairman.

Ruby Ridge was a national tragedy. Randy Weaver did some things he should not have done, but he didn't deserve the armada of law enforcement that descended on his mountain in Idaho. That was a sad story, because the Alcohol, Tobacco, and Firearms unit had misrepresented Weaver's record. They said he had a prior record of convictions, which was false. They said he was a suspect in a bank robbery case, which was false. That brought the hostage rescue team from the FBI and the killing of a U.S. Marshal, William Deacon, the killing of Mrs. Randy Weaver and their son, Sam Weaver, age 14.

To the credit of FBI Director Freeh, he was willing to concede the errors. He changed the rules of engagement, he changed the FBI standards on use of deadly force, and he changed the use of the hostage rescue team. This was in stark contrast to what the Alcohol, Tobacco, and Firearms did. They would not concede their errors. The Department of the Treasury, which managed Alcohol, Tobacco, and Firearms, stood by their conduct, even though it was palpably wrong, as disclosed in the extensive hearings the subcommittee had over the course of 2 months, 16 hearings, and a long report in excess of 150 pages.

I have seen what Director Freeh has done in combating domestic violence in the Oklahoma City bombing, and I have seen what the FBI has done in the Unabomber case. Where the FBI has made mistakes, Director Freeh has come forward and conceded that. Where there was unwarranted publicity on the Atlanta Olympics pipe bomb case, for example, when someone unfairly leaked information, Director Freeh conceded that a mistake was made.

While I applaud his concessions on the unfair publicity, I have problems with our inability to properly conduct oversight on that Atlanta pipe bombing case. We have not been able to move that ahead. So that when I evaluate Director Freeh, I do so in the context of someone who sees problems and has been critical, as well as someone who praises the Bureau's overall performance.

Director Freeh has been criticized on the so-called VANPAC case, which involved the murder of a Federal judge and a civil rights leader. Director Freeh prosecuted this case—he has had a very remarkable career as an assistant U.S. Attorney, a Federal judge, and he left the Federal bench to become Director of the FBI. He was recently criticized because there were alleged errors made by the FBI laboratory in connection with the VANPAC case. The FBI laboratory has admittedly had serious problems. That was one of the aspects that was investigated by the Senate subcommittee on Ruby Ridge, because there were problems with their work there, as well.

As the prosecuting attorney in that criminal prosecution, Director Freeh relied on evidence from the FBI laboratory, some of which may have been faulty. But when Director Freeh found out that that was an area of concern in September of 1995, he recused himself from the investigation of the FBI laboratory. That means he took himself out of the case and did not pass judgment on it.

The inspector general, who is about as independent as you can be within the Federal branch—has been looking into the FBI laboratory. We have these inspector generals in a variety of departments. My legislation brought the inspector general to the CIA, the only reform legislation coming out of the Iran-Contra affair. Inspectors general are not perfect because it is hard to be totally independent. But to the extent you can have independence, the IGs are independent. They report directly to Congress. They are as good a mechanism as you can have for that sort of an investigation, unless you have congressional oversight. There ought to be more of that.

But, at any rate, Director Freeh did what was possible by recusing himself and referring the matter to the inspector general, who brought in five independent scientists. He has been out of the case, and he is prepared to make whatever changes are necessary within the FBI laboratory.

The FBI is currently conducting a very sensitive investigation on campaign irregularities, which may go to the highest levels of Government. Not a great deal can be said about that investigation at this time. But from what I have observed Director Freeh has been independent, has been forthright, and has done his job in a professional way. In that kind of an investigation there are inevitable pressures, either express or implicit. I have some familiarity with what the Bureau is doing and what the Director is doing. I have confidence in him. I do so with some understanding of investigative work on grand juries and criminal matters and the kind of sensitivity which is involved. There are matters on which I consult with him with some frequency in terms of oversight.

As of this moment, I am not yet satisfied with what has been done on Ruby Ridge. The Department of Justice has conducted an investigation on a number of the FBI agents, one of whom was the former Deputy Director, Larry Potts. It may well be as I said, in those hearings, that Director Freeh did not exercise the best judgment with respect to Deputy Director Potts. But at the same time I have said publicly that Deputy Director Potts and others are entitled to have the matter resolved, and that the Department of Justice has been investigating that since the fall of 1995—some 18-month lapse—which is unwarranted. I know that case thoroughly because of the hearings we had. I know investigative practice. That matter should have been concluded. That is not a matter under Director Freeh's purview. It is in the Department of Justice.

I recently wrote to the Attorney General complaining about the delays and got an unresponsive response saying that the investigation will take several more months due to the complicated nature of this matter. It is not all that complicated. We have the Atlanta pipe bomber case where I have been trying to get an oversight hearing since October-November. I am not delighted with what the FBI has done on that in terms of not being as responsive as I think they might be. They have internal investigations which are really very difficult and which delay congressional oversight. But overall my view is that Director Freeh has done a good job. And when you pick up some of these matters on the FBI laboratory, I think he has provided appropriate management and appropriate oversight.

Mr. President, I think my time has probably lapsed. But in the absence of any other Senator on the floor, I ask unanimous consent for an additional 10 minutes to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

HEALTHY CHILDREN'S PILOT PROGRAM ACT OF 1997

Mr. SPECTER. Mr. President, today I am introducing legislation directed at providing health coverage to children who lack health insurance in America.

This issue has been recognized as one of the leading—if not the leading—problems on incremental health coverage in America today. I am glad that President Clinton's health care plan proposed in 1993 was not adopted. That was a matter that was fought out on the Senate floor in some great detail in 1994. I participated in that debate. When I read President Clinton's health plan, I was amazed by the number of agencies, boards, and commissions, and asked an assistant to make a list of all of them. My assistant made a chart instead of a list. I had that chart on this floor and many other places, and I shall spare you the chart today. Bob Woodward of the Washington Post said that chart was the key factor in defeating the Clinton health care plan because it showed on one page in red more than 100 new agencies, boards, and commissions, and in green about 50 existing bureaus giving new jobs. Then we proceeded, I think wisely, with the Kassebaum-Kennedy bill on incremental health coverage. Now I think we need to go ahead and provide for coverage for children in America.

Very briefly, let me summarize my proposal before going into specifics. It is said that there are 10 million children who lack health insurance. My analysis shows that there is a critical group, perhaps the most critical group, of some 4 million children which my bill addresses in an incremental way; 3 million other children are eligible for Medicaid coverage but not enrolled, and 3 million other children are in families which would not be eligible for health insurance under my plan because their family income levels are too high. My legislation will provide a pilot program which would provide vouchers to States for families which earn up to 235 percent of the poverty level to purchase health insurance in the marketplace.

Later today I am going to have a news conference with the Brandt family from Pennsylvania, because they are illustrative of this issue. I would now like to discuss the key elements of my proposal and why I have asked the Brandts to travel to Washington today.

Mr. President, it is no less true for being a commonplace that nothing could be more important to our Nation than our children. I am introducing today legislation aimed at beginning to fill an enormous and unacceptable gap in our country's support for the health and well-being of our children.

Mr. President, as President Clinton discussed during the State of the Union Address last month, there are today approximately 10 million American children who have no health insurance coverage from any source—private or public—and who therefore lack access to the kinds of preventive and primary care services which can be the difference between staying healthy and getting sick or between minor illness and serious, disabling or even mortal illness.

Now, let me say at the outset that this is not a Republican or Democrat issue. Our two parties do have different approaches to the roles and the cost of our Federal Government but there is not one party that cares about kids and one party indifferent to our childrens' health. Let us work constructively on this and actually address the problem rather than just trying to wrack up political points.

As with most statistics conjured up for social policy debates, the President's figure of 10 million uninsured children needs further discussion to get to the heart of the matter. Of these 10 million uninsured, approximately 3 million children live in families with incomes which make them eligible for Medicaid. I support outreach efforts by the States to enroll these children in Medicaid but, because coverage is accessible to these families if they avail themselves of it, this problem is not the gaping hole in our health care system of which I spoke a moment ago.

Likewise, of the 10 million uninsured children, another approximately 3 million live in families with incomes greater than the median household income. There are even uninsured children in more than a few high income families.

Those numbers are deeply disturbing, but I see them as a clarion call for greater parental responsibility, rather than for legislative or governmental action. I know it is easy for those of us with substantial incomes and employer-paid health benefits—such as we here in the Senate—to preach to families without these protections, but I cannot imagine any higher priority for a family with any more than just enough income to keep food on the table and a roof over their heads than

to provide health insurance for their kids. And I see it as clearly inappropriate—despite some proposals on the other side of the aisle to do so—to spend tax dollars to subsidize health insurance for higher income families. The cutoff level I propose in this bill, approximately $38,000 for a family of four is already a bit higher than median household income in the United States—$34,076—$34,524 in my own State of Pennsylvania. In other words, taken together, Medicaid and the new initiative I am proposing would allow eligibility by income for more than half of the households in our country. To go beyond that is to do what too many Government programs already do—tax those who have less for the benefit of those who have more, Robin Hood in reverse.

This leaves approximately 4 million children, ineligible for Medicaid but living in families without the resources to obtain coverage on their own. This is an American tragedy—the tragedy of the working poor. Mom, Dad, or both going to work every day, often more than 5 days per week, but being paid low wages, without health benefits. These are honest taxpaying citizens, but their kids' futures are in jeopardy. They are falling through a crack in our health care system which must be sealed off.

Some States, including my own State of Pennsylvania, are attempting to address this problem. In Pennsylvania, a public/private partnership, combining a publicly funded program called BlueCHIP, the Children's Health Insurance Program, on which Governor Ridge will spend $39 million this year, and a private initiative called the Caring Program for Children are reaching 60,000 out of the estimated 300,000 uninsured Pennsylvania children who are not eligible for Medicaid.

But, as this statistic indicates, even generous State and private resources are wholly inadequate to meet the need. And this need, this hole in our health care system, is not a statistic. It is real.

I would like to speak to you today about some Pennsylvanians whose stories demonstrate both the real need for action on the matter of uninsured children and the effectiveness of a program, such as the one I am proposing today, in helping real people face life's storms. These good people have been helped by Pennsylvania's existing efforts to provide health coverage to children and their story is the best argument which can be made for a national effort to solve this problem.

Here with me today is the Brandt family, from Tarentum, PA, in Allegheny County: mother, Scarlett; father, Richard; daughter, Lindsay, age 11; and son Chad, age 7.

First, I would like to thank the Brandts very deeply for their willingness to be here today, not only because it involves a precious day off from work for both Scarlett and Richard, a day out of school for both Lindsay and Chad and a long car ride to Washington and back, but even more so because it involves a family decision to put pride aside and to be willing to face the press as symbols for a policy debate. This is not an easy position for people to put themselves in—and even less so their children—but the Brandts believe in the need to tell America about this too long ignored problem of uninsured children and about the way life brightens with just a little help to fill this basic need. I am very grateful to them for putting their desire to help others ahead of their own privacy.

Scarlett and Richard both have full time jobs; Scarlett is a hairdresser and Richard is a truck driver. But neither of their employers offer health benefits and this hard working, taxpaying family simply doesn't earn enough money to go out and purchase private health insurance on their own. Before the Pennsylvania programs began helping the Brandts in 1993, Lindsay had lived the first 7 years of her life without any health insurance coverage and her little brother Chad had gone without coverage from birth until he was 3 years old.

Here, then, are counter examples for the think tank commentators who argue against Federal action on children's health insurance by pointing to examples of children who are only uninsured for transitional periods of months as their parents change jobs. Here, in Lindsay and Chad, are examples of the heart of this problem—the long-term uninsured children of the working poor.

How did Scarlett and Richard make due without health insurance for their kids? They scrounged what services they could from community health clinics and they used emergency rooms in ways that, when multiplied by all those who act similarly, damage and drain our entire health care system. They also restricted the activities of their children—and recent studies indicate this is a common coping strategy for parents in their shoes—cracking down on sports and even bike riding to try to avoid injuries. When Chad became ill as a toddler, with recurring ear infections, the family had to rotate payments to their creditors—some months skipping a utility bill, some months cutting back on groceries—just to be able to afford the prescription medicines for their little boy.

Even with all of these ways of dealing with their situation, the Brandts lived every day under a cloud of fear about their children's health and their family's future and Lindsay and Chad lived with unmet health care needs—for physician care, for vision care, and for dental care.

In 1993 the Brandt family got help from the programs operated by Western Pennsylvania's Caring Foundation for Children. It turned out that this assistance proved even more necessary than they knew at the time.

In April 1996, Lindsay Brandt was diagnosed with hemiplegic migraines. This condition causes stroke-like symptoms. When an incident occurs, Lindsay suffers paralysis on the side of her body opposite from the headache, her speech slurs, her vision is blurred, and she becomes confused. Although she has needed five ambulance trips to the hospital since developing this condition, Lindsay is now on medication to prevent further episodes.

Obviously, all of this care has been expensive. Obviously, the sort of problem the Brandts feared in their uninsured years came to pass. It might well have destroyed this family had it happened before they got health insurance coverage for their kids. Thank God, it did not.

The legislation I am introducing today is a measured response to this major problem. We must react with both compassion and consideration.

Here is my proposal:

A 5-year pilot program funded with discretionary dollars—rather than a permanent entitlement—to provide block grants to the States in support of health insurance for uninsured children who are not eligible for Medicaid or for employer-based private health insurance and whose families have incomes up to 235 percent of the poverty level, $37,718 for a family of four.

States which are already providing health insurance coverage to children eligible under this bill, such as under their own Medicaid plans, would be required to maintain their efforts but would, in effect, receive credit from the Federal Government in the form of dollars equal to the costs of the coverage they are providing to children in families up to the bill's cutoff level of 235 percent of poverty.

My bill would offer full vouchers, with the level determined by the Secretary of HHS based on costs for an insurance policy covering preventive, primary, and acute care services for a child, for families earning up to approximately $29,700 per year for a family of four and partial subsidies from that income level until phased out at approximately $38,000 for a family of four.

By limiting eligibility to children who do not have access to employer-based private health insurance, we avoid creating a disincentive to private coverage. We should all applaud the employers who are covering their employees, including lower wage employees, with family health insurance. Indeed, there are approximately 10 million American children in families earning between the poverty line and 235 percent of poverty who do receive private health insurance coverage, compared to the 4 million who do not. This is another example of the overall effectiveness of our market-based health care system even as it is also the most striking example of a particular case of market failure.

By making this a 5-year pilot program, we admit the complexity of the health care system and the task of health care reform. This approach,

with block grants and vouchers, may well prove to be the best way to cover kids who need health insurance, but we all know about the unintended consequences of social policy initiatives and we all know how hard it is to reform an entitlement, even if it has truly perverse effects, and so I am proposing a 5-year demonstration of this approach in the appropriately humble spirit of ''trial and correction'' which I have many times before said on this floor should inform our entire project of health reform.

By making this program subject to appropriations, we ensure that we undertake this important effort in a fiscally responsible manner.

Specifically, to provide sufficient funds to properly test this approach to children's health coverage in a way that does not bust the budget, my bill establishes the ''Healthy Kids Trust Fund,'' on budget, funded through the sale of available broadcast and nonbroadcast spectrum assets. I am not wedded to this offset but offer it to make clear my intention to see this program paid for with hard dollars, not confederate money.

Furthermore, my proposal provides that:

The first year of the program, fiscal year 1998, would be devoted to HHS and State planning, with the new insurance coverage commencing on or about October 1, 1998.

Coverage would be phased in, beginning with children 0–5 years old in fiscal year 1999 and expanding in subsequent years to cover children 6–9, 10–12, and 13–17.

In the 104th Congress, I was pleased to cosponsor the Health Insurance Portability and Accountability Act of 1996, better known as the Kassebaum-Kennedy bill (S. 1028). There is no question that Kassebaum-Kennedy made significant steps forward in addressing troubling issues in health care. The bill's incremental approach to health care reform is what allowed it to generate consensus support in the Senate; we knew that it did not address every single problem in the health care delivery system, but it would make life better for millions of American men, women, and children.

In retrospect, I urge my colleagues to note a most important fact—the Kassebaum-Kennedy bill was enacted only after some Democrats abandoned their hopes for passing a nationalized, big government health care scheme, and some Republicans abandoned their position that access to health care is really not a major problem in the United States demanding Federal action.

Although we succeeded in enacting incremental insurance market reforms, there is still much we need to do to improve our health care system. Additional reforms must be enacted if we are serious about our commitment to meet the needs of the American people. I am hopeful that my colleagues understand how important it is to our constituents that we continue to reform the health care system. Just look at the Brandt children and multiply their need by millions. Looking back at our success with the Kassebaum-Kennedy bill, I am equally hopeful that my colleagues have come to realize that if we are to continue to be successful in meeting our constituents' needs, the solutions to our Nation's health care problems must come from the political center, not from the extremes.

Mr. President, I hope the legislation I am introducing today can be the basis for taking this next, crucial step in our process of bipartisan, incremental health reform. My proposal seeks to achieve incremental expansion of health care through a conservative means—a fully funded program with carefully crafted eligibility rules for a limited period of time, a program based on State administration and personal choice and responsibility. Let us take this step. Let us make this test. Let us see to it that the anguish and Russian roulette endured by all those situated similarly to the Brandt family are stopped and millions more of our Nation's greatest assets are given a basic ingredient for decent and productive lives.

Mr. President, how much time do I have remaining on the additional time which I sought independent of Senator DOMENICI's time?

The PRESIDING OFFICER. The Senator has 7 minutes and 10 seconds remaining. The Senator from New Mexico has 39 minutes remaining in regard to the previous order.

Mr. SPECTER. I thank the Chair.

MAMMOGRAMS

Mr. SPECTER. Mr. President, the final subject I wish to address briefly involves the problem of mammograms for women age 40 to 49.

Mr. President, this subject came into sharp focus when a National Institutes of Health panel on January 23 issued a report that mammograms were not warranted for women in the 40 to 49 category. That was immediately met with very widespread criticism, including criticism from Dr. Richard Klausner, the Director of the National Cancer Institute, who said that he was shocked by that conclusion. As the facts later developed, a press release was inadvertently disclosed. Some of the members of the panel had held that mammograms were not warranted. But, as I understand it, that had not been thoroughly analyzed and agreed upon by the panel. But once this press release came out they stood by the release. And there has been enormous confusion in America on this issue of women 40 to 49.

The subcommittee, which I chair and which has jurisdiction over the Department of Health and Human Services, had a hearing on February 5 at which Dr. Klausner restated his shock about the matter. He thought that the advantages of mammograms for women 40 to 49 had not been appropriately emphasized, and the disadvantages had been emphasized too heavily. He also said that he was going to await a meeting of the National Cancer Institute later in February—on February 24 and 25. It was my understanding that the matter would be resolved at that time. But, in fact, it was not.

When the Secretary of Health and Human Services testified before our subcommittee on March 4 she said that there would be a 2-month delay, which I said in those hearings was unacceptable. I have since pressed Dr. Klausner as to why there would be such a delay.

I wrote to him on March 5, 1997. I ask unanimous consent that the text of that letter be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, when I was dissatisfied with his response, I wrote to Dr. Harold Varmus, Director of the National Institutes of Health, the overall supervisor, on March 6, 1997 asking that there be some acceleration of this determination because no further tests were necessary but only a judgment was needed. What I found was that the matter was being referred to a 7-person subcommittee which was going to deliberate on the issue and then take it up by an 18-person full committee.

I ask unanimous consent that my letter to Dr. Varmus and a subsequent letter to Dr. Klausner be included in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. I am concerned that the delays in mammograms could constitute a health hazard for women 40 to 49. And, beyond that, that there is much confusion in America on that subject. The upshot of it has been that there now appears that the subcommittee will render its report to the full committee on this Friday, and there will be a final report rendered next Tuesday which will eliminate the need for accelerated hearings in our subcommittee to try to come to a conclusion on this important matter.

I emphasize that I appreciate the need for an independent medical judgment on this important subject.

It seems to me that where all the tests have been performed and it is a matter of issuing guidelines, coming to closure and judgment on this should not require such a lengthy period of time. I believe that there is not a sufficient sense of urgency generally, and in Government specifically, as this issue has been addressed. My views are expressed more fully in these letters, and I shall not take a greater period of time to elaborate upon them here.

In coming to my own judgment that mammograms are warranted for women 40 to 49, the subcommittee held hearings in Pittsburgh, in Hershey, and in Philadelphia, where we heard from a long array of witnesses. A report has

been prepared by my able staff member, Betty Lou Taylor, and also by Craig Higgins. I ask unanimous consent that this statement be printed in the RECORD following my oral statement. It sets forth the findings of prominent doctors in Pennsylvania and quite a number of women in the 40-to-49 category who give firsthand testimony about the importance of mammograms for them and the importance of mammograms generally for women in the 40-to-49 category.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SPECTER. It is my hope, Mr. President, that we will have a definitive statement, as I say, next Tuesday. We need the definitive statement so that we come to closure on the issue, and then it is a matter for scientists acting on their independent judgment. It is my hope and expectation that the abundance of scientific tests which are already available will show that mammograms are important for women 40 to 49.

When I talk about medical tests, I speak from some personal experience, having had an MRI which disclosed a very serious problem. On these medical examinations, the earlier the better, so I hope we move ahead as promptly as we can.

I thank the Chair and yield the floor.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 5, 1997.

RICHARD D. KLAUSNER, M.D.,
Director, National Cancer Institute, Bethesda, MD.

DEAR DOCTOR KLAUSNER: I was very distressed to hear Secretary Shalala's testimony yesterday that there will be another two-month delay on having the National Cancer Institute reach a conclusion on whether mammograms are warranted for women aged 40 to 49.

As disclosed in our previous hearing, the NIH consensus development conference panel press statement of January 23, 1997, was probably inadvertently released. That resulted in a lot of anxiety for women in the 40 to 49 age category and beyond. When you testified before the Subcommittee on February 5, 1997, the expectation was that the matter would be resolved by further NCI proceedings on February 25, 1997. Now we hear that there will not be a definitive statement until early May.

During the intervening 60 days, thousands of women in the 40 to 49 age category might be screened which could result in the saving of many lives.

I would appreciate your immediate response as to why the National Cancer Institute cannot make a prompt decision, or in the alternative, give our Subcommittee an earlier date.

Sincerely,

ARLEN SPECTER.

EXHIBIT 2

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 6, 1997.

Dr. HAROLD VARMUS,
Director, National Institutes of Health, Bethesda, MD.

DEAR DOCTOR VARMUS: With this letter, I am sending you a copy of a letter I sent to Dr. Klausner yesterday.

Earlier today Dr. Klausner and I had a conversation which I considered totally unsatisfactory. Dr. Klausner had set a time limit of 60 days for the subcommittee to report back to him; and when I said I thought that was unreasonably long, he said they would do it as soon as possible. When I asked him how long that would be, he said he didn't know and referred me to Dr. Barbara Rimer.

When my Chief of Staff, Craig Snyder, called Dr. Rimer, she advised that 60 days was the outside period with the hope that her subcommittee could act more promptly. Dr. Rimer then outlined a procedure where she had drafted a proposed statement for her subcommittee of 7 members which was circulated today with the response time a week from today. After that, Dr. Rimer expected to have a conference call among 18 members of the full committee to resolve the issue with the hope that all of that could be concluded within 10 days.

In my opinion, this is an extraordinarily unwieldy procedure and judgments could really be made at the National Cancer Institute since no additional research is necessary.

If the procedure outlined by Dr. Rimer is followed, I urge you to escalate the pace by having the comments of the 7 subcommittee members returnable next Monday with the conference call of the full 18 members of the National Cancer Advisory Board to be completed promptly thereafter so that the final comments can be completed by the end of next week.

Again, in my opinion, the Department of Health and Human Services, NIH and NCI do not have an appropriate sense of urgency on this matter. I do not have to tell you how many lives could be saved with prompt screening of women 40 to 49 without the kind of delay occasioned since the first release of January 23.

I would appreciate your immediate response on this matter.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 11, 1997.

RICHARD D. KLAUSNER, M.D.,
Director, National Cancer Institute, Bethesda, MD.

DEAR DOCTOR KLAUSNER: I had asked my staff yesterday to set the hearing for the National Institutes of Health including the National Cancer Institute for March 18 because of my concern about the prospective 60-day delay on the issue of mammograms for women 40 to 49.

When I heard you were going to be out of the country from March 14 to March 21, I sought to schedule the hearing for this week, on March 13, because the Senate will be out of session from March 24 through April 6 and I did not want to wait so long on this mammogram issue.

I have since been advised that the NIH subcommittee will circulate its decision to the full committee this Friday and the full NIH committee will act on March 18. While I really believe there has been too much delay up to now on the resolution of this issue, at this point I suppose that's about as expeditious a decision as can be made.

As I think you understand, my point all along has been that the matter ought to be resolved one way or another. I appreciate and understand the importance of independent medical judgment but the time delays for the NIH subcommittee and full committee frankly puzzle me. When you had expressed your own ''shock'' on the NIH panel finding back on January 23, and the bulk of the evidence supports mammograms for women 40 to 49, I had thought the matter to be pretty much resolved since there were no further tests to be conducted but only a judgment to be made. It was my thinking that 60 more days from the testimony of Secretary Shalala on March 4 was unacceptable.

In any event we will await the final guidelines on March 18 and we will defer the NIH/NCI hearing until April at which time we will take up the procedures which you have employed on the issue as well as the other substantive matters affecting the National Institutes of Health including the National Cancer Institute.

Sincerely,

ARLEN SPECTER.

EXHIBIT 3

Mr. President, in recent weeks, I have been holding hearings here in Washington and around my home state of Pennsylvania on the recommendation made on January 23, 1997 by the NIH Consensus Development Conference Concerning Breast Cancer Screening for Women Between the Ages of 40 and 49. The panel concluded, ''that the available data did not warrant a single recommendation for mammography for all women in their forties.'' Instead, the panel reiterated the 1993 recommendations of the NCI that each women between the ages of 40 and 49 should decide for herself whether to undergo mammography.

On January 23, 1997 after the press release was issued by the Consensus Panel, Dr. Richard Klausner stated that his own reading of the studies and information presented to the conference, in contrast to past years, was that we now have available more convincing evidence. The evidence is primarily from Swedish population screening studies that there is a statistically significant benefit in terms of reduced death from breast cancer for women who begin screening in their forties. Women in that age group who decide to begin screening should be aware of the increased evidence of benefit and of any potential risk. A women's decision to be screened or not screened should be made on the basis of knowledge.

Breast cancer is the second leading cause of cancer death in American women and according to the American Cancer Society, nearly 44,000 women will die from the disease this year, and 10,000 of these women will be in their forties, making breast cancer the number one cause of death in this age group. It seems to me that those numbers alone should signal an alarm that women in this age bracket are at great risk. And while mammography is not perfect, it is the best tool currently available.

FEBRUARY 5, 1997, WASHINGTON, DC

On February 5, 1997, at a hearing here in Washington, I discussed this issue with a panel of distinguished scientists, including Dr. Richard Klausner, the Director of the National Cancer Institute, Dr. Susan J. Blumenthal, Deputy Assistant Secretary for Women's Health, Dr. David Hoel, a Member of the NIH Consensus Development Conference, Dr. Marilyn Leitch, Associate Professor of Surgery at the University of Texas Southwestern Medical School in Dallas, Texas, and Dr. Barbara Monsees, Associate Professor of Radiology and Chief of the Breast Imaging Section of the Mallinckrodt Institute of Radiology, Washington School of Medicine in St. Louis, Missouri.

Dr. Klausner expressed concern that the balance and tone of the Panel's draft report overly minimized the benefits and overly emphasized the risks for women in their 40s. Dr. Klausner also stated the National Cancer Advisory Board would discuss the screening issue at their next meeting. That meeting took place on February 25, and resulted in the formation of a special subcommittee to

develop clear recommendations to the NCI on screening mammography. Dr. Klausner told the subcommittee that the Board intends to complete the process in two months.

Dr. Blumenthal discussed the Department's efforts to improve breast cancer detection and diagnosis to ensure that today's mammography techniques are of the highest quality. She also stated that breast cancer is perhaps the most dreaded and feared disease in women and that it has become an epidemic in our country: the number of women affected by this disease has increased from 1 in 20 over a time in the 1950s to 1 in 8 today.

Dr. Blumenthal spoke of the new frontiers in breast imaging such as ultrasound, digital mammography, breast MRI and Positron Emission Tomography as ways to improve early breast cancer detection. She also described the ''Missiles to Mammograms'' initiative to adapt advanced defense, space, and intelligence imaging technologies from the DOD, CIA and NASA, to more accurately detect breast cancer.

Next, the Subcommittee heard testimony from David G. Hoel, Ph.D., who is Professor and Chairman of the Department of Biometry and Epidemiology at the Medical University of South Carolina. Dr. Hoel, who is a member of the NIH Consensus Panel briefly outlined the process by which the Panel reviewed available research on the subject and derived its conclusions. Dr. Hoel also detailed the specific questions the panel was charged with answering and further noted that the Panel was restricted to providing answers to specific questions. The Panel is currently involved in completing its work and stated that the Panel's final conclusions would accurately represent the consensus view of its members.

We then heard from a panel of expert witnesses representing the American Cancer Society, the Breast Cancer Foundation, and the National Breast Cancer Coalition.

Speaking on behalf of the American Cancer Society was Marilyn Leitch, M.D., who is Associate Professor of Surgery at the University of Texas Southwestern Medical School at Dallas. She reaffirmed the American Cancer Society's position that the conclusions reached by the Consensus Panel are at variance with the data presented by both European and U.S. scientists, and therefore did not offer women and their physicians the best guidance possible. She noted that the National Cancer Institute and eleven other organizations in 1989 concluded that women in their forties should have regular mammograms. That position was reaffirmed in 1992 after a subsequent review of the scientific evidence.

In 1993, however, NCI withdrew its recommendation on the grounds that randomized clinical trials had not shown a statistically significant reduction in mortality among women under age 50. Since that time, however, two Swedish studies and a statistical compilation of eight clinical studies have been released showing solid epidemiological and clinical evidence that routine screening is effective in reducing breast cancer mortality. The Swedish studies showed statistically significant reductions in mortality of 36 percent and 44 percent, respectively, for groups invited to be screened.

Dr. Leitch conveyed the American Cancer Society's disappointment that the Consensus Panel placed undue emphasis on two issues: the risk of radiation-induced cancer and the issue of false positives and false negatives. She noted that the Society currently recommend that women in their forties be screened every one to two years. Later this month, the Society will convene its own expert panel, however, to determine if, based on new evidence, the mortality benefit might be even greater if women are screened annually.

The Subcommittee then heard from Ms. Susan Braun and Ms. Diane Rowden, both representing the Susan G. Komen Breast Cancer Foundation, a nonprofit organization that supports research on breast cancer.

Ms. Braun noted that when breast cancer is found in its earliest stages, the likelihood of 5-year survival is over 95 percent, but when found after it has metastasized, that survival rate drops precipitously—to 20 percent. Clearly, early detection is a key to longevity. And while she points out that mammography is far from a perfect tool, it has proven to save lives. Ms. Braum contends that the benefits of early screening outweigh the risks, and that is why the Komen Foundation guidelines recommend screening every one to two years, beginning at age 40. Ms. Rowden reaffirmed that position. She cited data estimating that in 1996, women in their forties would account for 18.1 percent of newly diagnosed invasive breast cancers, compared with 16.8 percent for women in their fifties.

We next heard from Frances M. Visco, Esquire, the first President of the National Breast Cancer Coalition and a member of its Board of Directors. Ms. Visco told the Subcommittee that her breast cancer was diagnosed through a mammogram when she was 39 years old. She stated that we cannot act as though the issue whether to recommend screening for women age 40 to 49 is the most important question surrounding breast cancer and that our outrage should be saved for the fact that we do not know how to prevent the disease, how to cure it, how to detect it at an early stage, or what to do for a women once we do find it.

Ms. Visco went on to ask what is the goal? A simple message that is less confusing? She stated that in this situation, the simple message is wrong. She further stated that we want mammography to work for all women. It does not. We want to reduce breast cancer to a sound byte. It cannot be. We should be devoting our resources to designing mechanisms to get the message out to women; to get them to understand the risks, the benefits, the pros, the cons, so they can make their own decision.

Ms. Visco also told the Subcommittee in her view $590 million should be devoted at the NIH to research on breast cancer and $150 should be spent for research purposes at the Department of Defense.

Ms. Visco concluded that women cannot continue to be given false hope. If women in their 40s are told to get a mammogram every year, we are saying ignorance is bliss. What we need to tell them is that there are pros and cons, there are risks and benefits. That is the information they need to get. Then let them decide the course of their own care.

Our last witness was Barbara Monsees, M.D., who is Chief of the Breast Imaging Section at Mallinckrodt Institute of Radiology at the Washington University School of Medicine in St. Louis. She shared her unique perspectives as both a medical professional and as a woman who survived early breast cancer detected by a mammogram.

Dr. Monsees confirmed the fact that there appears to be clear scientific evidence that early screening can substantially reduce the death rate from breast cancer. She, too, cited the findings from five major population-based screening programs in Sweden. Two of the trials showed mortality reductions of 44 percent and 35 percent, respectively, while an overview study of all five indicated a 23 percent mortality reduction.

Unfortunately, according to Dr. Monsees, the NIH Consensus Panel chose to ignore this most recent data, resulting in ''an unbalanced presentation of the facts . . .'' Dr. Monsees raised some provocative questions, such as ''Could this issue have taxed the NIH consensus development model beyond its intended purpose?'' And ''Were the panelists given adequate time, information and instruction regarding the rules of evidence in order to formulate their report?'' In conclusion, she voiced hope that the National Cancer Advisory Board will re-examine all the evidence in an unbiased fashion, and conclude that screening women in their forties does save lives.

FEBRUARY 20, 1997, PHILADELPHIA, PENNSYLVANIA

On February 20th, 1997, I reconvened the Subcommittee for our hearing in Philadelphia.

I opened the hearing with a report on a promising opportunity I learned of last year, whereby certain defense imaging technology may prove useful in more accurately detecting breast cancer in its early stages. I saw to it that this project received the necessary funding, and I look forward to seeing the results.

Once again, we heard from a very distinguished group of witnesses, led off by Dina F. Caroline, M.D., Chief of the Division of Gastrointestinal Radiology and Mammography at Temple University Hospital.

Dr. Caroline began by tracing the history of mammographic screening for women in their forties, beginning in 1977, when the National Cancer Institute and the American College of Surgeons recommended it for women with first degree relatives with breast cancer. Where the controversy came to a head was in 1993, when NCI reversed its stance, stating that experts do not agree on the value of routine screening for women in their forties.

In subsequent testimony, Dr. Caroline noted the concerns of the NIH Consensus Panel with respect to false positive results. But as she points out, until technology improves, we must expect false positive readings simply because the whole purpose of screening is not to miss any opportunity to identify breast cancer. False negatives are also a problem. But with new techniques in development, hopefully these will begin to diminish in number.

In conclusion, Dr. Caroline finds the available data sufficient enough to advocate screening for women in their forties.

Our next witness was Stephen Feig, M.D., Director of Breast Imaging and Professor of Radiology at Jefferson Medical College. Like other witnesses, Dr. Feig cited the latest clinical studies which found that current mammographic techniques should be able to reduce breast cancer deaths by at least 40 percent. He went on to point out that 20 percent of all breast cancer deaths and 33 percent of all years of life expectancy lost to breast cancer are due to cancer found in women in their forties. Not to advise screening in this age group, he contends, is unconscionable.

The Subcommittee then heard from Daniel C. Sullivan, M.D., the Chief of Breast Imaging at the Hospital of the University of Pennsylvania, and a member of the NIH Consensus Panel. Dr. Sullivan was careful to point out that the Panel's statement that has raised so much controversy is only a draft version. More importantly perhaps, Dr. Sullivan advocates annual mammography for women in their forties and emphasized his hope that the Panel's final statement will reflect that position. He went on to underscore the need for more research, as well as improved access to mammography through more consistent insurance coverage.

Bonita Falkner, M.D., a Professor of Medicine and Pediatrics at the MCP Hahnemann School of Medicine at the Allegheny University of the Health Sciences and Acting Director of the Institute for Women's Health

noted in her testimony that the controversy over the scientific merit of mammography in younger women should not confuse the facts for women 50 and above. She also stated that all women in their 40s should have access to a physicians counseling on mammography, and she found it particularly troubling that the Panel's failure to endorse screening has the potential to lead to a failure on the part of insurers to pay for the procedure. Dr. Falkner stated with the increased mortality rate among minority and disadvantaged women, particular efforts must be made to provide access to physician counseling and breast screening for these women at all ages.

The Committee then heard from Robert C. Young, M.D. Dr. Young is the President of the Fox Chase Cancer Center and in his testimony, Dr. Young maintains that for women under age 40, without other risk factors, the risk of breast cancer is quite low and there is no convincing argument for mammography screening at all. Where the gray zone occurs, he notes, is in women between the ages of 40 and 50, where there is generally a lower incidence of breast cancer, difficulty in detecting the disease, and differences in the biology of the tumors themselves. Because of these complications, small or short-term studies fail to yield clear results. In order to arrive at more definitive results, larger, long-term trials are required. And as he points out, trials such as those done in Sweden have shown small but definite improvement in survival rates.

Moreover, Dr. Young made an important point in his testimony: That guidelines are just that—guidelines. And in the case of mammography screening for women in their forties, even though the benefit may be small, the risk is minuscule. He contends that ultimately the solutions will be found through research that addresses the more fundamental questions and leads to new ways to prevent or eliminate this horrible disease.

The next witness to appear before the Subcommittee was Ms. Barbara De Luca, the Executive Director of the Linda Creed Breast Cancer Foundation. Ms. De Luca highlighted the Consensus Panel's conclusion that there is no clear indication that yearly mammograms for women in their forties save lives. She contends that the Panel's conclusion was based on economic reasons, that mammograms cost money. She went on to report on a small sampling of her Foundation's members. The women she surveyed were diagnosed with breast cancer in their forties. While mammograms had failed to discover their cancer, each of those surveyed felt strongly that women in their forties, nevertheless, should be encouraged to undergo screening every year.

Ms. De Luca reported that a mammogram done seven years ago had failed to identify her breast cancer, but that since that time new modes of detection have been developed, including the MRI and digital mammography. She recommended that tools like MRI should be made more accessible and less expensive. She urged more research be directed to finding a blood test or other methods to turn off cancer cells and arrest the disease. This, coupled with early detection, can mean finding an effective cure for breast cancer.

Ms. Lu Ann Cahn, a reporter for WCAU-TV testified that her experience was similar to Ms. De Luca, in that her mammogram failed to detect the cancer. And also like Ms. De Luca, she was appalled by the Consensus Panel's failure to recommend annual mammograms for women in their forties. She noted that this year 6,000 women in their forties will die of breast cancer, while the NIH is relaying a confused message that many women will take to mean they need not worry.

In a very compelling fashion, Ms. Cahn concludes that the recommendation of the consensus panel has given every woman who wants to avoid mammograms an excuse to do so.

The Subcommittee once again heard from Ms. Frances M. Visco, Esq., the President of the National Breast Cancer Coalition and a breast cancer survivor. Ms. Visco spoke out in support of the consensus panel's findings. But more importantly she urged that we devote our resources to empowering women to understand the available information and discuss it with their physician. She issued a call to arms of sorts, urging us to focus more of our resources and energy on convincing more women in their fifties to be screened and to support a greater investment in research to find a cure, effective treatment, and more accurate ways to detect breast cancer. And she called for a greater commitment to guaranteeing access to quality health care for all women and their families.

Ms. Visco once again told the Committee, as she did in Washington, DC on February 5, 1997, that the National Breast Cancer Coalition is recommending $590 million in research dollars at the NIH and $150 million for the Department of Defense Breast Cancer Research Program. Ms. Visco stated that these figures were based on the percentage of proposals that are scientifically valid, but are not funded because of the lack of resources.

We then heard from Barbara Mallory, M.S.N., R.N., who represented the Nurses of Pennsylvania, an advocacy group for nurses and patients. Her contention is that every health professional she knows suspects that far too much consideration was given to the financial rather than the human costs associated with mammograms.

Her organization has been very active in this field, drafting legislation ending so-called drive-through mastectomies. In her position as a nurse she has encountered many women, some as young as 33, who have had breast cancer diagnosed as a result of self-examinations and mammograms.

Ms. Mallory went on to cite statistics about Ductal Carcinoma In Situ (DCIS), where, since the mid-1980s, there has been a 200 percent increase in the number of lesions detected by mammography. About one-half of these lesions have been found in women under age 50. Up to 25 percent will lead to invasive cancers. While mammography techniques need to be improved, she argues that ambiguous messages and too much attention to the financial bottom-line do a great disservice to the women of this Country.

Our last witness for the day was Lawrence Robinson, M.D., M.P.H., the Deputy Commissioner of the Philadelphia Department of Public Health.

Dr. Robinson told of his strong support for mammography screening for women between the ages of 40–49 and stressed this particularly for African American and Hispanic women. Dr. Robinson reported on a study done at a health event sponsored by the Philadelphia Health Department, the Pennsylvania National Guard and the Fox Chase Cancer Center where a mobile mammography unit performed 43 mammograms. Many of the women screened were under 50. The screening found 6 abnormal readings or 15% of those screened. This result points out the need to do screening particularly in underserved areas.

FEBRUARY 24, 1997, PITTSBURGH, PENNSYLVANIA

The third in a series of special hearings was convened on February 24th in Pittsburgh. I opened the hearing by telling the witnesses that the more I hear about this subject, the stronger I feel that the National Cancer Institute should take whatever steps are necessary to resolve this issue in favor of recommending regular mammograms for women in their forties.

At this hearing, we heard from two panels of distinguished witnesses, led off by Thomas S. Chang, M.D., who is Assistant Professor of Radiology at the University of Pittsburgh School of Medicine and staff radiologist at Magee-Women's Hospital.

Dr. Chang specializes in women's imaging, with a significant portion of his practice devoted to breast imaging. As an expert in this field, he reported being disappointed by the Consensus Panel's inconclusiveness on this issue, noting that the Panel did nothing to clear the confusion that now exists. While the panel may have concluded that insurers should pay for mammograms for women who want one, he is concerned that companies will interpret the Panel's overall conclusions as not requiring them to reimburse the cost of this procedure. In short, many women—especially those who are economically disadvantaged—will have their minds made up for them as a result of financial constraints.

Dr. Chang went on to report that breast cancer is far more common in women in their forties than some have implied. In 1996, in fact, there were more breast cancers diagnosed in women in their forties (33,400) than women in their fifties (30,900).

Dr. Chang is convinced that mammography saves lives and is a medically effective screening test for women in their forties. He advises his patients to have regular mammograms once a year, and encouraged the NIH to make the same recommendation.

Dr. Howard A. Zaren, Director of the Mercy Breast Center for the Pittsburgh Mercy Health Systems told the Subcommittee that in 1997, 11,000 new cases and 2,700 deaths from breast cancer will occur in Pennsylvania. These figures place Pennsylvania within the top five states for highest incidence and mortality from breast cancer. He further stated that almost 20 percent of all breast cancer deaths, and 34 percent of all years of life expectancy lost, result from cancers that are found among women younger than the age of 50 years.

Dr. Zaren also stated that epidemiologic studies show a shift towards diagnosing breast cancer at earlier stages in women 40–49, and this is regarded as indirect evidence of a possible benefit from screening these women. He also cited the statistics of Dr. Stephen A. Feig, from Thomas Jefferson University, who had testified before the Subcommittee in Pittsburgh, that a mortality reduction of up to 35 percent can be expected if annual screening mammograms are performed in the 40–49 age group with current mammographic techniques and two-views per breast.

Our next witness was Dr. Victor G. Vogel, Professor of Medicine and Epidemiology and Director of the Comprehensive Breast Cancer Program at the University of Pittsburgh Cancer Institute and Magee-Women's Hospital. Dr. Vogel told the committee that mammographic screening holds the promise of early detection of breast cancer in a curable stage. He also commented on the eight randomized studies on which the consensus panel based their recommendation. He stated that the studies show unequivocally that for women ages 50 to 59 years, mammography reduced the chance of dying from breast cancer by approximately 30 percent. However, only one study was designed specifically to investigate screening in women 40 to 49 and that study was seriously flawed. However, meta-analysis from screening studies demonstrates a 24% reduction in breast cancer mortality attributed to screening when women in their 40s are compared with women of the same age who are not screened.

Dr. Vogel also cited some very interesting statistics stating that in Pennsylvania there are nearly 1 million women between the ages of 40 and 49, and nearly 2,000 will be diagnosed with breast cancer this year. Tragically, as many as 1,000 of these women may die. In his opinion, that number could be reduced by approximately 250 deaths if women between the ages of 40 and 49 were screened annually with mammography.

Our next witnesses was D. Lawrence Wickerham, M.D. Associate Chairman and Director of Operations for the National Surgical Adjuvant Breast and Bowel Project. Dr. Wickerham stated that his greatest concern is that the consensus statement not be used by insurance carriers as a reason to deny coverage for mammograms. He further stated that he did not disagree with the consensus statement which directs women to decide for themselves whether to undergo mammography. He felt that in order to make an informed choice, women and their health care providers need to have the best possible educational materials to aid them in these decisions. He felt that there is likely to be a sliding scale of benefit for women in their 40's and that potential benefits can be assessed by a woman in consultation with her health care provider and based on her individual circumstances.

Diane F. Clayton testified she is a breast cancer survivor mainly due to early detection. The ductile carcinoma in-situ was found during a routine mammogram—she was 46 years old.

Ms. Clayton questions the NIH consensus panel's motives. Was it money driving their direction? Was it ignorance? Was it politics? Who could be against preserving extending the lives of mom, sis, Aunt Mary and grandma? Her hope was the recommendation was an honest effort that just went bad. She felt that if it was a mistake then we should admit it and go forward by doing the right thing; advice and counsel women in their forties to have routine mammograms.

The Subcommittee then heard from Ms. Judy Pottgen, a 47 year old woman who was diagnosed with breast cancer when she was 43. Ms. Pottgen found her breast cancer by self breast exam. She is passionate about educating women about self breast exam. She described a program called ''check it out'', a Pittsburgh program sponsored by the American Cancer Society, Hadassah, and the Allegheny County Board of Health. The program teaches junior and senior high school girls the proper way to do self breast exam.

Ms. Pottgen summed up her testimony by telling the Subcommittee that preventive medicine is a lot cheaper than therapeutic medicine and that a mammogram is a lot cheaper than major surgery followed by radiation and chemotherapy. She cited the NIH recommendation, many years ago, that yearly Pap smears were unnecessary and wondered how many women missed the opportunity to have their cervical cancer diagnosed at an early stage. She wondered if it would be the same with mammograms, and questioned how many women will lose their breasts or be disfigured or die from this dreaded disease before NIH realizes the tremendous diagnostic benefit of mammograms.

The next witness was Ms. Yvonne D. Durham, an African American breast cancer survivor who found her cancer through self breast exam. She was 46 years old. She stated that she was deeply troubled by the Consensus Panel's decision not to recommend regular mammogram screening for women beginning at age 40 and told the Subcommittee that the recommendation sends a confusing message to the public.

Ms. Durham cited statistics based on data from 1987, that African American women, age 35–44, had a breast cancer mortality rate 2 times that of white women at the same age. Yet African Americans, as well as Hispanic Americans, have some of the lowest mammogram screening rates in the United States.

Ms. Durham concluded her testimony by stating that the benefit of mammography far outweighs any risks associated with this screening test. She also urged continued support for research efforts that may offer a clearer understanding of how breast cancer disease affects minority populations.

The last witness of the day was Ms. Laurie S. Moser, the Executive Director of the Pittsburgh Susan G. Komen Breast Cancer Foundation Race for the Cure. Ms. Moser was diagnosed with ductal carcinoma in-situ in 1987 at the age of 40.

She stated that the Komen Foundation strongly disagrees with the latest decision from the NIH Consensus Development Conference on Breast Cancer Screening for Women Ages 40–49. She also told the Subcommittee that an estimated 16.5 percent of new breast cancer cases were women in their 40s. The position of the Foundation is that the Panel's position overstated potential risks and understated the benefits of mammography. The fact is that many consumers look to the opinion of a body of experts to interpret data and provide recommendations which they can weigh as they make decisions. The current Panel statement does nothing more than confuse the public about an extremely important issue.

Ms. Moser stated that when the Race for the Cure began in Pittsburgh in 1993, a woman died every 11 minutes from breast cancer. Today, a woman dies every 12 minutes. Over 2,000 additional lives are saved each year with early detection. The goal should be to add a minute each year in the hope that more and more women will survive breast cancer.

Ms. Moser concluded that she hoped Dr. Klausner and his colleagues at the cancer institute take a closer look at the conference recommendation and see to it that women are given the highest degree of encouragement to get screening earlier, rather than later.

MARCH 3, 1997, HERSHEY, PENNSYLVANIA

On March 3, I convened a hearing at the Hershey Medical Center.

The Subcommittee's first panel consisted of a distinguished group of physicians from the local medical centers. Our first witness was James F. Evans, M.D., Director, of Surgical Oncology and Assistant director of General Surgery from the Geisinger Clinic.

Dr. Evans, expressing his personal opinions, stated that he had studied the clinical trial data and if he were to write his own consensus statement, it would say that the available data specifically does not warrant a single guideline recommendation for women between the ages of 40 and 70 years, namely annual screening. However, guidelines are not recommendations for individual women. He further stated that we would all like to have enough data to make specific recommendations for each individual based on personal profiles and highly specific reliable research data. But that data does not exist. The best data we have comes from trials and that data supports a guideline recommendation for annual screening beginning at age 40. Clinicians and women themselves should then use additional but less reliable data that we have to make decisions for individuals.

Our next panelist was Mary Simmonds, M.D., Chief of the Division of Medical Oncology for Pinnacle Health Systems in Harrisburg. Dr. Simmonds stated that she supported the American Cancer Society recommendations that women in their 40s should undergo screening mammography every one to two years.

Dr. Simmonds also shared with the Committee a copy of Recommendations for a Statewide Plan for the Early Detection of Breast Cancer formulated as a result of deliberations of a Pennsylvania Breast Cancer Awareness Consensus Conference. The recommendations from this conference were that (1) mammography saves lives; (2) women should have a mammogram even if you don't have any symptoms; (3) women should ask their doctor for information about mammography and for access to mammography (4) follow the American Cancer Society guidelines for the frequency of mammography and physical examination of the breast as well as the performance of breast self examination.

Testifying on behalf of the Hershey Medical Center was David M. Van Hook M.D., and Assistant Professor of Radiology and Chief of Mammography at the medical center. Dr. Van Hook told the Subcommittee that although an analysis of the combined data from the seven population-based randomized-controlled trials, which included over 170,000 women in their 40s, demonstrated a statistically significant benefit in reducing mortality from breast cancer, and data from several other studies also support a benefit to women 40–49. But, the problem seems to be that thus far there has been no single randomized-controlled trial which has showed statistically-significant proof of benefit from mammography screening for women ages 40–49. Dr. Van Hook further stated that much more is at stake here than just dollars spent to save lives and that the decisions regarding health care intervention which affects our society should perhaps, involve not only science, but should also take into account the willingness of those most affected by those decisions. To accept some degree of uncertainly, especially when there is controversy or less than scientific proof of benefit. Dr. Van Hook concluded by saying that the beneficiaries of breast cancer screening, those who stand to gain or lose the most from it, our mothers, wives, and daughters are willing to do just that.

The Committee then turned to Lois A. Anderson, Co-Facilitator and Founder of A surviving Breast Cancer Support group and Co-Captain of York County Pennsylvania Breast Cancer Coalition. Ms. Anderson expressed her outrage by the NIH Consensus Conference's decision on mammography screening for women 40 to 49.

Ms. Anderson described her own experience with breast cancer. She was diagnosed when she was 40 years old. Her mammogram failed to detect the disease and after some suspicious bruising, Ms. Anderson found a lump while doing a self breast exam. A mastectomy was performed one month later and 5 of 11 lymph nodes were found to be cancerous. These findings made her a stage III breast cancer patient with less than a 40 percent chance of surviving 5 years.

Ms. Anderson said that the incidence of breast cancer in younger women is increasing and the NIHs decision to NOT recommend mammograms for women below 50 years of age will certainly cause an increase in the death rate from breast cancer.

Ms. Anderson presented the Subcommittee with letters from over 226 women under the age of 50 who have been diagnosed with Brest cancer through the use of a mammogram.

Ms. Anderson told the Committee that while breast cancer is not perfect, it is the best tool we have for detecting breast cancer early and that deadly confusion over screening mammography will result from the NIH's decision if these guidelines are not changed.

Next the Subcommittee heard from Ms. Lorene Knight, a volunteer with the American Cancer Society and a member of the

Pennsylvania Breast Cancer Coalition. Ms. Knight is a 54 year old African American women, and a 7-year breast cancer survivor. Ms. Knight told the Subcommittee that her first mammogram was performed at the age of 36 because of the presence of fibrocystic tissue and a family history of breast cancer. Her sister lost her life to the disease at the age of 43 and her mother is a 5 year breast cancer survivor.

Ms. Knight stated that she was most disturbed by the findings of the NIH Consensus Development Conference statement and felt that their statement would lure entirely too many women of all races, and in their 40s, into a false sense of security about the odds that breast cancer will not likely happen to them during this decade of their lives.

Citing recent statistics from 4 hospitals in Lancaster County, Ms. Knight stated that one hospital, during the 95–96 fiscal year, 105 women underwent breast cancer surgery and nearly 36% of them were under the age of 50. At a second hospital, 21 women underwent breast cancer surgery and 8 of the 21 women were under the age of 50. She also told the Subcommittee that as a volunteer with the American Cancer Society's Reach to Recovery program, she has yet to visit one recovering breast cancer patient that is African American. She believes that this is because not enough African American women are having early detection procedures. The breast cancer mortality rate for African American women increased by 2.6% at a time when the mortality rate in white women declined by 5.5%.

Ms. Knight concluded that every women, of every race, in every community should have access to mammography at age 40 if that is what she determines to be necessary for her, dictated by family history, her physician and her personal health factors.

Our last witness of the day was Representative Katie True, who represents the 37th legislative district in Pennsylvania. Ms. True told the Subcommittee that one of the weapons that she has chosen to fight breast cancer is House Bill 134. This bill which has already passed the House, would provide for a state income tax checkoff for breast cancer research. The donation is deducted from the tax refund and does not constitute a change against the income tax revenue's to the State.

Representative True also stated that the second weapon used to battle breast cancer is education. She stated that self breast exams combined with mammograms can save many lives. Women still hesitate to look after themselves first, usually putting others needs before their own.

Representative True concluded that the recommendation of the NIH Consensus Development Conference on Breast Cancer Screening is irresponsible, and she questioned the motives behind such a recommendation—plain and simple—their message is wrong and deadly.

MARCH 4, 1997—WASHINGTON, DC

On March 4, 1997, Secretary of Health and Human Services Donna Shalala appeared before the Subcommittee on Labor, Health and Human Services and Education to discuss the fiscal year 1998 budget.

At that hearing, I took the opportunity to discuss the NIH Consensus Development Conference recommendations with the Secretary and asked her to take immediate steps towards encouraging women ages 40–49 to undergo mammogram screening. I told the Secretary that the panel finding that mammograms were not warranted for women in the age bracket 40 to 49 has caused quite a stir. And that my own view is that the evidence is substantial, if not overwhelming, that mammograms are very helpful for women of this age group, they do save lives, and that there ought to be a prompt conclusion by HHS to that effect. When there is a public determination that mammograms are not warranted for women 40–49, many women are reading that to mean that a mammogram is not necessary. I also told the Secretary that I felt that there is not a sufficient sense of urgency in the approach that the Department is taking with regard to this issue in allowing another 60 days to pass before a final judgment is made on this issue. I further stated that when it's a matter of dollars and cents, and there is no clear scientific evidence to the contrary, I think the word ought to come from the Secretary of Health and Human Services that, notwithstanding the cost, we're going to make sure that mammograms are made available to women ages 40–49.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I thank my distinguished friend, Senator DOMENICI, for allowing me to go next. I will limit my remarks to 5 minutes.

(The remarks of Mr. ROTH pertaining to the introduction of S. 436 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

I was pleased to accommodate the distinguished chairman of the Finance Committee.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 437 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I ask unanimous consent I be yielded 10 minutes from the time that is allocated to the Democratic side here, under the auspices of Senator BINGAMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. LAUTENBERG. Madam President, one of the subjects that dominates the landscape these days, of course, is the budget. How we are going to function as a society, what are the priorities, how will we finance these priorities and at the same time reach an objective that all of us care about, and of course that is getting a balanced budget by the year 2002. Of course, that is getting a balanced budget by the year 2002.

The President has presented a budget to achieve that objective. There are disputes about how we reach that objective, where do we cut further, what is the revenue stream. I, therefore, Madam President, use this opportunity to comment on what I see as the lack of a budget proposal from the Republican side, from the majority side.

The President has put down a budget. We have talked about it in the Budget Committee. I am the ranking Democrat on the Budget Committee. We have had numerous hearings as we explored various avenues, various parts of the equation with proponents and some opponents trying to dissuade us from proceeding with the President's budget.

On the other hand, we have not seen anything yet from the Republican side, the majority side, I point out, Madam President. They have produced one piece of budget legislation this year, but it is not a balanced budget. It is the notion that we ought to be giving a big tax break, primarily devoted to the wealthy in our country. The Republican tax break will blow a huge hole in the deficit, even as we struggle to get down to a zero budget deficit by the year 2002.

In the first 5 years, the Republican plan would cost $200 billion. In the next 5 years, these costs would increase 60 percent to $325 billion for a total of $526 billion over the 10-year period. This chart will help explain exactly where it is we are going.

It causes a ballooning of the deficit. We see it from 1997, which is on the chart projected at $120 billion and expected to be less by the time we reach the end of the fiscal year, September 30. It continues to expand. In the year 2002, when we are striving to have a zero budget deficit, we are at $239 billion, unless some way is found to pay for these tax breaks. They are not free. If we adopt the Republican tax scheme, we would have to make deeper cuts someplace. I guess that would have to come from Medicare, Medicaid, education, transportation, crimefighting, and environmental protection.

These tax breaks are also backloaded. Their costs explode, as we can see by the expansion of the deficit, after the year 2002. And, believe it or not, these tax breaks are bigger than those that were originally in the Contract With America, larger than the tax breaks that were proposed last year.

This chart is from the Joint Committee on Taxation. It is now at $200 billion, expanded to $525 billion. These are the tax cuts as planned, to $525 billion. That would be a terrible consequence. That is in the year 2007.

Finally, the Republican tax breaks are overwhelmingly tilted toward the very wealthy. According to one analysis, on average, the Republican tax scheme would give a tax break each year of $21,000 for those who make $645,000 a year, the top 1 percent of the income earners in our country. But if you are in the middle 20 percent of our wage earners and you make $27,000 a year, you would get $186 worth of tax relief, 50 cents a day—50 cents a day—for the average hard-working family.

It borders on insulting to suggest that someone who makes $645,000 is entitled to a tax break of $21,000—I hardly think that those people need any help—and if you make $27,000, which is the per capita income of the middle 20

percent, $186 for the year. It is hard to comprehend how that is going to help our society or help hard-working families make ends meet, plan for their child's education, plan for a roof over their heads, plan for health care, plan for helping their parents, the elderly, achieve the tranquility and the peace that they need in their older age. Madam President, this is not a good way to do business.

We have been down this road before. The Reagan administration gave us a tax break for the wealthy, and what was the result? The deficit exploded. It is time to get down to serious budgeting. It is time to balance the budget.

I urge the Republican leadership, the good friends that I have on the Republican side of the aisle who are concerned about balancing a budget, to produce a budget that does the job. If the Republican leadership is committed to their tax scheme, they ought to put up a budget that reflects it. Show us how they would pay for it. But we can't continuously engage in this dialog without, at some point, having to put up a budget that reflects how they intend to get us to where they say they would like to be: Tax breaks for the wealthy, purportedly investments in our society to produce jobs, et cetera, while someone making $27,000 a year is going to get a $186 tax reduction.

It is not fair, it is not just, it is not acceptable. The American people won't accept it, even though we could be bowled over by a majority vote. It is an outrageous scheme for doing things, the constant refusal to produce any kind of a response to a Democratic budget. We in the Democratic Party are not in charge. The Republicans are in charge, and if they are in charge, they ought to take the responsibilities of leadership. Produce a budget, show us exactly what you mean. Enough of this nonsense where they talk about a tax cut and no one willing to say where it is going to come from. If we have a $200 billion extra cost for our society, where are we going to get the money?

People are worried about their future; they are anxious about their jobs. Yes, there has been good growth in our economy, but the anxiety factor has continued to expand because people do not believe that they have the security they need for the years ahead.

So, Madam President, I hope that we will be able to soon get on with our business, have the budget produced by the Republican majority, and tell us how they are going to pay for it.

Let us have an honest debate about it. Let the American people know what is going on here and not hide behind a smokescreen that says, well, we want to give this huge tax cut but we are not going to tell you how we are going to pay for it.

Madam President, I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Chair.

Madam President, I come here to echo the words that I caught of my predecessor in speaking, and that is Senator FRANK LAUTENBERG from New Jersey, who is the ranking Democrat on the Budget Committee.

I, too, am frustrated. I mean, there are lots of things to be frustrated about this year. The pace has been slow. There are things we should have been doing. There are distractions hither and yon.

One thing we should be doing is the budget. The budget is the statement of priorities of the Congress, representing to the American people what needs to be done in this Nation. The budget, although it comes in a very thick book and has a very sterile appearance, in fact is a powerful and humane document about what our priorities are. It is the ultimate statement of what you believe in.

I do not want to see a Government furlough, and I do not want to see a shutdown. I know the Presiding Officer does not want to see that. The American people certainly do not. In fact, it had a rather devastating consequence, far beyond what I thought would be the case, in States not only close to Washington, DC, but around the country.

There is another reason I worry, and that is what we do know about the Republican budget, which to this point basically is tax cuts. It is not just a question of tax cuts, but the fact that the tax cuts are not paid for. There is no statement or sense or hint of where the money will come from.

So, first, there is not a budget, and, second, to the extent there is a budget, it only relates to tax cuts. The Republican tax cuts add up to $526 billion over a 10-year period. They backloaded it so that, to the public, the more reasonable approach to a tax cut would be the first part, and then at the end the tax cut really bulges and the beneficiaries of that really benefit.

What is interesting is that we have been through this exercise. The American people, and I thought the Republicans themselves, had rejected the idea that we could do the kinds of tax cuts that we were talking about and that we are now talking about, and that is tax cuts that favor the rich, tax cuts that do not favor working American families, the American middle class. Yet here they are back again.

That is frustrating to me. I do not understand that. I am not being partisan in saying this. I am genuinely perplexed by it. I am more than perplexed, I am annoyed by that. But, first of all, I am perplexed.

Why this statement of $526 billion? Incidentally, $526 billion—in the last 4 years of the 10 years, 325 billion of those dollars flow into the back pockets of those who benefit. So, therefore, those who benefit and those who do not is obviously very important. And I will get to that in a moment.

There is a child tax credit the Republicans have put forward and a child tax credit the Democrats have put forward. That is something I feel very, very positively about, both in terms of Republicans and Democrats—with one exception.

There was a policy that I helped advance, along with at that time Gov. Bill Clinton, on something called the National Commission on Children and Families, which I chaired for 4 years. We put forward the idea of the $1,000 child tax credit. It is put forward really by both parties to the extent of $500, but there is a difference.

The Democrats adjust theirs, change theirs, with inflation. It is very expensive to bring up a child in this country. People do not think of it that way. You know, they do not quantify so much per child. But it costs about $7,000 a year on average to bring up an individual child in this country. If you have four, then it costs $28,000 a year. That is averaging in from the time that you are buying Pampers to the time you are paying college tuition. Obviously, it is an average, but it is a very expensive average. So it is a very good proposition, the idea of a tax credit, but it ought to be indexed to inflation. The Democratic tax cut is. The Republican tax cut is not.

So, if my colleagues would just listen for a moment about what the experts found out about the Republican tax cut proposals and who gains and who does not, more than 75 percent of the Republican tax cuts would go to the top 20 percent of taxpayers. Well, that does not ring right. And it should not ring right.

I mean, this is a country which is constantly—we have all watched, hopefully, the public broadcasting thing on Thomas Jefferson who wrote the Declaration of Independence. In that he talked about life, liberty, and the pursuit of happiness. There was a sense of equality. People were created to be equal, to have equal opportunity.

Well, that does not mean that all people work as hard as others. But does it mean that if you are in the middle class and you are a working family, much less a two-parent working family, and you are working very, very hard and you are working at a job that pays a lot less money, then should you be treated substantially differently than somebody who works hard but makes a whole lot of money or somebody who does not work hard and who makes a whole lot of money through unearned income? The fact of the matter is that only 8.6 percent of the benefit of the $526 billion in Republican tax cuts would go to the bottom 60 percent of the American people. Let us call it 9 percent. Nine percent of the benefit of $526 billion would go to 60 percent of the American people who happen to be at the bottom of the economic scale, that is, to the extent that you are within the 60 percent. It ranges, obviously.

This means that middle-income Americans with an average income of $26,900, which is high cotton in West Virginia, would get a $186 tax cut from

the Republican tax package. That is just the fact. But the top 1 percent of Americans, myself included, I suppose, and people whose incomes average $645,000, would get $21,000—actually $21,306 in tax cuts.

That is not the American way. That is not why we are what we are as a country. I understand that some people do better than others in life. And I understand that some people are propelled, through good fortune or through exceptional brain power, to be in a position to make more money. Often that is a circumstance of birth and often that is a circumstance of education, often that is simply a circumstance of life. And sometimes it is simply a matter that you really did it and you deserve it.

But you cannot take something called the working middle class, people who work in steel mills, who work in factories, who work in grocery stores but who work all the time and work every day and pay taxes, and for whom every $10 or $100 is important, and say to them, ''You don't count.'' You do not do that in a budget. We do not do that, at least in a Democratic budget.

So, Madam President, I appreciate your courtesy in listening to these short pronouncements on my part. But I think the budget process should begin. I think we should take the crazy idea of trying to cut $526 billion of taxes, much less figure out how to pay for it, take it and sort of lay it outside the door and let it rest there for time immemorial. In the meantime, let us do a budget.

I thank the Presiding Officer.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LITHUANIA

Mr. DURBIN. Madam President, I rise to speak this morning on an issue of great importance to American foreign policy and to the future of Europe.

This week, on March 11, Lithuanians and Lithuanian-Americans celebrated the seventh anniversary of the restoration of independence from Russia. Lithuania, for those who are not familiar, is a country of fewer than 4 million people. It is smaller than the State of South Carolina, and it is located between Belarus and the Baltic Sea. Historically, it has been the neighbor, sometimes friendly and sometimes not, of Russia and the Soviet Union. It is a nation that has had to struggle time and again for its freedom. Today, it is struggling to recover from the devastation of a half-century of Soviet occupation.

The history of this little country is very interesting. During the middle ages, it was one of Europe's most powerful countries. In the 15th century, it was combined with Poland to create a new kingdom. In the late 18th century, when Poland was partitioned, Lithuania was divided between Russia and Prussia. The czars tried to Russify Lithuania during the 19th century, but their attempts to destroy Lithuanian culture gave rise to a Lithuanian nationalist movement supported by the Catholic Church. Ironically, it was this effort by the czars to Russify Lithuania which resulted in my being on the floor of the Senate today, because these efforts by the Russians led my mother's family to pick her up as a small girl and emigrate from Lithuania to the United States. They came here to preserve their Lithuanian culture, their Roman Catholic religion, and, of course, for the economic opportunity that the United States offered.

In February 1918, Lithuania finally declared its independence from Russia. But, of course, World War II took its toll.

In 1940, as a result of the Hitler-Stalin nonaggression pact, known as the Molotov-Ribbentrop agreement, Lithuania was taken over by the Soviet Union. In 1941, Hitler invaded Lithuania. After World War II, Stalin resumed his brutal repression and Sovietization of Lithuania, forbidding democratic institutions and subjugating the church. Countless thousands of Lithuanians gave their lives during the war and were then subjected to the Stalinist regime and deportation to Siberia.

But the Lithuanian national movement would not die, and it rose again as the Soviet Union crumbled. Of the many things which I have been fortunate enough to witness in my lifetime, one of the most memorable was the restoration of Lithuania's independence. On February 24, 1990, while still occupied by the Soviet Union, Lithuania held free elections to the Lithuanian Supreme Soviet. I was there on the day of the election, as part of a delegation sent by the Speaker of the House of Representatives. The best efforts of the Soviets to keep us out of the country were not successful. The Lithuanian Reform Movement, called Sajudis, won the elections. Keep in mind, this tiny country was still considered by the Soviets to be part of the Soviet Union.

On March 11, 1990, Lithuania declared the restoration of complete independence from the Soviet Union. In January, 1991, the Soviets struck back. A Soviet coup was attempted in Lithuania, leaving 13 Lithuanian civilians dead.

After the failed August coup in Moscow, the United States recognized the Lithuanian Government on September 2, 1991.

Since the restoration of independence, Lithuania and the other independent Baltic countries, Latvia and Estonia, have held numerous free elections. In Lithuania's case, there have been three—in October 1992, February 1993, and October 1996.

If you look at the relationship between Lithuania and the United States, it is one of mutual cooperation and support. The United States recognized Lithuania as an independent country in 1922 and never recognized the annexation of Lithuania by the Soviet Union as a result of the Molotov-Ribbentrop agreement.

During the years of the Soviet occupation of Eastern and Central Europe, the Senate and the House continued to pass resolutions and proclamations commemorating Captive Nations Week, and asking Americans across the country to join us in recognizing the fundamental freedom and independence of Lithuania, Latvia, and Estonia.

In 1991, the United States recognized the Lithuanian Government, free of Soviet domination. And the United States continued to play a very important role because, even after Lithuania had restored its independence, there were 70,000 Soviet troops still on Lithuanian soil. President Clinton deserves credit for working very hard, through diplomatic channels, for the removal of those troops. When the troops finally left in August 1993, due to the President's good efforts, once and for all, the Lithuanians were free of occupation troops.

Today, however, we are debating the next chapter, and an important one in the history of Lithuania, Latvia, Estonia, and modern Europe. We are debating the enlargement of NATO, and the question of how much of a say Russia should have in this process. This summer, in Madrid, Spain, the members of the NATO alliance will gather together to consider whether new members will be allowed to join the alliance.

All of us are aware of the important role that NATO played after World War II. NATO was the bulwark of Western democracy against the expansion of communism. The allies who came together in that alliance not only were setting out to protect themselves but to establish commonality in terms of values and culture—a commitment to democracy, a commitment to free markets. The NATO alliance has been successful. The Berlin Wall came down. The cold war came to an end.

Now we are talking about a new NATO alliance, and asking ourselves what this NATO alliance would bring to the world. Certainly more than defense, because I do not think that is the paramount concern to Europe. It would be, in the words of Secretary Albright, an effort to ''gain new allies who are eager and increasingly able to contribute to our common agenda for security, from fighting terrorism and weapons proliferation to ensuring stability.''

The reason I have come to the floor today is to speak about the situation in Lithuania and the challenge we face on the question of NATO membership. It is said that Poland, Hungary, and the Czech Republic are likely to be invited to join NATO. I fully support that. My visit to Poland, I can tell you,

was dominated by discussion about the future of NATO and whether Poland would be a part of it after all that Poland has suffered in the war and since. It is only right that this great nation be brought into an alliance with NATO. I fully support that. Nor do I object at all to Hungary and the Czech Republic being considered.

What gives me pause, though, is the fact that there has been little mention by the United States or NATO allies about including the Baltic countries—Estonia, Latvia, and particularly Lithuania.

I hope those who are considering this issue will pause for a moment and reflect on the importance of NATO membership to these small countries. I hope also that they will join me in asking this administration to think anew about the issue of membership in NATO for the Baltic countries.

The Baltic countries, meanwhile, wonder about our intentions, and they worry that Russia will misinterpret our hesitation to include their countries in the NATO alliance as a signal that we still see the Baltics in some sort of ''gray zone.'' I can tell you this: the people in Lithuania, Latvia, and Estonia do not consider themselves in a ''gray zone.'' They want to be a part of modern Europe.

There are some who say that including the Baltic countries in NATO might inflame the ultra-nationalists in Russia and destabilize the Yeltsin government. I think we should listen to leaders of the Baltics who have had some experience, in fact, more experience, close at hand, than the United States in dealing with the Russians. They know that any ambiguity in U.S. policy only emboldens the radicals in Russia. They know that if we are firm and fair, Russia will accept NATO enlargement. We should be mindful of Russian views but not fearful of their reaction.

The Baltics, you see, are very fragile. This map may not be easy to see, but I would like to point out a few things of importance.

This tiny little yellow area here is still part of Russia. It is known as Kaliningrad. The Russians have held on to it even though, as you can see, it is detached from Russia. It is, of course, a port on the Baltic Sea. But, even more importantly, it is a major military installation for the Russians. The Russians have 40,000 troops in Kaliningrad today, and they frequently traverse Poland, Belarus, and Lithuania with materials and troops going to and from Kaliningrad.

Then, next to Lithuania you will see this former Soviet Republic, now an independent state, Belarus. There are 60,000 troops in Belarus, backed up by Russian troops.

So here on its west, directly south and west of Lithuania, there are 40,000 Russian troops, and immediately to its east at least 60,000 troops. While this is happening, Lithuania has a very tiny defense force. It wouldn't even be characterized as an army by most modern definitions. Naturally, Lithuania is concerned about its own security.

The three Baltic States came together to talk about common defense. They want to make certain that they maintain their independence regardless of the whims of history. They are not seeking to expand their territory. They are looking for peaceful development and only defensive capacity. They are making reforms within their militaries and within their countries to be ready to join NATO. They have provided troops for NATO-led operations in Bosnia.

Let me tell you one brief story that I think is illustrative of the commitment of Lithuania to becoming a viable partner in NATO.

When President Clinton and the United States decided to move forward to stop the genocide that was occurring in Bosnia, we created what is known as the IFOR group. These were armies from allied countries coming together to try to bring peace to the Balkans, a daunting task that has challenged generations, if not centuries, of those who live in the region. The tiny country of Lithuania, with 3.7 million people, which has a very, very small army, made an IFOR commitment, sending a small group to be part of this effort. Sadly, one of the casualties in Bosnia, as the result of a landmine, was a Lithuanian soldier who literally gave his life as part of this peacekeeping effort in Europe. A curious thing happened after that tragedy, because the Lithuanian Parliament then had to vote almost immediately on whether to send more troops to IFOR.

Think about it for a moment. What would that have meant in the Senate of the United States or the House of Representatives if our country had lost proportionately as many as Lithuania had lost in this effort, and we had to then debate whether to expand the force that we had sent in? It would have been tough. Some would have said, ''Wait a minute; if it means loss of life and bloodshed, perhaps we should think it over.''

But the Lithuanian Parliament understood Lithuania's commitment and voted, even after the loss of this soldier's life, to expand its commitment to IFOR—to send even more troops into the area to cooperate with the United States and all of the NATO allies as part of IFOR. I think that says a lot about whether Lithuania wants to be a part of the future of the free world.

The Baltics have also welcomed the placement in their countries of what is called the Regional Airspace Initiative, which is going to increase NATO's security and be located on Baltic soil. They want to make sure that the Baltics are integrated, through this defense capacity, into all of modern Europe. All three of the Baltic countries have joined the Council of Europe, and all three formally have applied for membership in the European Union, which is important for the prosperity of that region.

So now we come to the point where we have to ask the hard question about whether or not Lithuania and the other Baltic countries should be members of NATO. I firmly believe they should be. I think the United States should make a clear and unequivocal commitment to Lithuania, to Latvia and to Estonia that they will be part of NATO, and welcome them into this new Europe, a Europe which brings together East and West finally in a combined, peaceful strategy and alliance.

I am troubled by the fact that we have been at best ambivalent on this issue. Our official spokesmen in the State Department, the Department of Defense and other channels have been careful not to mention the Baltic countries. One of our leaders in Government has said that, ''Well, we don't want to make the Russians too nervous. You know they are fearful of encirclement.''

If you visited Estonia, Latvia, and Lithuania today, you would be hard pressed to suggest that any of these countries have any type of motive to expand their territory or to in any way jeopardize the future of Russia. Yet a country like Lithuania, with 40,000 Russian troops in Kaliningrad and 60,000 troops in Belarus, can very well feel threatened by the current situation.

During my visit to Lithuania and Poland a few weeks ago, I met with many representatives of government from every political party. And I can tell you, Madam President, that this issue cuts clearly across party lines—conservatives, liberals, right and left and center. Those who were formerly members of the Communist Party and now a part of democratic efforts in these countries all believe the same thing. NATO is the key to the future.

I think the United States can be proud of the fact that it stood with the Baltic countries during those dark days after World War II, when they were forced into the Soviet Union and became, unwittingly and unwillingly, republics that were part of the Soviet Union. We said in the United States that we would never accept that. We viewed them as freedom-loving people. I was proud of that, proud as a Lithuanian-American whose mother was born in a small village in the southwest part of Lithuania, proud that we stood by them during 50 years of Soviet occupation. Then the moment came for their freedom, a moment that was marked with bloodshed. I regretted the fact that the United States wasn't the first in line to recognize their independence. In fact, 32 other nations in the world came forward to recognize a free and democratic Lithuania before the United States did. I am sorry that we were 33d, but I am glad that we did it. I am glad that we reaffirmed our commitment to the Baltic countries.

During the course of my visit to Vilnius, the Capital of Lithuania, I visited a cemetery with a monument

known as the Pieta. It is a monument to those who gave their lives during this recent struggle for independence in Lithuania. I was struck by the fact, as I walked along the gravestones of those martyrs to freedom in Lithuania, how many of them were teenagers, or in their early 20's, who lost their lives in the hope that Lithuania would be free. Many of them in their lifetimes had never known anything but Soviet domination, Communist domination, a domination where the Soviets tried to Russify the Lithuanian language, take away Lithuanian culture and traditions, close down Catholic churches and literally close down the press. They saw that.

I saw as well, when I visited, in Kaunas, the archbishop, His Excellency Sigitas Tamkevicius, who is considered a saint, having spent many years in a Soviet prison for the audacity of publishing an underground journal, how much this country has been through, how much it has suffered. It is not unreasonable for us as leaders of democracy and freedom in the world to understand why Lithuania, Latvia, and Estonia want to be part of our peace-loving and democratic alliance.

I sincerely hope that the United States, starting first with the meeting between the President and President Yeltsin in Helsinki this coming week, and then again in Madrid this coming summer, will really try to show the initiative, to broach this discussion about Lithuania and the Baltic countries becoming part of the NATO alliance. I think it is important for us to say unequivocally that this will happen and we are committed to it, and to say as well, now let us discuss with these countries and with Russia when this will occur and how this will occur.

It should be a transparent process. By that I mean we should say to the Russians this is clearly defensive in nature. These tiny countries are only looking for the assurance that they will have freedom and great opportunity in the future.

I will close, Madam President, by saying that one of the more memorable moments in my trip to Lithuania was on Independence Day, on February 16, when on Sunday I stood in the square in front of the parliament in Vilnius and saw the people gathered singing the Lithuanian national anthem and then went to the cathedral for a Mass celebrated by the Cardinal of Lithuania. At the end of this Mass they once again sang the Lithuanian national anthem, and then closed with a Catholic hymn entitled ''Maria, Maria.'' My brother and I were standing there and looked around and saw men and women with tears rolling down their cheeks. This was the hymn that the Lithuanians turned to in their churches many times in clandestine masses to give them hope that they could survive the occupation by the Russians, the occupation by the Nazis, the occupation by the Soviets. These men and women have suffered so much in the name of freedom and independence, and now they are asking us today as leaders in the free world to invite them into this family of freedom-loving and peace-loving nations.

I hope I can prevail on my colleagues in the Senate to join with me in encouraging the United States to include the Baltic countries, as well as Poland, the Czech Republic, Hungary, and all the other countries that are genuinely interested in becoming peace-loving partners in NATO. I think that will continue the great legacy that really defines America.

We are not out to conquer territory. We have defied history by being the conquerors in World War II and literally working as hard as we could to rebuild the vanquished, and now we have again the chance to say as we embark on this 21st century that this NATO alliance will guarantee that a new Europe, East and West together, will be a peaceful Europe for decades to come.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIXED SIGNALS ON ISRAELI SETTLEMENTS

Mr. BYRD. Mr. President, I was disappointed to note that the United States, alone among its allies on the United Nations Security Council, vetoed a proposed resolution urging Israel to abandon its plans to build housing for Israeli settlers in East Jerusalem. This housing initiative, which was reported last week to have been pushed by the right wing of Prime Minister Netanyahu's party, threw a cold towel on the peace process that had been so painfully promoted through U.S. intermediation.

Indeed, the President and the Secretary of State, Ms. Albright, both correctly criticized Israel's position on this issue. It is unfortunate that the President felt compelled to mix that clear signal of American displeasure with an American veto of essentially the same policy position, expressed in a United Nations Security Council resolution. American policy on this very important matter needs more consistency if the United States intends to maximize its influence and leadership on the peace process between Israel and the Palestinians. It is unfortunate that the message of displeasure has been diluted, because that softening risks emboldening the hard-liners in Israel who act as if they do not want that process to succeed.

I believe that the policy of the administration rightly remains opposed to the recently announced settlement initiative by the Israeli government, and I spoke out on the floor a few days ago in support of that position. It does not seem logically consistent that a Security Council resolution essentially expressing the same disapproval could in any way itself ''jeopardize efforts to keep the peace process moving'', as was reported by the Washington Post on March 8, 1997. Strong leadership on this matter requires sustained consistency in all foras, both national and international regarding American policy, and I hope that there will be further opportunities to make our very correct position in opposition to this new housing initiative abundantly clear.

The Israeli leader stands at a pivotal point in the Middle East. The peace process is clearly very fragile, and great efforts are needed on a sustained basis by all the parties, not some of the parties, for it to succeed. The alarming exchange of letters between King Hussein and Prime Minister Netanyahu, released publicly yesterday reveals the damage that the Israeli housing initiative is causing. Neither the U.S., not the Palestenians, nor the Israeli people should passively allow the Israeli right wing to sabotage this process anytime it decides it has gone far enough for their taste. I congratulate the President for sending an American envoy to meet in Gaza with Mr. Arafat on the overall situation.

I make an urgent plea to Prime Minister Netanyahu to look history in the face and to take a bold step and reverse his decision on the housing matter, regardless of the merits of the initiative in his mind from a narrow geographical perspective. This decision has become the central indicator of his government's commitment to peace in the Middle East. It is clear that, regardless of any merits which may attach to the housing decision, it is causing grave damage to the peace process which our governments have worked so painfully to engender. Therefore, I urge the Israeli Prime Minister to reverse that decision. This would certainly require considerable personal courage and political difficulty on his part, but it would mark him as a true leader at a time when such leadership is desperately needed. He alone is in the position to make a crucial change in the present explosive atmosphere. The process of peace in the Middle East has reached a vital juncture, and its future is highly dependent on the action he takes now.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

THE DECISION TO CERTIFY MEXICO

Mr. TORRICELLI. Mr. President, the decision by the administration to certify Mexico as an ally in the fight against narcotics raises a broader issue. In my judgment, it is time to

reach several difficult but obvious conclusions about United States policy toward Mexico and our bilateral relations. Indeed, perhaps, if there was a contribution offered by the unfortunate decision to certify Mexico in the war against narcotraffickers, it is the growing sense in the United States of the need for a moment of honest reflection about Mexican-American relations. In short, it is time to simply tell the truth about Mexico.

Mexican-American policy in these years has been based, in my judgment, on three broad deceptions, deceptions not only of ourselves but, perhaps more importantly, of the Mexican people themselves. Deceptions which I recognize have been made, sometimes, with the best of intentions. The United States has understood that some historic injustices create particular sensitivities in Mexico. There is always the need to account for nationalist pride and the obvious concern of internal interference. But not telling the truth to our own people, or to the people of Mexico, allows the Mexican people to avoid dealing with the realities of their own country. This conspiracy of silence about the realities in Mexico prevents the United States from constructing real policies to defend our own interests, and hampers our ability to work with Mexico in protecting its own interests.

These three deceptions are, in my judgment, convincing the American people that Mexico is, in fact, making the transition to a vibrant democracy; that Mexico has a genuinely free economy; and, finally, that Mexico is, indeed, participating in waging a war on narcotics. I believe that an analysis of these assumptions will establish that none of them are true.

First is the question of the Mexican economy. In 1993, in an effort to support the North American Free-Trade Agreement, the American people were told that if only Mexico had access to the American market, then Mexico would complete its historic transition to a free and open economy. I understood the reasons to support NAFTA. A free-trade agreement for North America makes sense. But a condition precedent of a North American Free-Trade Agreement is that each of the participants genuinely has a free and an open economy. Therefore, this Congress could not have affirmatively accepted the treaty without being convinced that Mexico, like Canada and the United States, would accept the rules of a market economy.

The simple reality is that in 1997, despite assurances to the contrary, Mexico retains strong elements of a centrally directed economy, officially controlled and unofficially corrupt. The most important elements of the Mexican economy are either under state sponsorship or government control, including banking, finance, and petroleum. The result has been, predictably, anemic growth which stimulates increased migration and denys the Mexican people real economic opportunity.

Last year, 1.2 million young Mexicans attempted to join the national work force, only to find employment available for a fraction of those seeking work. Since the 1980's, irregular or low levels of growth in the economy have been the exception in the region. Throughout that decade, annual growth in Mexico, the GNP, averaged 1 percent. In some years in the 1990's it grew, but the results were uneven for the people themselves.

The reasons are clear. It is not enough for the national leadership to declare Mexico a free economy. Making pledges to the United States in order to get access to NAFTA accomplishes nothing if the fundamentals of a free economy are not established. Most obvious is the need to allow the development of a free trade union movement. But, indeed, Mexico will conclude the 20th century as one of the last nations in our hemisphere to still not permit the development of independent trade unions.

The results are declining real wages of a magnitude of 70 percent in the last 20 years, a minimum wage which decreased by 13 percent in 1995 and fell by an additional 11 percent in 1996.

A free economy means a free market for labor. Real competition requires that people can engage in collective bargaining. Similarly frustrating to the development of a free economy in Mexico has been the failure to privatize important sectors of the economy. In September of 1995, the Mexican Government announced the sale of 61 petrochemical plants that would be open to the free economy and to foreign investment. It was an attractive response to the promise of NAFTA. On October 13, 1996, the Mexican Government reversed its policy and has maintained Government control over this vital center of the Mexican economy.

As a result of this failure to permit the free exchange of labor, foreign investment, and privatization, Mexico is one of the few countries in the world where, because of declining wages, life expectancy has leveled off and may actually be declining.

The Mexican peso, because of a failure to adequately control both debts and the currency, literally collapsed in 1994, requiring $40 billion of external financing from the United States and other international institutions. And in 1997, the international community faces the same prospect, because the peso is, again, overvalued and, again, facing downward pressure.

The first simple truth, therefore, is we need to be honest with ourselves, investors, and the Mexican people. The promise of establishing a free market in Mexico, the ending of state-sponsored industries, has not been kept. Words do not suffice. The promises mean nothing. Mexico remains a state-controlled and directed economy where market forces are not allowed to operate. And for whatever price that may hold for American investors, or Mexico's new trade partners in NAFTA, the price is principally borne by the Mexican people themselves, who, despite their labors and their sacrifices and their desire to free their economy, are on a downward spiral of opportunity and living standards.

The second truth concerns the promise of democracy in Mexico. For 7 decades, the Mexican people have been victimized by a one-party authoritarian state. It is self-perpetuating and it is not a democracy under any contemporary definition. Successive Mexican administrations choose the next government. Power has been maintained through corruption and outright electoral theft. As recently as 1988, Mexico's ruling PRI party had to resort to outright fraud to guarantee the election of President Carlos Salinas. In 1994, the leading presidential candidate was assassinated, with credible allegations that elements of his own party conspired in the assassination because of his opposition to electoral reforms that might have fulfilled elements of the promise of democracy.

The level of corruption and denial of democratic freedoms has not involved simply the presidency, but almost every level of government. This includes disputed state elections throughout the 1980's and during this decade. In at least four recent gubernatorial elections the opposition PAN party ultimately took control or demonstrated a strong presence because of court challenges and public opposition.

In 1996, despite promises of electoral reform, the PRI majority in the Mexican Congress placed restrictions on electoral procedures and public financing that greatly restricted the ability of opposition parties to participate in, and have a chance of succeeding in, Mexican elections.

Promises of electoral reform in Mexico have simply not been realized. Access to the media, public finance, and control of government institutions to the advantage of the ruling party have all gone without change. Despite public protests and international challenges which have resulted in some successes in state gubernatorial elections, the simple truth is the 20th century will end without Mexico having experienced the peaceful transfer of power from the ruling party to the opposition. That, Mr. President, is a contradiction of any claim that Mexico is operating under contemporary standards of democratic elections.

Mexico has not been alone in having difficulty making the transition from one-party government to a competitive pluralist system. What makes Mexico different is that, unlike in Japan or Italy which had similar monopolies on power in the postwar period, but whose governments bore American encouragement and sometimes criticism, there has been a conspiracy of silence about the realities of Mexican politics and its economy.

Those who remain silent or fail to inform our people or the Mexican people of the truth of their national experience bear responsibility.

There are, indeed, many victims of the realities of Mexican politics. The failure to democratize has caused just as much suffering as the loss of economic opportunity. Suffering which forces thousands of Mexicans to migrate or live with the downward spiral of the Mexican economy.

In 1996, Amnesty International's annual report accused Mexican security forces of outright human rights abuses including the murder and torture of leftist rebels. They also uncovered the use of torture, and the many disappearances which have occurred throughout the areas of conflict. The Mexican media are no less a target. Journalists have been intimidated, abducted, and even killed, with cases as late as 1995 still unresolved.

Public financing of the media, the corruption of journalists, and the monopoly of government power still distorts the view of the Mexican people about their own country and its problems, with predictable results. The Mexican people are unable to express themselves equally through the media, and are unable to gain control of their own lives through the electoral system. They face a declining standard of living because of the monopoly of government power in the economy, and are tragically, but predictably, now involved in guerrilla operations in fully eight of Mexico's states.

Third and finally, Mr. President, is the truth about narcotrafficking in Mexico. Not only is it true that the Mexican people are paying an extraordinary price for the failure to develop a genuine market economy, and democratic institutions, but they, together with the American people, are paying an enormous price for the failure to control or even cooperate in controlling illegal drugs.

The administration has been asked a simple question: Is, or is not Mexico an ally in the fight against narcotrafficking? The administration has answered by explaining that we have to consider the past difficulties in Mexican-American history. They have responded that Mexico is an increasing source of American investment. Those, Mr. President, were not the questions.

The question is this: Is, or is not Mexico cooperating? The simple truth is that the highest levels of the Mexican Government have been corrupted and are, at a minimum, working at cross-purposes with the U.S. Government in controlling the flow of narcotics.

Indeed, the administration's own reports conclude that fully two-thirds of all of the cocaine entering the United States is being transshipped through Mexico. The State Department has concluded that Mexico is now the most important location in the Western Hemisphere for the laundering of narcotics funds.

On March 1, we learned that General Gutierrez, the drug czar of Mexico, was himself arrested for complicity and conspiracy with drug traffickers.

Mr. President, the decision to certify Mexico as an ally in the war against narcotics was a decision to protect the Mexican Government from criticism. It was the wrong decision. The simple truth is that every day, in every way, Mexican officials are permitting the transshipment of narcotics to our country. New laws to stop the laundering of funds in Mexican banks have not been enforced. Not a single Mexican bank has had to alter its operations to comply with new legislation.

Of the 1,250 police officers dismissed for corruption because of narcotics in Mexico, not a single officer has been prosecuted.

Despite 52 outstanding extradition requests to send corrupt officials to the United States, not one has been complied with. Indeed, not a single Mexican national has been extradited to the United States because of drug-related charges.

Most discouraging of all, the head of the DEA, Thomas Constantine, concluded before this Congress:

> There is not one single law enforcement institution in Mexico with whom the DEA has an entirely trusting relationship.

Mr. President, there were times during the cold war, indeed times during moments of national peril when the United States needed to compromise an honest look at the world because of issues of national security. The end of the cold war has ended that time.

We need to honestly assess our relationship with Mexico. We need to tell the American people the truth about the state of Mexican democracy, its economy, and its fight against narcotrafficking. Change will never come without the truth. Ending the certification process will begin that national debate in this Chamber.

I urge the Senate to reject the administration's conclusion, which cannot be borne out by the facts. Let us tell the truth about Mexico.

Thank you, Mr. President. I yield the floor.

ELDERLY IMMIGRANTS AT RISK OF LOSING SSI

Mr. KENNEDY. Mr. President, we have received early reports from the Social Security Administration large numbers of of elderly legal immigrants who will lose their SSI benefits under the new welfare law unless Congress acts to help them.

In Social Security field offices across the country, the same reports are being heard. Elderly immigrants come into the field offices after receiving a notice that their SSI benefits will be terminated unless the immigrants can prove U.S. citizenship. Many of these immigrants are citizens, but they cannot remember where they stored their naturalization certificate. Most are very old and often infirm. Sometimes they are too infirm to remember whether they were naturalized or not.

For example, two elderly women, both over 90 years old, were senile, and confined to a convalescent home. They sought help from SSA after receiving the notice that their SSI payments would be terminated. Both women say they were born in the United States, but they cannot prove their citizenship.

Another woman, born in Ireland over 80 years ago, came to the US when she was 2. Her parents were naturalized, but she has no proof that she was. She has never left the United States, and believes she is a citizen, but she has no way to prove it.

The Social Security office in New York City reports that a woman's 85-year-old daughter came to inquire about her 105-year-old mother's termination notice. She stated that her mother was born in New York City, but has no birth certificate. Her mother has been receiving SSI benefits since 1976. The only way to find a record of her birth is to search the New York City birth records from 105 years ago. No one knows if the birth was even recorded.

These are just a few stories of the hundreds coming into Social Security offices since the termination notices were mailed a few weeks ago. Several recent news articles have reported stories of legal immigrants about to lose their benefits. I ask unanimous consent that these stories may be placed in the RECORD following my statement. Unless Congress intervenes, the consequences of the welfare bill will be too harsh.

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

[From the Des Moines Register, Mar. 3, 1997]

OVERWHELMED BY OVERHAUL

(By Shirley Salemy)

Israel and Faina Staroselsky are snared in the intricacies of the new welfare overhaul law.

The couple, both 68, fled anti-Semitism in Ukraine five years ago. They applied to become naturalized U.S. citizens seven months ago. They're still waiting, they say.

And if they don't get citizenship soon, they'll lose their Supplementary Security Income.

''We got this letter,'' said Israel Staroselsky, pointing to a memo from the Social Security Administration. ''If we are not able to prove our American citizenship by May, we will lose all sources of life.''

If the federal welfare overhaul is a gigantic jigsaw puzzle, the pieces that shape assistance to poor, elderly and disabled legal immigrants may be the most intricate—the ones that remain on the card table the longest.

The rules are complicated, and people like the Staroselskys aren't the only ones confused. Lawmakers are, too.

A DRAMATIC CHANGE

''Generally, I think the Legislature is real confused'' about the ins and outs of the law, said Sen. Maggie Tinsman, R-Bettendorf and co-chairwoman of the joint human services appropriations subcommittee.

''It's always confusing when the law changes,'' Tinsman said. ''This is a dramatic change. And people always think the worst.''

Generally, the new law prohibits non-citizens who are not new refugees, U.S. military veterans or have not worked and paid taxes

in America for at least 10 years from getting most forms of public assistance—that is, Supplemental Security Income, food stamps, Medicaid and cash assistance for families.

It also bars new arrivals—immigrants who came to the United States after Aug. 22, 1996, the day President Clinton signed the bill—from receiving most public benefits during the first five years in the country.

But the states have some options to provide more help. Iowa officials say that's what they will try to do.

The Department of Human Services is proposing to continue benefits for some of the immigrants who would be cut off. State welfare officials are holding community forums around the state to explain the new law.

For immigrants who were already here when Clinton signed the law, DHS intends to continue providing cash assistance in its core program, called the Family Investment Program, and Medicaid.

''We felt it was a humanitarian thing to do,'' said Ann Wiebers, DHS welfare reform coordinator.

APPROPRIATION NEEDED

But it's up to the Iowa Legislature to appropriate money for the program. Tinsman thinks lawmakers will concur with the department's decision.

The department would need to use a pool of state funds to help new arrivals in those programs. For the Family Investment Program alone, the estimated cost over the next two years would be an additional $702,237.

Tinsman said lawmakers are concerned about legal immigrants who haven't become citizens.

''We suspect most of them are elderly and in nursing homes,'' she said. ''We have money in the budget to take care of that.''

She said new arrivals must have sponsors to come to the United States. Sponsors must now sign binding affidavits of support—which means they're held financially liable for immigrants who fall into distress.

''I think they're going to be covered, just not by government,'' she said.

Sen. Johnie Hammond, D-Ames, who also serves on the subcommittee, said the panel hasn't talked about the way the new law affects legal immigrants.

''We need to look at who's falling through the cracks and do we really want them to fall through the cracks,'' Hammond said.

EFFECTS AREN'T KNOWN

Advocates, meanwhile, say the way the new law will play out in Iowa is still unclear.

''The law is still so new,'' said Ta-Yu Yang, a Des Moines attorney who specializes in immigration law. ''We are still talking on the macro stage of what to do here in Iowa, whether to continue some of the benefits or not.''

But Yang, who is president of both the Asian-American Council and the Taiwanese Association, said: ''I don't think there's any question that so much of the legislation is going to have discriminatory impact. I don't know if they intended it to be that way or not.''

Terry Meek, executive director of Proteus, a nonprofit group that serves migrant and seasonal farm workers, said such laborers will likely be affected by new food-stamp rules. Now, legal immigrants must work and pay taxes for 10 years before they're eligible.

But many farm workers are paid in cash or through crew leaders, Meek said. She's not sure how those workers will document their work history.

Sandra Soto, an immigrant-rights advocate at the American Friends Service Committee, thinks that the new law asks welfare workers to become specialists in immigration law and that it's creating a lot of confusion at local welfare offices.

THERE'S CONFUSION

''I'm not saying they're denying benefits for the sake of it,'' Soto said. ''I'm saying there's confusion. Getting involved in immigration is difficult, because there are huge numbers of proofs of immigrant status.''

She, too, worries about immigrants who may not have documents to prove their years of work.

She points to Blanca Vivas, 44, who came to this country illegally in 1986 from Nicaragua. Vivas, speaking Spanish translated by Soto, said she first worked in the fields of the Southwest, received amnesty and eventually came to Iowa and worked in the meatpacking industry. She earned money with a temporary work permit that was renewed last year.

Debilitating pain in her shoulders and back from the heavy lifting she did prevents her from working any more. She lacks the documents to prove her years of work. And her work permit is no longer valid.

She now lives in Des Moines with the support of her boyfriend. She'd like to get food stamps and medical help but knows she's not eligible.

''I think ignorance has led us to many bad things,'' she said. ''It's one of the major barriers. Even if we have good work ethics, we are coming to a country where the culture, the language and many other things are different.''

NEW CITIZENS

Immigration and Naturalization Service officials conservatively anticipate more than 2,000 immigrants will naturalize during fiscal 1997.

The welfare law is playing a role in the boom, said Michael Went, deputy director of the INS office in Omaha, which oversees Iowa. But he also thinks people are simply taking the final step in the immigration process.

The Staroselskys believe it's their only chance.

''If we will not become citizens according to the new law, we will lose all of this,'' Israel Staroselsky said, sitting at a table in the couple's one-bedroom apartment.

They left Kiev as refugees. He was a cardiologist, she was a pediatrician. They aren't certified to practice medicine in the United States, so he worked for two years as a researcher in Des Moines, then retired.

If they had known about these changes when they were still in Ukraine, their decision to come might have been different.

''We came five years before,'' Israel Staroselsky said. ''If we had known about this law, it could be another decision.''

Blanca Vivas, 44, is one of many workers hurt by new requirements that legal immigrants must work and pay taxes 10 years before they can get food stamps. She's worked in this country since 1986 but lacks documents to prove it. Now she's disabled, and her work permit is no longer valid.

[From the Raleigh (NC) News & Observer, Mar. 2, 1997]

OLDER IMMIGRANTS FACE WELFARE DILEMMA

CHARLOTTE—Immigrants in North Carolina face longer waits for naturalization than most other states, making worries about losing welfare benefits more realistic for newcomers from overseas.

The Charlotte office of the U.S. Immigration and Naturalization Service is ranked among the nation's slowest processing offices, according to a report released Saturday by the American Immigration Lawyers Association.

North Carolinians, who apply for naturalization at the Charlotte INS office, can face between 21 and 28 months of waiting before their citizenship records are processed.

The wait might mean disabled and elderly immigrants could lose some federal benefits. Under the welfare reforms, recipients of some benefits must become citizens to keep them.

Those who aren't U.S. citizens and have lived here at least five years are receiving letters saying food stamps and Supplemental Security Income could be eliminated as soon as May. The letter, from the Social Security Administration, also says Medicaid could be eliminated by summer.

''There was no exception made for them (in the new welfare law), and that's one of our biggest sore spots,'' said Marlene Myers, coordinator of the N.C. Refugee Office, one of several groups that have met with INS officials to find a way to help these immigrants. ''(The elderly or disabled) are kind of caught in a crack.''

The Charlotte INS benefits staff processed 2,500 naturalization applications two years ago. This year, they expect to handle more than 7,000. Once the welfare law took effect, the office was swamped with applicants.

''No one likes to have people wait,'' said Donald Young, officer in charge of the INS office in Charlotte. ''We go along, day in, day out, trudging along. But again, that slowdown is nationwide, not just Charlotte.''

[From the Christian Science Monitor, Mar. 4, 1997]

AMID WELFARE CUTS, STATES TRY TO AID IMMIGRANTS

(By Skip Thurman)

An Iranian man living in Denver can't muster the courage to tell his elderly mother—a legal immigrant who has lived in America for almost 20 years—that her monthly checks from the federal government are about to end. His best hope now is that the state of Colorado will continue some of her subsidies.

Legal immigrants across the US are beginning to see that states as their last best hope to offset the imminent loss of all federal benefits—a cutoff required by the new national welfare-reform law.

State officials by and large seem to be sympathetic. Of 40 states that have filed spending plans, 36 report they will continue benefits to legal immigrants who fall off the federal rolls.

''In the small world of welfare, we are in pretty good shape,'' says Dick Powers of the Massachusetts Department of Transitional Assistance. The state has enough money to help needy legal immigrants—at least for now—because it's currently getting more money from Washington than it needs for cash assistance to a dwindling welfare caseload.

But states with large numbers of immigrants may not have the same luxury. New York Gov. George Pataki (R) anticipates spending an estimated $240 million to cover legal immigrants who will lose federal aid.

In Texas, Gov. George W. Bush (R) argues that changing the rules for legal immigrants already in the US was unfair.

''He has no concern about prospectively saying to future immigrants, 'You will no longer be eligible,''' says Bush spokeswoman Karen Hughes. ''But he is calling on the federal government to provide funding for this part of the population.''

The National Governors Association says many governors, including Mr. Bush, are asking for extra help.

''We aren't talking about reopening the welfare bill. We are talking about amending a little thing on the edge of it,'' says Nolan Jones at the NGA.

President Clinton has put forward a plan to restore many benefits to 350,000 of the 500,000 immigrants most severely affected by

welfare reform. Benefits most at risk include Supplemental Security Income (SSI), a monthly benefit (averaging $400 per recipient) that augments the incomes of the aged or disabled; Medicaid, which helps the same group pay medical bills; and food stamps.

But many lawmakers say revising the law to soften its impact on immigrants is unlikely.

''It's just not going to happen,'' says Rep. Clay Shaw Jr. (R) of Florida, who led the charge for welfare reform in the last Congress.

For one, federal budgeteers would fight such a move. About one-fourth of the savings expected from welfare cuts will come from ending benefits to legal immigrants.

While Congressman Shaw expects to feel more pressure to revise the law as welfare reform kicks into effect over the next four months, he says. ''We've really got to believe in what we are going to accomplish with this, because we are going to be dogged all the way.'' He points out that 51 percent of SSI benefits go to elderly noncitizens, something he says was never intended by the authors of the original legislation.

Shaw and other Republicans are open to one possible compromise that would provide states with additional block-grant money for programs like food stamps. Mr. Clinton has sought to restore $10 billion in benefits. But Republicans on Capitol Hill would approve no more than a total of $2 billion for states.

The pending cut in benefits has prompted a large number of legal immigrants to apply for US citizenship. Almost 2 million are expected to apply this year, three times more than applied in 1995.

But for elderly immigrants, the naturalization process can be daunting. The US Immigration and Naturalization Service reports that only 9 percent of immigrants older than 65 ever naturalize. Such is the case for the elderly Iranian woman now living in Denver. Her son, who asked not to be named, explains that the entire family fled to the US after the Khomeni government took power in the late 1970s.

''She has gone through this before. She was a wealthy woman and had everything taken from her.'' he says. Undergoing the naturalization process, including the exams to become a citizen, would be difficult. ''Her English is still not very good,'' he says ''There is no way she could pass the test.''

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, March 12, the Federal debt stood at $5,361,482,510,992.32.

One year ago, March 12, 1996, the Federal debt stood at $5,017,284,000,000.

Five years ago, March 12, 1992, the Federal debt stood at $3,854,311,000,000.

Ten years ago, March 12, 1987, the Federal debt stood at $2,247,042,000,000.

Fifteen years ago, March 12, 1982, the Federal debt stood at $1,048,967,000,000 which reflects a debt increase of more than $4 trillion—$4,312,515,510,992.32—during the past 15 years.

HERE'S WEEKLY BOX SCORE ON U.S. FOREIGN OIL CONSUMPTION

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending March 7, the United States imported 7,510,000 barrels of oil each day, 195,000 barrels more than the 7,315,000 imported during the same week a year ago.

Americans relied on foreign oil for 53.8 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,510,000 barrels a day.

RATIFICATION OF THE CHEMICAL WEAPONS CONVENTION

Mr. KENNEDY. Mr. President, it is time—long past time—for the Senate to end the embarrassing delay and ratify the Chemical Weapons Convention. The convention is the most significant nonproliferation agreement to come before the Senate since the 1968 Nuclear Non-Proliferation Treaty. It is a major step toward eliminating this entire class of weapons of mass destruction. U.S. ratification of the convention, before it takes effect on April 29 of this year, is vital to our national security. U.S. support for the convention will demonstrate our continued commitment to halting the spread of these weapons of mass destruction. This is far too important a subject for further delays. It is time to end the stalling and bring the convention to a vote. There is no justification for a handful of Senate opponents of the convention to bottle it up in the Foreign Relations Committee.

This treaty is clearly bipartisan. It was negotiated under President Reagan, concluded and signed by President Bush, and submitted to the Senate for advice and consent by President Clinton. It has broad bipartisan support in the Senate, and it should be voted on by the Senate, now.

The Chemical Weapons Convention deserves this broad support, because it makes sense for America's national security. We have the opportunity now to move forward and rid the world of these senseless weapons.

The United States initially led by example, by unilaterally destroying our stockpile of chemical weapons. The Chemical Weapons Convention will extend this requirement to all other nations that approve the convention.

The convention also provides for monitoring and controls to reduce the proliferation of the chemicals and technology used to make such weapons. These restrictions will make it much more difficult for terrorists and rogue nations to develop these weapons of mass destruction. The convention also contains provisions to investigate and punish violators, including short-notice inspections of chemical manufacturing sites and other facilities.

Opponents of the convention argue that since it is not being ratified by all nations, it will not stop rogue countries from acquiring these deadly weapons. But no international treaty starts with worldwide support. Countries suspected of chemical arms violations will be subjected to broad economic and arms embargoes. In fact, the convention specifically restricts the export or transfer of controlled chemicals to nonparticipating nations, a clear deterrent to rogue countries.

American leadership is essential to halt the proliferation of these deadly weapons. It is already a serious international embarrassment that the United States, the leading country in the development of the convention, has taken over 4 years to ratify it. If not us, who? If not now, when? As of today, 71 nations have ratified the treaty, including the United Kingdom, France, Germany, and Canada. We stand with Iraq, North Korea, Libya, and Syria as nonsigners. The Senate needs to act now to end the unconscionable delay in ratifying this urgently needed convention. The longer we delay, the greater the danger of the proliferation of these devastating weapons.

Protecting our own soldiers and civilians from chemical attack is and will continue to be a high priority. Without U.S. support for this convention, rogue nations will have a greater incentive to acquire chemical weapons, and our military and civilian populations will face greater risk of chemical attack. The Joint Chiefs of Staff, those directly responsible for the men and women who are most at risk from chemical attack, fully support this convention.

It is clearly in our national interest to ratify the convention before April 29, so that this country can be involved in the initial implementation legislation, the budget negotiations, and the verification provisions for tracking chemical weapons worldwide.

Critics of the convention say that it will impose high costs on the U.S. chemical industry. But our industry and defense representatives have been involved in the development of the convention from the beginning. They helped draft the convention's language to ensure that their interests will not be compromised. The chemical industry supports ratification, because they know that if the convention enters into force without U.S. support, they will lose hundreds of millions of dollars in annual trade. This economic burden more than offsets the marginal costs that compliance with the convention will impose on the industry.

Opponents also argue that the convention will reveal U.S. trade secrets to foreign inspectors. But the United States will always be the target of industrial espionage, with or without this agreement. Issues relating to the confidentiality of product and processes received a great deal of attention

during the negotiations, and they are addressed in detail in the convention.

In addition, the Commerce Department's expertise in protecting the proprietary interests of U.S. companies will continue to assist our chemical industry. The strong support for the convention by the Chemical Manufacturers Association, the Pharmaceutical Manufacturers Association, and the National Federation of Independent Business is a tribute to the fact that the concerns of these industries are fully protected.

Ratification of the Chemical Weapons Convention is vital to America's national security. I commend all those who have done so much to make this achievement possible. It represents arms control at its best, and I urge my colleagues to vote for ratification.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CAMPAIGN FINANCE AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the pending business.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 18) proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

The Senate resumed consideration of the joint resolution.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. FEINGOLD. I rise today to oppose the proposed constitutional amendment offered by the junior Senator from South Carolina and the senior Senator from Pennsylvania.

Mr. President, first I would like to say a few words about the Senator from South Carolina. Our colleague, Senator HOLLINGS, has been calling for meaningful campaign finance reform for perhaps longer than any other Member of the U.S. Senate. I disagree with this particular approach. But I certainly do not question his sincerity or commitment to reform.

Mr. President, when the U.S. Senate last had an extended debate on the issue of campaign finance reform back in 1993, the junior Senator from South Carolina offered a sense-of-the-Senate amendment to take up a constitutional amendment very similar to the one that is before us today.

I remember we had a very short period of time before that vote came up, and I made a decision and I voted with the Senator from South Carolina on that day. I did so because I believed that other than balancing the Federal budget, there was perhaps no more fundamental issue facing our country than the need to reform our election laws.

Such a serious topic I believed at the time merited at least a consideration of a constitutional amendment. And I will confess to a certain level of frustration at that time with the fact that the Senate and the other body had not yet acted to pass meaningful campaign finance reform in that Congress.

But, Mr. President, to be candid, I immediately realized, even as I was returning to my office, that that might not have been the best vote I ever cast. I started rethinking right away whether I really wanted the U.S. Senate to seriously consider amending the first amendment to address even this subject of which I and so many other Americans feel passionately about.

Then, 18 months later, my perspective on this question began to change even more as I was presented with two new developments here in the U.S. Senate.

First, I was given the privilege of serving on the Senate Judiciary Committee, and, second, I would soon learn that the new 104th Congress was to become the engine for a trainload of proposed amendments to the U.S. Constitution. As a member of the Judiciary Committee, I had a very good seat to witness first hand what was being attempted here with regard to the basic document of our country, the Constitution.

It started with a proposal right away for a balanced budget constitutional amendment, and we were considering a term limits constitutional amendment, and then a flag desecration constitutional amendment, then a school prayer amendment, then a supermajority tax increase amendment, and then a victims rights amendment. In all, Mr. President, 135 constitutional amendments were introduced in the last Congress.

As I saw legislator after legislator suggest that every social, economic, and political problem we have in this country could be solved merely with enactment of a constitutional amendment, I chose to strongly oppose not only this constitutional amendment but others that also sought to undermine our most treasured founding principle. I firmly believe we must continue this reflective practice of attempting to cure each and every political and social ill of our Nation by tampering with the U.S. Constitution. Mr. President, the Constitution of this country was not a rough draft. We must stop treating it as such.

I want to say, because the Senator from South Carolina has just arrived and I know that he is not one who has engaged in such an attitude toward the Constitution, I know very well he only makes a proposal like this with the most serious consideration and for the goal of trying to do something about campaign spending. What I am addressing here, what I saw in the last Congress was a wholesale attempt to try to amend what seemed to be almost virtually every part of the U.S. Constitution.

We must also understand that even if this constitutional amendment were to pass this body today, which it will not, but even if it did, it would not take us one single, solitary step closer to campaign finance reform. It is not a silver bullet. This constitutional amendment merely empowers the Congress to set mandatory spending limits on congressional candidates. Those are the same kind of mandatory limits that were struck down in the landmark Buckley versus Valeo decision.

Here is the question I pose for supporters of this amendment: If this constitutional amendment were to pass the Congress and be ratified by the States, would campaign finance reformers have the necessary 51 votes—or more likely what would be required would be 60 votes—to pass legislation that included mandatory spending limits?

Mr. President, in January I joined the senior Senator from Arizona in introducing the first bipartisan campaign finance reform proposal in over a decade. That proposal, unlike the law that was considered in Buckley versus Valeo, includes voluntary spending limits. That is to say, Mr. President, we offer incentives in the form of free and discounted television time to encourage but not require candidates to limit their campaign spending. When the Senator from Arizona and I bring that legislation to the floor of the Senate, I have no doubt that we will be met with strong resistance from a number of Senators. So the notion that this constitutional amendment will somehow magically pave the way for legislation that includes mandatory spending limits simply ignores the reality of the opposition that campaign finance reformers face here in the Senate and I think would face in the Senate at the time of ratification of any such amendment.

Mr. President, this amendment certainly, if ratified, would remove the obstacle of the Supreme Court. But it will not remove the obstacle of those Senators such as the junior Senator from Kentucky who believe that we need more money, not less, in our political system.

Most disconcerting to me, Mr. President, is what this proposed constitutional amendment would mean to the first amendment. I find nothing more sacred and treasured in our Nation's history than the first amendment. It is perhaps the one tenet of our Constitution that sets our country apart from every mold of government form and tested by mankind throughout history. No other country has a provision quite like the first amendment.

The first amendment is the bedrock of the Bill of Rights. It has as its underpinnings the notion that each individual has a natural and fundamental right to disagree with their elected leaders. It says that a newspaper has an unfettered right to publish expressions of political or moral thought. It says that the Government may not establish a State-based religion that would infringe on the rights of those

individuals who seek to be freed from such a religious environment.

Last year I stood here on the floor of the Senate with a number of my colleagues to oppose a proposed constitutional amendment that would have prohibited the desecration of the U.S. flag. I did so because that amendment as proposed, for the first time in our history, would have taken a chisel to the first amendment and said that individuals have a constitutional right to express themselves unless they are expressing themselves by burning a flag.

Now, Mr. President, I deplore as much as anyone in this body any individual who would take a match to the flag of the United States. And I am firmly convinced that unrestrained spending on congressional campaigns has eroded the confidence of the American people in their Government and their leaders. I believe we should speak out against those who desecrate the flag. I believe we should take immediate steps to fundamentally overhaul our system of financing campaigns. Mr. President, I do not believe, as the supporters of this constitutional amendment and other amendments believe, that we need to amend the U.S. Constitution to bring reform to our system of financing campaigns.

Mr. President, sometime in the next day or so, this constitutional amendment will lose. That has been predetermined, or the supporters of this amendment probably would not have been granted consideration here on the floor of the Senate in this manner. This debate has some characteristics of a charade. Again, that is not because of the author, who is sincerely advancing this provision because he believes in it and he thinks it should become part of the Constitution. The ultimate outcome of the charade is everyone knows this will not pass. There are those who want this to sort of be the campaign finance reform debate for this Congress. Have a couple of days of talk, no amendments, have a vote, and be done with it. Be done with campaign finance reform.

Mr. President, believe me, I know the feeling. The Senator from Arizona and I have been there. We were there last year, last summer. We were allowed to bring our bipartisan campaign finance reform legislation to the floor last June, but here was the deal: No amendments, just 2 days of debate, and then we had to vote on cloture, whether we will filibuster, just after 2 days. That was it. No chance to fix the bill up or make it appealing to other Members like we do in other things. That is very similar to what is going on here. We were only allowed to do that after the votes had been counted and assurances given that our bill would suffer a quick and painless death. It was not entirely painless, but it was not unanticipated. We did get a majority of the votes in this body on the first try, 54 out of the required 60 votes but, of course, when the process is set up like this, this simply with these few options, we know the outcome and we know what will happen here.

Mr. President, I want to point out that things just look a little different this year on the issue of campaign finance reform than they did a year ago. A few things have happened. The McCain-Feingold bill has not been placed on the Senate Calendar this time. It does not appear that the majority leader is terribly interested in bringing it up before the March recess, the Memorial Day recess, or possibly even before the turn of the century. We can speculate about the meaning of that, but one thing is clear: This constitutional amendment will not pass this body, and until this body makes a commitment to considering meaningful, bipartisan campaign finance reform, campaign spending in this country will continue to go completely unrestrained.

Nothing in this constitutional amendment before the Senate today would prevent what we witnessed in the last election—the allegation of illegality and improprieties, the accusations of abuse, and the selling of access to high-ranking Government officials would continue no matter what the outcome of the vote we had on this constitutional amendment. Only the enactment of legislation, Mr. President, that bans soft money contributions and that encourages candidates to voluntarily limit how much they spend on their campaigns will make a meaningful difference.

Mr. President, I see Members of the Senate as having, really, three choices. First, they can vote for constitutional amendments and partisan reform proposals that basically have predetermined fates of never becoming law. That allows you to say you voted for something and put the matter aside. Second, they can stand with the junior Senator from Kentucky and others who stood here on the Senate floor last June and told us all was well with our campaign finance system and we should all be thrilled that so much money was pouring into the campaign coffers of candidates and parties. That is a second option that some folks are still pursuing. A third option, Mr. President, Senators can join with the Senator from Arizona and myself and others who have tried to approach this problem from a bipartisan perspective and have tried to craft a reform proposal that is fair to all.

We have said on countless occasions that our proposal is open to negotiation. We simply have two goals: To encourage Senate candidates to spend less on their campaign and to give challengers an opportunity to run a fair and competitive campaign against well-entrenched incumbents. If you share those goals, we can work together to produce a meaningful reform proposal.

Let me say our proposal is picking up steam. We seem to be adding new cosponsors a couple of times a week.

Three days ago, I was challenged on the floor by a stated opponent of our bill as to why I was unwilling to address, he said, a particular aspect of our campaign finance system. Now, this surprised me very much because, in the 18 months since this legislation was originally introduced, this Senator had not approached me one single time to ask if I would be willing to address that issue. I told this Senator the other night, and I say to all my other colleagues, if you share those two basic goals of reducing campaign spending and leveling the playing field with the Senator from Arizona and I, we are willing to work with you to address those concerns.

Let's do this in the context of a real effort, a real debate, not a charade. That real debate will begin when a comprehensive bipartisan campaign finance reform bill is brought to the floor of the U.S. Senate. After this amendment fails, and as the Governmental Affairs Committee proceeds with the investigation into illegal and improper conduct by Presidential and congressional candidates in the last election, it is my hope that there will be an opportunity for an open and full debate on the issue of campaign finance reform.

Mr. President, without meaningful bipartisan campaign finance reform, the American people will continue to perceive their elected leaders as being for sale. Unfortunately, they will continue to distrust and doubt the integrity of their own Government.

So, Mr. President, I urge the Members of the Senate to reject this amendment, again, with the understanding that I greatly admire the sincerity and commitment that its author brings forward on this issue.

Mr. HOLLINGS. Mr. President, I have tremendous respect for my colleague from Wisconsin. I voted for McCain-Feingold. But in a breath, when the Senator says he wants meaningful campaign finance reform, he is asking that the only real meaningful campaign finance reform be tabled or rejected.

Let's look, for example, at the Senator's own initiative here. In McCain-Feingold, it says that voluntary spending limits are set according to a State's population. You get free broadcast time—30 minutes of prime time—and then you get half-price broadcast discounts and reduced postal rates. How much is that going to mean to the Huffington-type campaigns that we see, where they are ready to spend $30 million, or the Steve Forbes-type campaigner, who is ready to spend $35 million? That is not even going to give them a burp in their campaign.

The candidate's individual contribution limits would be raised from $1,000 to $2,000, if the opponent does not agree to the voluntary limits or declares an intent to spend $250,000 or more of their personal funds. But that is just the interest on the money the amounts of money we are talking about, were it to be loaned. But they have it available. So that really doesn't control the buying of the office. It doesn't control the

buying of the office. It is not meaningful campaign finance reform.

The Senator wants to ban soft money. Now, here it is. With respect to the Colorado Republican Federal Campaign Committee against the Federal Election Commission, the Federal Election Commission brought suit charging that the Colorado party had violated the party expenditure provision of law by buying radio advertisements attacking the Democratic Party's likely candidate. This is the evil that you have in these decisions. It went on, and the Colorado Republican Party won out. Why? On account of a key little word: coordinated. You have to prove affirmatively that the candidate himself called up and suggested it or coordinated it, as they say, even if it is proven he called up. It has to be coordinated.

Now, I want you all to know the reality of my particular comment. In next year's campaign, newspapers have already run a poll where they have shown that the former Governor of South Carolina, Carol Campbell, if we had the election this afternoon, would beat me. All I have to do is tell that friend there to tell that friend over there to get the third friend to tell the Democratic Party of South Carolina to start running radio advertisements attacking the former Governor as a likely candidate. He hasn't announced, but he is a likely candidate.

But they say everything is fair in love and war and in a political campaign. This is the mischief. It is not just the money, it is the mischief that this nonsense promotes. You can't get to it, Mr. President, without a constitutional amendment. You can't get to it. The distinguished Presiding Officer and I went through this yesterday afternoon. I read down the 20 to 25 campaign finance initiatives we have had over the last 30 years, trying to get a grasp and a grab and a handle on this evil, this corruption. We have tried every way in the world, from having cloture after cloture vote, to arresting the Members and bringing them to the floor. We have tried everything. The best offer now, they say, is McCain-Feingold, but I have gone down it. It has voluntarism. We know from the campaign in Massachusetts what ''voluntary'' means in politics; it means temporary. When the two gentlemen that ran last year got down to the end of the campaign, they said of the public agreement they had agreed to—both of them are affluent—they said, ''Let's forget about this limit and let's get affluent.'' Then they started spending like gangbusters. There you go, voluntary limits and everything else. We have to nail this buzzard with a limit, a constitutional authority to limit.

I hasten to add that I don't prescribe the specific limit. It is still up to Senator MCCONNELL, if he has a majority, to prevail. Unfortunately, we see the machine. We see the orchestration. When I first presented this, we got many Republican cosponsors, and we had a majority, bipartisan vote. Again, on two other occasions, we had a bipartisan vote and the support of a majority. But I can see right now the orchestrated drumbeat of first amendment. And they go back to Patrick Henry and James Madison, and every other kind of fanciful position, to try to get everybody's mind on ''let's not rip a hole in the first amendment.'' And the very authority they are using that money is speech, or speech is money, is Buckley versus Valeo, which does what? It rips a hole in the first amendment. That is their very holy grail that speaks of money. ''The first time in 200 years'' I don't know how they have the unmitigated gall to come out and say ''the first time in 200 years,'' when in the same breath they are saying, ''Buckley versus Valeo, speech is money.'' Buckley versus Valeo limited the freedom of speech. It ''ripped a hole,'' as they phrase it, ''in the first amendment.'' We can read it.

I read from Buckley versus Valeo, the majority opinion:

> It is unnecessary to look beyond the actual primary purpose to limit the actuality and appearance of corruption, resulting from large individual financial contributions, in order to find a constitutionally sufficient justification for a $1,000 contribution limitation . . .

I will read that again.

> . . . resulting from large individual financial contributions, in order to find a constitutionally sufficient justification for a $1,000 contribution limitation on political discourse.

They limited the freedom of speech of the contributor when they equated speech with money in this famous decision. Everybody knows it. But they want to totally ignore; like this fellow from South Carolina is going to rip a hole for the first time in 200 years in the first amendment. What a charade. They are hiding. They do not want to get serious. They don't want to limit expenditures. They don't want what they overwhelmingly supported 20 years ago with the original Federal Election Campaign Practices Act that said you are not going to be able to buy the office. Now, with Buckley versus Valeo, and particularly with the Colorado decision, you have to buy the office. And they show you how to do it. Two years ahead of time you can see a potential opponent. Just let the party start savaging him on radio and TV. If the gentleman were disposed to announce, by the time he got ready to announce he would announce for the State border trying to escape. They would make him an outright rascal by that time with money.

That is not free and open discourse in the political arena. That is discourse in the financial arena. The financial marketplace is where we are allowing the decision to be made. And everybody in America knows it. That is why we had the investigating committee by unanimous vote of this body day before yesterday saying we cannot countenance this conduct any longer, and we can't dance about on illegalities. We have to look at the improper as well as the illegal. So we unanimously voted it. But now we are trying to cover up on a party position.

Someone asked me, ''Senator, how many votes?'' I said, ''Well, I came yesterday with hope. But after I saw the particular activity among some of the finest Members that you will ever have in this body, and come along giving me James Madison, Patrick Henry, and the Founding Fathers, they didn't have to get in the horse and wagon and go out and collect $14,000 a week in order to get the office. They didn't have to go around with their national party asking to cut up the opponent before he could even announce. They didn't ask him to spend an average of over $4 million.

The Senator from Kentucky, who just withdrew, said he would have to get $5 million. So that is more than $14,000 a week—not a day, a week—each and every week between now and election time. Patrick Henry had the freedom of speech and a strong democracy trying to counter—of course, what the distinguished Senator from Texas commented on, the Gephardt remark. The truth of the matter is they had it in those days as I had it in my days of the beginning political arena. We went around on the stump. You had to get there, or you were embarrassed. ''Why weren't you there?'' You had to answer the questions. It wasn't all of that expense. It wasn't this third party activity in soft money.

So don't come now on the floor joining the stonewalling on the other side of the aisle that we have an advantage—that we have a financial advantage in spite of all the shenanigans that President Clinton and Vice President GORE engage in. ''We have $150 million more. Whatever they did, we did better.'' You remember that song in the Broadway play. Whatever the Democrats did we can do better on money. And do not be toying around. Get in there and support that Constitution, and read. And they come out and religiously read it. You can't pass any laws, or do anything with the freedom of speech. And, in the next breath, they say whoopee for Valeo. Money is speech in politics. And we have to protect and limit the contributors. That in and of itself sets aside their thrust here today.

I can read on. Maybe, if we have the time, we will read on because I would be prepared. Some of the colleagues said they would come. But I can see that there is very little interest. I was wondering why the majority leader allowed me to get this on an up-and-down vote. I know I had the amendment on the balanced budget amendment to the Constitution. And the distinguished Senator said, ''Now, look. If you set this aside, withdraw your amendment, we will give you an up-and-down vote and sufficient time.'' I can see after yesterday afternoon, Mr. President, that I have had sufficient

time because whatever we say here, they are cast now in the sort of party preference of spending, spending, spending. I hope we can expose it because that wasn't the real opinion over on the other side of the aisle. I had Senator Kassebaum from Kansas. I had Senator ROTH from Delaware. We still have, I am pretty sure, the distinguished Senator from Pennsylvania because he had a personal experience. When he comes to the floor you ought to listen very carefully because you can see in reality what this bifurcation finding that contributions are corruptive, or gives rather the appearance of corruption, whereas the explosive expenditures in campaigns, ''Oh, that particularly has to be allowed to reign free because we have the free public discourse in politics.'' You can see the ''free.'' None of this is free when it says here—''bought'' radio advertisements. You can bet your boots the word ''bought'' b-o-u-g-h-t—''bought'' radio advertising; the word ''free.'' Basically every one knows we are not talking about free speech.

We have to go along with the Supreme Court in our discourse for the present time. But if we can come now with this proposed constitutional amendment which is stated is needed by a majority of the Senate now three times, by the law professors, by the State attorneys general. And the gentleman here says he has—that was interesting. He has the Washington Post and the New York Times.

Let's see now. I heard just a minute ago from the Senator from Wisconsin. So let's see what the Wisconsin State Journal has to say.

Our former colleague stood there as sort of the one man on S. 2—that supersonic plane that we can all spend billions on, and now the market has barely supported it financially. The Europeans with subsidies have to support it. But the entire Pentagon with all of their minions over here and big budget and everything else, one little Senator, Senator Proxmire of Wisconsin, stood there time and time again with a staff. And he finally conquered not just the Pentagon but the consciences of all of Senators, and we voted along with him.

Now let's see, on Monday, March 10, the Wisconsin State Journal, and I quote:

> Part of the American dream is that any child can grow up to be President. Our Government is of, by and for the people, and ordinary citizens should have the opportunity to attain office by virtue of their ideas, their talent and their integrity.
>
> Unfortunately, the ideal of self-government has succumbed to rampant special interest money in elections that only an amendment to the U.S. Constitution can restore. Our elections are now auctions, with the average price for a seat in Congress costing more than $500,000.

In the Senate, the average cost of a seat exceeds $4 million. As former Senator Proxmire said:

> Few Americans have the desire or ability to raise that sort of money.

It is not only the time devoted to fundraising that we take away from the people's business, but also the fact that really good candidates are deterred from running for public office because they see the financial obstacles raised against them. For example, as was the case recently in Colorado, the party trying to defend an incumbent can come in and start savaging the likely opponent without any announcement and without any controls over their spending because there is no way to prove coordination. As a result of this flood of money, the regular, average, sane and prudent man or woman is deterred from running for office and democracy itself is corrupted.

It is just not family concerns that causes candidates to bow out. It is the fact that if candidates get serious, they will get savaged. Often I run into friends of fairly good affluence who say, look, I can't expose my family to all this complete disclosure.

People do not want to expose themselves to such public notoriety. If you want a free genealogical study of your family, Mr. President, all you have to do is announce for public office. Opposition researchers will dig up the place you were born, find out what kind of house you had, where you bought a washing machine on credit, automobiles, how much you contribute to the church, what is in your doctor's records and everything else you can think of. Most of it has little to do with one's qualifications for public office, but that is the nature of the beast—not the issues, not the ideas, not the candidate's integrity, but insinuations that can be distorted and used against an individual in the court of public opinion.

But the real corruption is in the amount of money necessary in this day and age to run a modern political campaign.

Let me go back to the quote of our former colleague, former Senator Proxmire from Wisconsin.

> The latest headlines focus on Democratic donors buying coffee at the White House and on the Republicans $250,000-a-person ''season tickets'' designed to give the largest donors more access to the elected officials. But the problem is not that interested people have given money and in return received access—politicians will always grant audiences to their donors. The problem is that few Americans can play in this big money game. Majority rule takes on a whole new meaning when the majority of campaign cash comes from just one quarter of 1 percent of Americans.
>
> Well-heeled interests have largely usurped power from the people. Big money determines who runs for public office and who wins elections. Last November, the House candidates who spent the most won their races 96 percent of the time. In Wisconsin, this held true in all but two races.
>
> We know the solution is to limit what anyone can spend on elections, whether they are running for office themselves or giving money to a candidate, party or independent advocacy campaign. But here we run into the problem of the foxes guarding the chicken coop—incumbents have little incentive to change a system they have mastered.
>
> However, even incumbents can act when public pressure is high.

Let me say that again. ''Even incumbents can act when public pressure is high.'' We saw a perfect example of that the day before yesterday. The Republicans they had it greased; they had a majority in that Rules Committee. The leader came out and said this is the scope of the hearings that we are going to have, like it or not. We are only going to examine alleged illegalities and not the broader question of improper campaign financing. But, as they say, public pressure will change that, and public pressure did.

As a result, we had 99 Senators vote on the day before yesterday for broader investigation into improper as well as illegal actions.

After Watergate, Congress took bold steps and set limits on campaign cash. But in the now infamous 1976 case, Buckley versus Valeo, the Supreme Court struck down most of the law, ruling that unlimited spending on campaigns deserves protection as free speech. Again, quoting Senator Proxmire:

> When we equate spending money with speech, then speech is no longer free.

I must read that again, because it is so basic.

> When we equate spending money with speech, then speech is no longer free.
>
> Moneyed interests can pay the price and the rest of us are free to be silent. The Buckley ruling is simply wrong. Twenty-four State attorneys general have recently called for Buckley to be reversed, as have a host of constitutional scholars. But the current court appears unlikely to do so.
>
> As in the past democratic struggles to end slavery and give women the vote, the only certain recourse is to amend the Constitution and overturn the Court. We must clearly authorize Congress and the States to limit campaign contributions and expenditures.
>
> A majority of the Senate has voted to support such an amendment in the past but a two-thirds vote is required. Another vote is likely soon. Senator Russ Feingold, D-Wis., has voted for the constitutional amendment in the past but now says he is against it. Senator Herbert Kohl, D-Wis., also has a mixed voting record. He has voted once for and once against a similar amendment. Let's hope that this time they read the headlines about fundraising scandals and decide to change them by voting for the amendment.

We must take down the For Sale sign on Capitol Hill by authorizing limits on campaign cash with a constitutional amendment. Let us not be daunted by how difficult such a task may appear, for the price of inaction is far too great.

Mr. President, I thought that we might be daunted by how difficult the task would appear. That argument has been made previously by our good friend Lloyd Cutler. He said it would take 4 to 20 years to get a constitutional amendment enacted, and therefore we were wasting our time. But it has been 20 years since the Buckley decision. Let us not talk about wasting time. That is what we have been doing since Buckley.

How are you going to stop doing that? A constitutional amendment. The arguments were, ''It would take

too long,'' or, ''I don't believe in a constitutional amendment; leave it as it is.''

Now, we know the distinguished Senator from Kentucky, and the distinguished Senator from Kansas, Senator ROBERTS, engaged in their little sweetheart exchange on the floor yesterday. They both believe in amending the Constitution. They both voted to amend the Constitution in order to prevent the desecration of the American flag. In fairness to Senator MCCONNELL, he said it was a mistake. Fine business. The Court made a mistake when they outlawed the Federal income tax. So, what did the body politic do? The Congress passed a joint resolution and the people of the United States ratified the 16th amendment. Let us read how you can correct a mistake. Amendment 16:

The Congress shall have the power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States, and without regard to any census or enumeration.

That is not what they are talking about now, because we know mistakes are corrected; mistakes with respect to elections have been corrected. The 21st, 22d, 23d, 24th, and 25th amendments to the Constitution, all except the last one, have dealt with elections. So we corrected those mistakes. One important mistake, perhaps most significant, was the poll tax. The people said, ''Wait a minute, disqualifying people from voting through a poll tax—we are not going to allow it.'' So we adopted that amendment to the Constitution.

Now we want to disqualify candidates, parties, and everyone else from running for office by allowing the explosive spending of money; thousands of dollars, $200,000 for this, $500,000 for that. It is just outrageous. Yet, they do not want to recognize it. They want to give me Patrick Henry and go back to the first amendment and read it to mean that any restriction ''rips a hole'' in our freedom of speech. But it is not so when for the safety of people, we prohibit shouting ''fire'' in a theater; not when for national security reasons, we prohibit disclosure of classified documents; not so in the matter of obscenity and false and deceptive advertising. Just the other day, concerning a buffer zone around an abortion clinic—the Supreme Court said, oh, no, you don't have a freedom of speech in that buffer zone. That restriction is constitutional.

The contention was made that unless people were given the right to be heard in that particular area, you were ripping a hole in the first amendment. The Supreme Court said no. Get out. Don't get into this buffer zone.

So we have example after example, but none better than the Senate itself that says you cannot have unlimited debate here in this body; we can get a 60-vote majority and hush you. Over on the House side, they have to follow the 3-minute rule; the 5-minute rule. In committees, we regularly agree and conform to a 5-minute rule for all the members. We know the value of limiting speech. Don't come here with this sanctimony about the first amendment and Patrick Henry and talking about ripping a hole in the first amendment for the first time in 200 years. Buckley versus Valeo—the very basic authority that you use when you come to the floor of the U.S. Senate saying speech is money, or money is speech—ripped a hole in the first amendment. That is the exact finding of Buckley versus Valeo.

So, that will not wash.

Mr. President, I have not only the Wisconsin State Journal, I have the Cleveland Plain Dealer. I ask unanimous consent to have that article printed in the RECORD.

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

[From the Plain Dealer, Mar. 12, 1997]

ONLY A CONSTITUTIONAL AMENDMENT CAN LIMIT CAMPAIGN CASH

(By Seth Taft and Amy Simpson)

Part of the American dream is that any child can grow up to be president. Our government is to be of, by and for the people, and ordinary citizens should be elected to office by virtue of their ideas, talent and integrity.

Unfortunately, the ideal of self-government has succumbed to special-interest money in elections and only an amendment to the Constitution will restore it. The average cost of a congressional campaign exceeds $500,000. Few Americans have the desire or ability to raise that sort of money.

The latest headlines focus on Democratic donors buying coffee at the White House and on the Republicans' $250,000 a-person ''season tickets'' designed to give the largest donors more face-to-face time with elected officials.

But the problem is not that interested people have given money and in return received access; politicians will always grant audiences to their donors.

The problem is that an extremely small number of Americans can play in this big-money game. Majority rule takes on a whole new meaning when the majority of campaign cash comes from just one quarter of 1 percent (0.25 percent) of Americans.

Big contributions frequently determine who runs for public office and who wins elections. In Ohio's congressional races last year, the candidates who spent the most succeeded in capturing the House seat 84 percent of the time.

We know the solution is to limit what anyone can spend on elections, whether he is running for office or giving money to a candidate, a party or an independent advocacy campaign. But current incumbents have little incentive to change a system they have mastered.

However, even incumbents can act when public pressure is high. After Watergate, Congress took bold steps and set limits on campaign cash. But, in the now infamous 1976 decision in Buckley vs. Valeo, the Supreme Court struck down most of the law, ruling that unlimited spending on campaigns deserved protection as free speech.

Since 1994, voters in five states have passed initiatives to set low contribution limits, $100 in most races, for state elections. These initiatives have been overturned in two states by courts that thought themselves better able than the public to set ''reasonable'' limits. Proposals that would require candidates to raise their funds from within their districts face a similar fate.

When we equate spending money with speech, then speech is no longer free. Wealthy interests can pay the price, and the rest of us are free to be silent. The Buckley ruling is simply wrong. Twenty-four state attorneys general recently called for its reversal, as have a host of constitutional scholars. But the current court appears unlikely to do so.

As in the democratic struggles to end slavery and give women the vote, the only certain recourse is to amend the Constitution and overturn the court. We must clearly authorize Congress and the states to limit campaign contributions and expenditures.

A majority of the U.S. Senate has voted to support such an amendment in the past, but a two-thirds vote is required. Another vote is likely within the next week.

In the past, Sen. Mike DeWine has voted against and Sen. John Glenn has voted for such an amendment. Let's hope that this time, they read the headlines about fundraising scandals and decide to change them by voting for the amendment.

We don't like using the Constitution for this purpose, but the Buckley-Valeo decision makes it necessary. Campaign spending limits that do not apply to independent committees and individuals become meaningless.

Mr. HOLLINGS. These liberal eastern papers, the Washington Post and the New York Times make the argument of free speech. I hope you midwesterners do not get bitten by that. I want to see you stay in the U.S. Senate. I want to see you all continue to serve. The best way is not to get wrapped around and go back to the Midwest and say that the ACLU is a wonderful authority. I know how to lose an election. I have lost before. I don't know any quicker way to lose one than to run around in my backyard or your backyard, Mr. President, quoting the ACLU. You folks have to be embarrassed with this kind of argument about first amendment and the ACLU. And even more embarrassing is the anecdotal nonsense they put up relative to what could happen. The Senator from Utah even said Congress might decide not to let anyone oppose them.

He got into a wonderful discourse with the Senator from Kentucky. He said if this amendment passed, Congress could put such low limits that the opponent's name would never become known and that Congress might decide not to let anyone oppose them.

Of course, in the next breath they say it is vague, because the language says ''reasonable,'' ''reasonable limits.''

The courts said they are going to decide what is reasonable. But they put up all kinds of examples about how newspapers might write an editorial against someone. And they said that could be a contribution for or a contribution against.

Right now the newspapers do write editorials for and do write editorials against. We have the free press. No one has the gall to contend that is a contribution in the context of being a violation. No one is going to contend that now, and they are not going to contend it later on.

But these are all straw men, because they do not have the argument. But they have the frontal assault of Patrick Henry and the first amendment.

And trying to say, as the Senator from Texas said, the simple question is ''Do you believe in free speech or not?'' He says if he can answer this question, then he is home free. All 100 of us believe in that. That is not what we are voting on. The question is, Do you believe in limiting spending or not? They know it. And they do not want to hear of it. So they bring out the volume and repetition of numerous Senators talking about 200 years and the first amendment and Patrick Henry. If you pass this, you can go back to what we voted for in 1974 and have complete disclosure, rules against bundling, rules against soft money, rules against individual wealth buying elections. It would free up the speech of the poor. Buckley really freed up the speech of the rich, but it has taken away freedom of speech from the poor. That is the actual effect of the decision, and we are suffering from it.

We have lost the confidence of the people in the political institutions up here because we do not want to deal with it. We tried and tried and tried over a 30-year period without success and now we are using the octopus approach. We want to sneak off in the dark ink of a charade about Patrick Henry, the first amendment, and what may happen.

Mr. President, let us go back to better times. Let us go back to better times.

What happened was, in better times, we had the orderly process of several hearings before the Judiciary Committee. We had several witnesses. And I come to the distinguished Mr. Lloyd Cutler, who served as Counsel for the President.

But he says now on the House side:

An amendment would take too long to adopt, 4 to 10 years.

He did not testify on behalf of the Commission for the Constitutional System heretofore, but he says now that it would take too long. We know that is totally wrong. The last five amendments preceding the most recent one, which took 200 years, took an average of 20 months to ratify.

The gentleman, I think, is suffering from battle fatigue because he said: This could be a camel's-nose-under-the-tent aspect. He did not see a camel's-nose-under-the-tent aspect when he was representing the Commission for the Constitutional System. He says that the Hollings resolution in the Senate authorizes ''reasonable regulation of expenditures. Only the Supreme Court can draw the line between reasonable and unreasonable.''

The courts are always directing the jurors in determining if they have gotten a reasonable decision, the ''reasonable, sane and prudent man,'' in law talk, is the test. We did not have ''reasonable'' when we first drafted it, but we put it in there so the amendment will not look categorical and result in a legal contest. The Supreme Court is certainly going to decide if it is unreasonable, as they have decided that the matter of contributions is constitutional, if limited to that speech, but unconstitutional if you limit the speech of those who spend it.

Let me read parts of the hearing here that we had before the Judiciary Committee some 10 years ago. We had already been on this a dog-chasing-its-tail solution for 10 years.

My name is Lloyd N. Cutler. Along with Senator Nancy Kassebaum of Kansas and Mr. Douglas Dillon, I am a Co-Chairman of the Committee on the Constitutional System, a group of several hundred present and former legislators, executive branch officials, political party officials, professors and civic leaders who are interested in analyzing and correcting some of the weaknesses that have developed in our political system.

One of the most glaring weaknesses, of course, is the rapidly escalating cost of political campaigns, and the growing dependence of incumbents and candidates on money from interest groups who expect the recipient to vote in favor of their particular interests. Incumbents and candidates must devote large portions of their time to begging for money; they are often tempted to vote the conflicting interests of their contributors and to create a hodgepodge of conflicting and indefensible policies; and in turn public frustration with these policies creates cynicism and contempt for the entire political process.

A serious attempt to deal with the campaign financing problem was made in the Federal Election Campaign Act of 1974 and the 1976 amendments, which set maximum limits on the amounts of individual contributions and on the aggregate expenditures of candidates and so-called independent committees supporting such candidates. The constitutionality of these provisions was challenged in the famous case of *Buckley* v. *Valeo,* 424 U.S. 1, in which I had the honor of sharing the argument in support of the statute with Professor Archibald Cox. While the Supreme Court sustained the constitutionality of the limits on contributions, it struck down the provision limiting expenditures for candidates and independent committees supporting such candidates. It found an inseparable connection between an expenditure limit and the extent of a candidate's or committee's political speech, which did not exist in the case of a limit on the size of each contribution by a non-speaker unaccompanied by any limit on the aggregate amount a candidate could raise. It also found little if any proven connection between corruption and the size of a candidate's aggregate expenditures, as distinguished from the size of individual contributions to a candidate.

The Court did, however, approve the Presidential Campaign Financing Fund created by the 1976 amendments, including the condition it imposed barring any presidential nominee who accepted the public funds from spending more than a specified limit. However, it remains unconstitutional for Congress to place any limits on expenditures by independent committees on behalf of a candidate. In recent presidential elections these independent expenditures on behalf of one candidate exceeded the amount of federal funding he accepted. Moreover, so long as the Congress remains deadlocked on proposed legislation for the public financing of Congressional campaigns, it is not possible to use the public financing device as a means of limiting Congressional campaign expenditures.

Mind you, Mr. President, as I cover this particular testimony, it is 10 years ago. They are talking about the dilemma, the problem, and how it was exacerbating at that particular time. You can tell the frustration from the wording of this testimony.

I go to the quote of Mr. Cutler:

Accordingly, the Committee on the Constitutional System has come to the conclusion that the only effective way to limit the explosive growth of campaign financing is to adopt a constitutional amendment.

Now, my colleague from Kentucky says you do not have any authority and there is no constituency. The fact of the matter is that this particular committee is a group of several hundred present and former legislators, executive branch officials, political party officials, professors, and civic leaders who are interested in analyzing and correcting some of the weaknesses that have developed in our political system.

Not the ACLU. I do not rely on the ACLU for my case. I want to win this thing. I do not want to be spreading the dark ink of the ACLU in the Washington Post. Go down to the Washington Post and ask them for free speech. Say, ''I want a little free speech. Not a whole page, a half, maybe a quarter of a page.'' They will not give you a little tidbit of a column free.

Going back to the testimony before the Judiciary Committee:

The amendment would be a very simple one consisting of only 46 words. It would state merely that ''Congress shall have power to set reasonable limits on campaign expenditures by or in support of any candidate in the primary or general election for federal office. The States shall have the same power with respect to campaign expenditures in elections for state and local offices.''

This was 10 years ago, Mr. President, and those who have been working on this particular problem copied the language, adopted the suggestion. It was a reasonable thing because here are the best of minds, without a particular Republican bent or Democratic bent or interest, who said here is the way to do it not only constitutionally but in a constitutionally sound manner so that the court could properly interpret it.

Let me go back to the testimony of Mr. Cutler:

Our proposed amendment would enable Congress to set limits not only on direct expenditures by candidates and their own committees, but also on expenditures by so-called independent committees in support of such a candidate. The details of the actual limits would be contained in future legislation and could be changed from time to time as Congress in its judgment sees fit.

It may of course be argued that the proposed amendment, by authorizing reasonable limits on expenditures, would necessarily set limits on the quantity of speech on behalf of a candidate and that any limits, no matter how ample, is undesirable. But in our view the evidence is overwhelming by now that unlimited campaign expenditures will eventually grow to the point where they consume so much of our political energies and so fracture our political consensus that they will make the political process incapable of governing effectively.

Mr. President, I divert here to emphasize just exactly that concern that our political consensus will be so fractured that it will make ''the political process incapable of governing effectively.'' Put that on as a test to this

particular Congress. If you think we have governed effectively, I have grave misgivings with that opinion. I think that is exactly where we are, and exactly was the concern 10 years ago.

And I continue to quote the testimony of Mr. Cutler:

> Even Congress has found that unlimited speech can destroy the power to govern; that is why the House of Representatives has imposed time limits on Members' speeches for decades and why the Senator has adopted a rule permitting 60 Senators to end a filibuster. One might fairly paraphrase Lord Acton's famous aphorism about power by saying, ''All political money corrupts; unlimited political money corrupts absolutely.''

There is no question in this Senator's mind. Quoting further:

> Finally, Mr. Chairman, I would not be discouraged from taking the amendment route by any feeling that constitutional amendments take too long to get ratified.

You see, Cutler has come over from the other side earlier this year and he said it would take too long. He was not worried then, some 10 years ago, because he knew exactly that. The last five amendments at that particular time were all ratified within the 20-month period. Now he has misgivings.

Let me quote further:

> The fact is that the great majority of amendments submitted by Congress to the States during the last 50 years have been ratified within 20 months after they were submitted. All polls show that the public strongly supports limits on campaign expenditures. The principal delay will be in getting the amendment through Congress. Since that is going to be a difficult task, we ought to start immediately. Unlimited campaign expenditures and the political diseases they cause are going to increase at least as rapidly as new cases of AIDS, and it is high time to start getting serious about the problem.
>
> Mr. Chairman, on three past occasions we the people have amended the Constitution to correct weaknesses in that rightly revered document as interpreted by the Supreme Court. On at least two of these occasions—the Dred Scott decision and the decision striking down federal income taxes, history has subsequently confirmed that the amendments were essential to our development as a healthy, just and powerful society. A third such challenge is now before us. The time has come to meet it.

That was in March 1988.

Now, Mr. President, I see my distinguished colleagues on the Senate floor. At this time I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, are we operating on a time agreement now?

The PRESIDING OFFICER. There is no time agreement.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say that it is not often on matters such as this one that I am on the floor in opposition to something that Senator HOLLINGS favors. We normally are here on either economic matters or budget matters or the like. I want to say right up front while I totally disagree that we should adopt this constitutional amendment and send it out to the States for ratification, I believe it is fair to say that among the Senators who have been talking about limiting or dramatically changing the campaign laws of this land, of limiting of the amount of money that can be spent, at least this amendment is honest.

It faces the reality right between the eyes, and the Supreme Court of the United States has said that you can't do that because you are limiting freedom of speech. And the distinguished Senator has said, OK, if that is the case, I want to change the Constitution, so we can do it. At least that is a straightforward position, instead of coming here and trying to get around the Supreme Court decisions and around the clause in the U.S. Constitution that protects freedom of speech.

Having said that, I want to take a couple of minutes to talk with the Senate about my views and version of why we should not adopt this amendment. First of all, I believe that I should lead off by saying, yesterday afternoon, I was in my office when some speeches were being delivered on the floor of the Senate. I don't think I am much different from most Senators. Normally, if you have your set on and somebody is speaking on the floor, even though we all love them dearly and they are great speakers and they have great things to say, we don't listen very often—at least, if we are busy in the office, and we do other things.

But I took time out to listen to Senator PHIL GRAMM of Texas, and I tried to tell him this personally so it would precede me saying it on the floor, I thought his remarks yesterday afternoon were very eloquent. They expressed a very good picture of the history of our Constitution and, in particular, of that part of our Constitution that we so glibly say is freedom of speech, protected by that wonderful document and the Bill of Rights.

Having said that, I was not prepared to argue that this amendment is broad enough to perhaps some day affect the editorial policy of the newspapers. I didn't come here particularly prepared to argue that point. But over the evening I read it again and read my remarks. I am prepared to say that I believe the Congress of the United States, if this amendment ever became law, will clearly then be able to determine how we can change freedom of speech in the manner described, and to what extent and when and who will be affected by our changes. I think where this amendment says that the amount of expenditures that may be made by, in support of, or in opposition to a candidate for nomination for election to a Federal office, and where it is said that you are able to put limitations on the amount of contributions that may be accepted, I believe it is entirely possible that some time out in the future, if this were in fact the law of the land, Congress could decide that a newspaper could only write one editorial a week on behalf of its favorite U.S. Senate candidate because they might equate that with an expenditure. In fact, they might be able to ask, what's the newspaper charging for advertising? And then they might say, when you write something in that paper about a candidate expressing your views, we are going to assume that it is worth at least the advertising costs of the paper.

Now, frankly, I am giving you kind of a shirt-sleeve lawyer's opinion. But I can see out there in the future where, under the right circumstances, with a Congress that is being beaten up by newspapers, or perhaps the majority party being beaten up by newspapers or editorials on television, they might indeed decide that they are going to determine the expenditures that can be made and attempt to change our most protected basic right.

Now, having said that I believe the first amendment guaranteeing free speech is the matrix of every other freedom we have, and the most fundamental and urgent application of free speech is to conduct campaigns for political office. Elections and campaigns that lead up to those elections are how the democratic process works. Therefore, I repeat, the amendment guaranteeing freedom of speech is the matrix of every other freedom because it is through the democratic process, the selection of candidates, perhaps even the selection of the philosophy or the ideology of candidates and parties, that decisions are made about our lives and are made about our future. And, therefore, freedom of speech, if controlled, can control that which affects our lives in a most profound way.

I regret to say that while I am not one who comes to the floor very often and chooses to become popular at home by beating up on Congress—in fact, I don't think I have done that very often in my life—I believe it is a mistake to put this power in the hands of a partisan Congress, with the potential for a President of the same party with a huge majority in the Congress, this absolute power to abridge freedom of speech and decide just how much can be spent by whom, what organizations can spend how much on which candidates. The power to determine how much a right-to-life organization can spend on behalf of its candidates or party, or its opposition organization in America, how much they can spend, and a myriad of other organizations that are out there trying to affect Government and how Government works and how we vote—for Congress to be able to regulate that means we are placing in the hands of Congress and a President of the party in control the absolute and unequivocal future destiny of the election process. They will determine it either directly or indirectly, just as certain as you write in black ink on white paper so that it will be most legible.

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. DOMENICI. Yes.

Mr. MCCONNELL. Since independent expenditures and so-called legislative

advocacy ads, which have been so widely condemned by the reformers, are constitutionally protected speech, doesn't the Senator think it is entirely possible that the Congress, given the power to control that speech by those outside groups, might decide to shut it off entirely, conclude there is nothing reasonable about any of those kinds of expressions, if this amendment were to be passed?

Mr. DOMENICI. I think, given the right circumstances, that is entirely possible. I can dream up a scenario in my mind where it would probably be constitutional under this amendment. You could have a situation in the country where Congress would make a finding, which may be backed up by what's going out in society. Those kinds of expenditures could cause harm in America, at least to some major group that thought the unlimited use of propaganda —this is they would call it—has been harmful to the country, so they will say that we will have none of it.

Let me say, that is one issue, it is clear to me, that in and of itself ought to cause us to say no to this amendment. I think there is even a more serious one. I guess I will choose to say, as my point No. 2, that it's hard enough to win a fight with someone who buys paper by the ton and ink by the barrel. That leads me to ask, who uses freedom of speech most in the United States? Who does? The media of America. The media of America, be it the newspapers, radio, television, or whatever other media we have. That is the principal use of freedom of speech in the United States. They, combined, are the big makers of news. They are the ones who write the news, who talk the news, who present the issues on TV. Frankly, the media sets the agenda. They have even been called the ''fourth estate,'' meaning that we have three branches of government, and they are also a branch of government. Well, we say: Protect them.

As a matter of fact, the U.S. Supreme Court, in a very historic case, New York Times versus Sullivan, a 1964 case, has even held that for a public personage to have a cause of action against the media, which has the right to freedom of speech, to have the right to sue because they told an untruth, you can't sustain a cause of action unless it is made with actual malice, with knowledge that the statement was false or with reckless disregard of whether it is false or not. That is how important we think that right is.

Should it surprise anyone that those who use freedom of the speech in the press of America—that they have their prejudices? Should it surprise anyone that they pick and choose candidates? Should it surprise anyone that they have a philosophy? Should it surprise anyone, even though they are my good friends, that they are predominantly liberal and predominantly Democrats in terms of party affiliation? That just happens to be true. If they were without opinion and used no discretion, what good would they be as the fourth estate in America? For they would be dullsville, and nobody would care what they said. So they are not that. And they can really influence a candidate or an elected officer's future. They can even do it by neglect, if they choose. They can fail to cover what somebody does in their elected office because they, either directly or in some other way, are prejudiced by what Senator Jones from Kansas says, and so it doesn't appear in the newspapers in the State of Kansas. Or, at least in one chain perhaps, or at least, if that is too far-fetched, a certain reporter won't write about Senator Jones, and he is the reporter that writes the front page story all of the time. That is kind of the benign neglect of the media.

What we know is happening in America is that we have moved away from editorial writing only appearing on the editorial pages of the paper. It now also is appearing in the stories in the media. TV has gone from just reporting news to interpreting the news and interpreting situations in America. News shows which do that abound. Should it surprise anyone that sometimes the media take a position in opposition to a President, in opposition to a Senator, in opposition to a party, in opposition to a philosophy of government?

Mr. President, if that is the case, where is the candidate or elected officeholder going to get the resources to tell his side of the story? I know where they are getting that kind of resource today. They are getting it because people contribute to their campaign, and they run ads, or they buy time, or they put out brochures, or they get on a radio show and pay for the time. And they say, ''If the media and my opponent can get on and get free time, I want to get on and pay for it.'' Whatever the media puts on is their choice, and they are free to do as much as they want.

I am not going to stand here and be critical of that. In fact, I am suggesting that they are important in this society. It leads me to the conclusion that they have a right to try to be effective in trying to change public opinion. When they do that and exercise that prerogative, they create a situation which in the combat over political ideas requires that, if you are going to respond and have a chance of being heard, you must compete either in ink, or in paper, or in voice over the radio network, or in your picture and voice on television. Or else, how can you get the message across?

Having said that, I am absolutely convinced that while I stand here and give credence to the United States Congress having great authority, and I would even say that over history, I trust its collective wisdom, I can already in my time in the U.S. Senate find many occasions when I think we weren't very wise and we passed laws that weren't the very best. But even if I were to say over time that we perhaps come out on the wise side more times than not, I am not prepared to give the United States Congress the authority to control the destiny and the lives of political figures today or in the future when it comes to how much of their resources, or resources that others want to give to them, that they can use to make their case.

I believe it is a greater and more frightening evil to control the opportunity for candidates to make their case through the exercise of free speech. That is a far more serious problem for America than the concern over too much campaign spending.

We can pass reasonable rules and regulations regarding campaign contributions. Clearly we already have. We have limited PAC contributions. We have individual contributions limited. But when it comes to those things that the U.S. Supreme Court has already said are protected because they are political speech, isn't it interesting? Some people, including this Senator, had trouble understanding what they were talking about when they said that spending is equal to free speech. If you want to spend your money on a campaign, the use of that money is speech, they said. Well, I understand it now. I hope I have expressed it today. It is precisely what I have been talking about. For what other way than through the use of resources can you get your speech heard and exercise that freedom I speak of? How can you get your message out to the public if you are limited as to how much, or when, or which organization can spend how much in behalf of your candidacy, your position, or your ideology?

So from my standpoint the issue is really very, very clear and very simple. We should not change the Constitution of the United States when it comes to that part of this protected speech that has to do with candidates and political parties getting their message across through the use of resources. Nothing, in my opinion, will suffice other than to leave the decision of what is needed and how it will be used in the hands of the person claiming the freedom. To place it in the hands of somebody else to determine for that person claiming that freedom will, in my opinion, render the freedom useless. For the more you try to tell somebody how to exercise their right to free speech and when they can exercise it, the more the freedom becomes a nonfreedom. It becomes control rather than opportunity to enter into combat in a way that is equal and able to meet any circumstance. I am fully aware that there are many other approaches that we can take to modifying our campaign laws. And some of those being discussed will be constitutional without this change.

But I for one want to close today saying to the U.S. Senate, and to the people of the United States, do you really want Congress to be the one that manages by statute the use of this freedom, political freedom, the freedom of political parties and people running for office to use resources in a way that they

think is best to get their message out, their cause, and to exercise their rights?

Mr. President, I want to make 5 points about this resolution and to make them clearly, strongly and simply.

Point one: This is an attempt to make the unconstitutional constitutional.

The first amendment guaranteeing free speech is the matrix of every other freedom we have.

The most fundamental and urgent application of free speech is to conduct campaigns for political office.

Elections and the campaigns leading up to those elections, after all, are how the democratic process works.

Point two: It's hard enough to win a fight with someone who buys paper by the ton and ink by the barrel. This amendment would make it impossible to win that fight.

The liberal news media exercises its free speech rights more than any other individual or entity in the United States. They are the Big Opinion Makers. They compose the editorials, write the news, talk the news, present the issues on TV. Frankly, they set the agenda.

The media are the ones who exercise freedom of speech as it pertains to politics. They are on the airwaves every day. It used to be that there was political speech on the news at 6 p.m. and 10 p.m. In 1997, there is news at 6 a.m., 7 a.m., noon, 4 p.m., 5 p.m., 6 p.m., 10 p.m., and 11 p.m. on the regular channels. We also have numerous 24-hour news channels.

No one would tolerate a suggestion that reporting and editorializing should be censored or otherwise limited or that there should be—to use the language of the proposed amendment—''reasonable limits.''

All of the political speech contained on the news is protected. In New York Times versus Sullivan (1964) the Supreme Court held that public officials could maintain defamation actions only upon proof that the media's statement was made with ''actual malice'' defined by the Court as made ''with knowledge that it [the statement] was false or with reckless disregard of whether it was false or not.'' As a result, the ''comfort zone of protection'' given to a political figure or candidate for public office under the defamation actions for libel and slander is very small. Public figures are given little protection.

Defamation stands virtually alone in the 20th century tort law. Every other major substantive area has expanded a plaintiff's right to recover, while in defamation the balance has shifted, and quite dramatically, in favor of the media defendant.

Point three: Government rationing of political speech by candidates will increase the power of the media, which has an unlimited free speech right.

The makers of the Constitution, influenced not only by their own experience but also by theorists such as Montesquieu, consciously provided for allocation of national authority among the executive, the legislative and the judicial branches. By insisting upon separation of powers, the Framers sought to protect against tyranny. Over the years, the media has emerged as the fourth branch of Government. Creating an elite of those with unlimited free speech will dangerously upset the balance of power and make the Fourth Estate the most powerful. This runs contrary to our fundamental notions of freedom and effective democracy.

The members of the fourth estate are mere mortals and they have strong biases.

Reporters are opinionated. Arguably, they are the most politically homogenous and biased group in American politics today. Most studies of media voting behavior show 9 out of 10 reporters and editors voting for liberal Democratic candidates. And the media coverage mimics the media's voting pattern.

A study by the Center for Media and Public Affairs, a nonpartisan Washington research group, shows that TV coverage overwhelmingly favored President Clinton this past election season.

In September, Clinton received 54 percent positive coverage on the networks' evening news programs, compared with only 30 percent for Bob Dole. The networks criticized Dole's economic views 81 percent of the time, his social policies 78 percent of the time; and his conduct as a candidate 81 percent of the time. Yet, voters view the media as balanced.

We have TV commentators who criticize ideology, personalities, and lifestyle. Yet, the quantity, quality, and content of the media programs and articles are totally protected and unrestricted.

A paper could editorialize every day of the week, every week of the year against a candidate. If an elected official or candidate wants to respond, he has to buy an ad. He has to make an expenditure.

At the other extreme, a Senator could toil tirelessly day in and day out in meetings, in committee, on the Senate floor. An unfriendly paper could ignore his efforts during his entire term. If that Senator wants to let voters know of his accomplishments he has to buy an ad. He has to make an expenditure to compensate for the medias' benign neglect of his efforts. The Supreme Court is correct, free speech is a fundamental right essential to getting reelected. The Constitution is right to protect this fundamental right.

My question to Senators is: Do you really think it is wise to exclusively vest the power of unlimited speech in the fourth branch? If the Founding Fathers were wise enough to resist tyranny by requiring a balance of power among the branches that existed when they wrote the Constitution, we should recognize this amendment as a bald-faced attempt to shift the balance of power from the candidates involved in the legislative and executive branches, over to the media. In practical terms this reserves to the media the control of freedom itself.

The ACLU has called this proposal a recipe for disaster. This amendment makes mincemeat out of the first amendment. Mincemeat belongs on a menu, not in the Constitution.

Point four: Being an incumbent is a formidable advantage and this amendment would make this advantage insurmountable.

Spending is the way challengers combat the inherent advantages of incumbency, such as name recognition, access to media, and franked mail.

Besides, the most important and plentiful money spent for political purposes is call the Federal budget—$1.6 trillion and rising.

Federal spending—along with the myriad regulations and subsidizing activities such as protectionist measures—often amounts to vote-buying.

Write a tax bill and wealth is redistributed.

This amendment will allow incumbents to write limits on campaign spending. These limits, when coupled with the inherent advantages of incumbency, will make it more difficult for challengers to compete.

History gave us 40 years of House control by Democrats. If this amendment had been law, the ''reasonable'' limits would have been written decade after decade in a self-preserving fashion to favor the ruling party. Is there any doubt that the spending limits would give any challenger a fighting chance?

Point five: When amending the constitution, err on the side of caution—you better be very careful.

Mr. President, today truly is a remarkable day. In the name of ''campaign finance reform,'' some of our distinguished colleagues have come to the floor to offer a resolution which strikes at the very heart of one of the fundamental freedoms the Founding Fathers of this great Nation sought to protect. While I agree that our campaign finance laws are in need of change, amending the first amendment to allow the Government to restrict political speech simply is not the way to reform the system.

The authors of the first amendment were very straightforward: ''Congress shall make no law * * * abridging the freedom of speech.''

Mr. President, surely none of us here today agrees with all of the ''speech'' people in this county make, especially in this town. I don't like the fact that pornography exists. I don't like violence on TV But regardless of what I like, the first amendment protects this type of speech. While the protections of the first amendment are not absolute in all circumstances—we all know that the amendment does not protect one's right to yell ''fire'' in a crowded theater—the right to free speech is nearly

absolute when that speech is directed toward the political process.

Throughout its jurisprudence, the Supreme Court has reaffirmed this notion time and time again. In recounting the history of the first amendment, the Court in the past has observed that: ''there is practically universal agreement that a major purpose of the first amendment was to protect the free discussion of governmental affairs * * * of course including discussions of candidates.'' The Court also has noted that: ''It can hardly be doubted that the constitutional guarantee [of the right to free speech] has its fullest and most urgent application precisely to the conduct for campaigns for political office.''

The Court extended these principles to campaign spending in the Buckley case and held that restrictions on campaign expenditures are improper under the first amendment. The Court's decision can be summed up very simply: restrictions on the resources needed to make political speech heard are restrictions on political speech itself. As the Court has said, ''the distribution of the humblest handbill'' costs money and the Court consistently and properly has refused to make a distinction between the humble handbill and other forms of political speech. They all deserve first amendment protection.

The authors of this proposal are not so straightforward. It will regulate who may speak, when, where, for how long, and for what purpose.

For some, this debate will be about the wisdom of the Supreme Court's decision in the Buckley case and those decisions which followed it. Supporters of this amendment believe that, if spending equals speech, then only those with a lot of money will be able to participate in the political process.

I look at the problem from a different perspective: is it at all proper to amend the organic law of this land to allow the Government to begin regulating the political speech of individuals and groups? It runs contrary to the spirit of the entire Constitution to answer that question in the affirmative.

Thomas Jefferson once wrote that ''there are rights which it is useless to surrender to the government, and which governments yet have always sought to invade. Among these are the rights of thinking and publishing our thoughts by speaking and writing.'' This amendment would be the first step toward surrender, the first step toward putting the Federal Government in control of all political speech in America.

Let us take a look at the language of the proposed amendment, because there are two areas which I believe need to be mentioned.

First, the resolution gives Congress the power to set reasonable limits on campaign contributions and expenditures. Proponents of this amendment and campaign finance reform bills like McCain-Feingold claim that the current system favors wealthy candidates and protects incumbents able to raise large amounts of money because of their name recognition, seniority or membership on important committees.

Yet—under this amendment—who would be responsible for making the initial determination of what is ''reasonable''? Incumbents. Members of Congress. Setting aside whether it is at all wise to allow the Government to regulate political speech, I also wonder whether this amendment would accomplish the goals many of its supporters would hope for. Government micromanagement of political speech, particularly by those already entrenched in government, to me seems like a recipe for more of the same problems we currently face.

The proposed amendment also allows Congress to regulate contributions and expenditures ''made by, in support of, or in opposition to'' a candidate. Under this language, Congress can regulate the political speech of candidates, parties, individuals and groups. One group that apparently remains unregulatable is the media. By limiting all political speech, except that by the media, the role and importance of the media in the political process would grow exponentially. I have already discussed that. Yet despite the power it would provide to the press, the Washington Post and New York Times oppose this amendment. I think I know why.

The first amendment is at the heart of the basic freedoms all Americans enjoy, including the freedom to promote one's political views. If we amend the first amendment to limit the political speech of candidates and parties, what is to stop us from amending the press's free speech rights if we become unhappy with their role?

While we all have felt the sting of a harsh editorial on the pages of a State or national newspaper, I do not believe that any of us feel comfortable with the possibility that Congress could be in the business of regulating the content of newspapers. Yet that seems like the logical next step if this amendment were to pass.

I understand my colleagues on the other side of this issue who seek to ''level the playing field'' or make the campaign finance system more equitable for all participants in the political process. We all would like to see candidates unburdened by the ''money chase'' and campaigns free of excessive negative ads. But this is not the way for us to get our house in order.

President Eisenhower once told Congress that ''freedom has been defined as the opportunity for self-discipline * * * Should we persistently fail to discipline ourselves, eventually there will be increasing pressure on government to redress the failure. By that process freedom will step by step disappear.'' I think that comment sums up where we are headed with this amendment.

As politicians, we have failed to bring discipline to the campaign process. Rather than give in to the pressure to redress our failure by restricting the freedoms offered by the first amendment, I believe that we should look to other, less onerous, means to achieve our goals. I support reasonable campaign finance reform legislation, and have done so in the past. But this proposal goes way beyond reform. It makes mincemeat of the first amendment.

If the concern is that money corrupts and a lot of money corrupts absolutely, there are steps that can be taken that don't require amending the Constitution. Full disclosure is a good way to provide good government.

I urge my colleagues to reject this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank my distinguished colleague from New Mexico for an outstanding speech. I think he is right on the mark. The issue here is who is going to control political discourse in this country. And the Supreme Court has said no one may do that. That is protected first amendment speech.

I just wish to thank my good friend from New Mexico for his thoughts on the first amendment and say I agree with him entirely.

Mr. DOMENICI. Might I ask the Senator a question?

Mr. MCCONNELL. Yes.

Mr. DOMENICI. I alluded to a couple of organizations that are openly engaged in trying to get their points across with the electorate and with those seeking election. Are there a number of groups that are involved in that kind of activity with the American people and with candidates that have expressed their views on this amendment?

Mr. MCCONNELL. There certainly are, I say to my friend from New Mexico. There are periodic meetings in my office with a coalition in defense of the first amendment that includes a set of groups that have never met each other before. On the left, the American Civil Liberties Union and the National Education Association; on the right, Right to Life, Christian Coalition, and all shades of philosophies in between, all of whom have one thing in common—they do not want Congress to push them out, do not want them to push them off the playing field and keep them from participating in American elections.

So this coalition is very active. You would think, listening to the broadcast media and reading the Washington Post, that there was nobody on the other side of this debate, that Common Cause was the only conscience out there pressing for these kinds of reforms. Ironically, Common Cause is against the Hollings constitutional amendment as well. But there is a broad coalition, I would say to my friend from New Mexico. They are very active, very involved, and do not intend to be taken off the playing field.

Mr. DOMENICI. Does the Senator have any idea why they would be opposed to it? Can the Senator express what they said to him?

Mr. MCCONNELL. What they say is they believe the Supreme Court was correct when it said they had a right to support or oppose whomever they choose in the American political system. They know that if Congress is given the power, either through a constitutional amendment or through a measure such as McCain-Feingold, their voices will be quieted, their ability to participate will be capped, limited. They are quite concerned about that and feel that this is not a step in the right direction, that in fact it is the worst possible thing you can do. If you look out at America, we are a seething cauldron of interests. The Founding Fathers envisioned that. The Supreme Court has made it clear that all those interests have an opportunity, a right, a constitutional right to participate in the American political system, and these groups don't want to be pushed out. They think their causes are important. They want to be able to advocate them. They want to be able to support whomever they choose.

Mr. DOMENICI. So it seems to me that if the National Education Association opposes this amendment and the National Rifle Association opposes this amendment, then they must be saying that if this were the law of the land, that some Congress in the future could do violence to one or the other of them in terms of their promoting their cause with the American people and with candidates. In fact, they must be worried about whether there might be some picking and choosing among those who might have the right to promote or to participate in the process of trying to influence candidates and elections. Is that not correct?

Mr. MCCONNELL. That is absolutely the case, I say to my friend from New Mexico. They fear that a Congress, that a future Congress, will try to quiet their voices, to push them out of the process, to make it impossible for them to support candidates of their choice. We know that there are schemes around to do that. There is a bill that we will be debating this year absolutely designed to put a limit on how many people can participate. So their fear is well-founded, I say to my friend from New Mexico.

Mr. DOMENICI. Mr. President, I just want to continue for a couple more minutes. I thought I was finished but I am prompted to say I am not.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Am I recognized, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair.

I am not here saying that Congress absolutely would do this, that this would be something that we could just expect in ordinary times, but I believe bad laws are made in unordinary times. I believe bad laws are made when things are not going well and somebody decides that they know why they are not going well. That is why I am reluctant to say Congress, over the scheme of history, would not act in some almost aberrational way to limit speech if things just were not going right and it was their decision there was just too much going on out there in the political arena. Those kinds of things have happened in our history. They have happened and you look back and say, how could it have happened? Historians say all of these different things came together at the same time and, of course, some people thought they knew precisely why and they acted accordingly.

Now, I also commented about the media collectively as being the big user of this freedom and, indeed, I think that is a fair statement. Frankly, I do not think anybody individually within that collective media would question this statement. They are not always right either. They are not always right in their conclusions, individually and collectively. Even if they are not disposed to be philosophically one way or another, they are frequently wrong. And yet their wrongness is protected by the Constitution. The quantity of that is protected in that if they have enough money and own enough papers, they can be as big as they want. Or if they happen to be a personality that now gets on the nightly news and has reached an esteemed position, then clearly they can say what they like and it becomes kind of what people think, what people talk about the next day. And they might be wrong.

So it seems to me that when you put all that together, you do not want to change that. That is a great part of America. We want to live with that. Some of us do not think that Congress ought, with that being the reality, to have the authority to say how much you can spend in a campaign to tell your side of those same facts that others are pushing on the public either through the exercise of their right or by campaigning and being in the political arena.

I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I thank the Senator from New Mexico for a very important contribution to this debate.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

Mr. President, the Senator from Rhode Island has been in the Chamber waiting to be recognized, so I will just take a few moments and ask unanimous consent to insert in the RECORD the ''American Constitutional Law Restatement on the Freedom of Speech,'' by Laurence Tribe, Ralph S. Tyler, Jr. Professor of Constitutional Law at Harvard University.

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

EXCERPT FROM ''AMERICAN CONSTITUTIONAL LAW''

(By Laurence H. Tribe)

* * * * *

COMMUNICATION AND EXPRESSION

§ 12–2. The Two Ways in Which Government Might "Abridge" Speech—And the Two Corresponding "Tracks" of First Amendment Analysis

Government can ''abridge'' speech in either of two ways. First, government can aim at ideas or information, in the sense of singling out actions for government control or penalty either (a) because the specific message or viewpoint such actions express, or (b) because of the effects produced by awareness of the information or ideas such actions impart. Government punishment of publications critical of the state would illustrate (a), as would government discharge of public employees found in possession of ''subversive'' literature. Government prohibition of any act making consumers aware of the prices of over-the-counter drugs would illustrate (b), as would a ban on the teaching of a foreign language or a prohibition against discussing a political candidate on the last day of an election. Second, without aiming at ideas or information in either of the above senses, government can constrict the flow of information and ideas while pursuing other goals, either (a) by limiting an activity through which information and ideas might be conveyed, or (b) by enforcing rules compliance with which might discourage the communication of ideas or information. Government prohibitions against loudspeakers in residential areas would illustrate (a). Governmental demands for testimony before grand juries notwithstanding the desire of informants to remain anonymous would illustrate (b), as would ceilings on campaign contributions. The first form of abridgment may be summarized as encompassing government actions aimed at communicative impact; the second, as encompassing government actions aimed at noncommunicative impact but nonetheless having adverse effects on communicative opportunity.

Any adverse government action aimed at communicative impact is presumptively at odds with the first amendment. For if the constitutional guarantee means anything, it means that, ordinarily at least, ''government has no power to restrict expression because of its message, its ideas, its subject matter, or its content * * *.'' And if the constitutional guarantee is not to be trivialized, it must mean that government cannot justify restrictions on free expression by reference to the adverse consequences of allowing certain ideas or information to enter the realm of discussion and awareness. Whatever might in theory be said either way, the choice between ''the dangers of suppressing information and the dangers of its misuse if it is freely available'' is, ultimately, a choice ''that the First Amendment makes for us.''

A government action belonging to the second category is of a different order altogether. If it is thought intolerable for government to ban all distribution of handbills in order to combat litter, for example, the objection must be that the values of free expression are more important constitutionally than those of clean streets at low cost; if a ban on noisy picketing in a hospital zone is acceptable, the reason must be that the harmful consequences of this particular

form of expressive behavior, quite apart from any ideas it might convey, outweigh the good. Where government aims at the noncommunicative impact of an act, the correct result in any particular case thus reflects some ''balancing'' of the competing interests; regulatory choices aimed at harms not caused by ideas or information as such are acceptable so long as they do not unduly constrict the flow of information and ideas. In such cases, the first amendment does not make the choice, but instead requires a ''thumb'' on the scale to assure that the balance struck in any particular situation properly reflects the central position of free expression in the constitutional scheme.

The Supreme Court has evolved two distinct approaches to the resolution of first amendment claims; the two correspond to the two ways in which government may ''abridge'' speech. If a government regulation is aimed at the communicative impact of an act, analysis should proceed along what we will call track one. On that track, a regulation is unconstitutional unless government shows that the message being suppressed poses a ''clear and present danger,'' constitutes a defamatory falsehood, or otherwise falls on the unprotected side of one of the lines the Court has drawn to distinguish those expressive acts privileged by the first amendment from those open to government regulation with only minimal due process scrutiny. If a government regulation is aimed at the noncommunicative impact of an act, its analysis proceeds on what we will call track two. On that track, a regulation is constitutional, even as applied to expressive conduct, so long as it does not unduly constrict the flow of information and ideas. On track two, the ''balance'' between the values of freedom of expression and the government's regulatory interests is struck on a case-by-case basis, guided by whatever unifying principles may be articulated.

A recurring debate in first amendment jurisprudence has been whether first amendment rights are ''absolute'' in the sense that government may not ''abridge'' them at all, or whether the first amendment requires the ''balancing'' of competing interests in the sense that free speech values and the government's competing justifications must be isolated and weighed in each case. The two poles of this debate are best understood as corresponding to the two approaches, track one and track two; on the first, the absolutists essentially prevail; on the second, the balancers are by and large victorious. While the ''absolutes''—''balancing'' controversy may have been ''unfortunate, misleading and unnecessary,'' it has generated several important observations. First, the ''balancers'' are right in concluding that it is impossible to escape the task of weighing the competing considerations. Although only the case-by-case approach of track two takes the form of an explicit evaluation of the importance of the governmental interests said to justify each challenged regulation, similar judgments underlie the categorical definitions on track one. Any exclusion of a class of activities from first amendment safeguards represents an implicit conclusion that the governmental interests in regulating those activities are such as to justify whatever limitation is thereby placed on the free expression of ideas. Thus, determinations of the reach of first amendment protections on either track presuppose some form of ''balancing'' whether or not they appear to do so. The question is whether the ''balance'' should be struck for all cases in the process of framing particular categorical definitions, or whether the ''balance'' should be calibrated anew on a case-by-case basis.

The ''absolutists'' may well have been right in believing that their approach was better calculated to protect freedoms of expression, especially in times of crisis. If the judicial branch is to protect dissenters from a majority's tyranny, it cannot be satisfied with a process of review that requires a court to assess after each incident a myriad of facts, to guess at the risks created by expressive conduct, and to assign a specific value to the hard-to-measure worth of particular instances of free expression. The results of any such process of review will be some ''famous victories'' for the cause of free expression, but will leave no one very sure that any particular expressive act will find a constitutional shield. When the Supreme Court draws categorical lines, creating rules of privilege defined in terms of a few factors largely independent of context, judicial authority speaks directly to the legislature by means of a facial examination of laws without regard to the context in which they are applied. And categorical rules, by drawing clear lines, are usually less open to manipulation because they leave less room for the prejudices of the factfinder to insinuate themselves into a decision. The jury after all is a majoritarian institution, and judges historically have been drawn from more conservative groups. Categorical rules thus tend to protect the system of free expression better because they are more likely to work in spite of the defects in the human machinery on which we must rely to preserve fundamental liberties. The balancing approach is contrastingly a slippery slope; once an issue is seen as a matter of degree, first amendment protections become especially reliant on the sympathetic administration of the law.

On track two, when government does not seek to suppress any idea or message as such, there seems little escape from this quagmire of ad hoc judgment, although a few categorical rules are possible. But on track one, when the government's concern is with message content, it has proven both possible and necessary to proceed categorically.

Mr. HOLLINGS. Mr. President, this explains the subjects outside our first amendment protections. It mentions the Sullivan case, New York Times, and others.

One. We are not talking here about free speech. We are talking about paid speech. My amendment reads ''expenditures.'' It has nothing to do with the free press. The very horrors that are mentioned could happen today, and in fact, happened to this particular Senator in his race for reelection back in 1992 with the Wall Street Journal.

I will get into that in depth, but I am delighted at this time, Mr. President, to yield, and I hope the Senator from Rhode Island can be recognized.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. REED. Mr. President, I rise this afternoon in support of the Hollings amendment which I think is a wonderful first step to begin to reform our campaign finance system. As many of my distinguished colleagues have mentioned in the course of this debate, at any time when you attempt to amend the Constitution of the United States, you do so with trepidation. This is the fundamental organic document of our Government. It deserves great respect and reverence, and we do not do this lightly.

But today we are facing a crisis of public confidence in the democratic order in the United States with respect to campaign finance reform. If the Constitution and the Court had remained silent on this issue, we would not be here today. But the Court has spoken, first in the case of Buckley versus Valeo, several years ago, and in its progeny. Their voice has concluded, and some would argue not correctly, but concluded that the first amendment prevents Congress from imposing limits on campaign expenditures.

If the Court refuses to reassess its ruling, we have no choice but to propose to the people of the United States that in their wisdom they consider an amendment to the Constitution of the United States, and that is why we are here today. We are not doing this in a vacuum. We are doing this because of a crisis in confidence by the public.

To be kind, the public is disenchanted with the American political system, particularly the American political campaign finance system. They see far too much money going to campaigns. They are concerned that this money is extracting special interest favors. All of this undermines a sense of democracy, a sense of participation, a sense of what it is to be a citizen in this great country. Last year's election saw record fundraising and record expenditures. An unprecedented $2.7 billion was spent in Federal elections last year, three times the amount that was spent the year the Buckley versus Valeo case was decided. As this money is poured in, the public is becoming increasingly disenchanted and increasingly disenfranchised from the process.

In a 1992 poll, 84 percent of the electorate stated that Congress was owned by special interests, a direct reflection, I think, of the perception of how the campaign finance system may work. For the first time in decades, last year's Presidential elections saw less than half of the eligible voters going to the polls to register their votes. The American public sees a great problem. Months ago, in the Washington Post, 80 percent of those surveyed indicated there was too much money in campaigns and favored the adoption of campaign spending limits.

For the well-being of our democracy, for the confidence we must have of its citizens, as we go about doing our work, I feel this amendment is in order and indeed must be enacted.

As I mentioned before, the great stumbling block to effective limits on campaign expenditures is the Supreme Court decision in Buckley versus Valeo. At the core of that 1976 decision, there is this language:

> The first amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution, it is not the Government but the people, individually as citizens and candidates, and collectively as associations and political committees, who must retain control over the quantity and range of debate on public issues in a political campaign.

That seems to be the core sense of why the Court decided it. But I suggest the notion that citizens and even candidates are controlling the system today has been overwhelmed by events, overwhelmed by an avalanche of money coming into political campaigns. In fact, the system that was created under Buckley versus Valeo has collapsed, in effect, inundated by independent expenditures, special interest expenditures, money by the torrent coming into campaigns. It is not surprising, then, that the Washington Post detailed that the special interests coming into a campaign in Pennsylvania's 21st Congressional District outspent either one of the candidates. In effect, the candidates control neither the dialog nor the issues; it was outside forces, some of them anonymous or at least ambiguous.

All of this contributed not to what we think an election should be about, two candidates or several candidates presenting their ideas, arguing eloquently, reaching out to people. In effect, the candidates became a sideshow. It was the battle between special interests. That is not what the American people want to see in their elections, and if we are to control that and constrain that, we must have, in this particular moment, a constitutional amendment to do so.

The issue about the Buckley versus Valeo decision is one that constrained our thought about campaign financing for many, many years. My colleagues in this body have offered many proposals, legislatively, to correct it. There is the Feingold-McCain bill. There is other legislation. Leader DASCHLE has introduced legislation. I support all of these. But my fear is if we adopt any one of them, and I hope we do adopt campaign finance reform legislatively, the ingenuity and creativity of lawyers and consultants will find ways around it, simply because ultimately we cannot control the amount of money going into campaigns. This amendment will give us that authority.

The concept, also, that unlimited spending is good, I think, has to be looked at very skeptically. Unlimited spending can drown out free speech, can squelch someone who does not have the resources to compete. It may not, in fact, always advance the concept of a free exchange of ideas in an electoral campaign.

Many of our leading constitutional scholars, in fact, have reached this conclusion. Paul Freund, the distinguished professor at Harvard Law School wrote:

> Campaign contributors are operating vicariously through the power of their purse, rather than through the power of their ideas. I would scale that relatively lower in the hierarchy of First Amendment values. We are dealing here not so much with the right of personal expression or even association, but with dollars and decibels, and just as the volume of sounds may be limited by law, so may the volume of dollars, without violating the First Amendment.

Judge Skelly Wright, one of our most distinguished jurists wrote:

> Nothing in the First Amendment commits us to the dogma that money is speech. Far from stifling First Amendment values, campaign limits actually promote them. In place of unlimited spending, limits encourage all to emphasize less expensive, face-to-face communications, exactly the kind of activities that promote real dialogue and leave much less room for manipulation and avoidance of the issues.

In the words of a distinguished New York School of Law professor, Ronald Dworkin:

> The Buckley decision was a mistake, unsupported by precedent and contrary to the best understanding of prior first amendment jurisprudence. It misunderstood not only what free speech really is, but what it really means for free people to govern themselves.

All these experts would conclude that Buckley versus Valeo in effect is wrong. But Buckley versus Valeo as it stands today is the law and, recognizing that, we are attempting to give the people of this country a chance, through the amendment process, to change that decision, that position of the Court.

If you look at Buckley versus Valeo, though, perhaps the best argument I found against it was contained within the very confines of the decision. It was the dissenting opinion of Justice White. I do not think anyone has to vouch for Justice White's fidelity to the first amendment and the values that it holds that are dear to us all. First of all, time has proven Justice White to be very perceptive, indeed prophetic. Because he wrote:

> Without limits on total expenditures, campaign costs will inevitably and endlessly escalate, pressure to raise funds will constantly build, and with it the temptation to resort to those sources of large sums, who, history shows, are sufficiently confident of not being caught to risk flouting contribution limits.

This is in 1976. Again, recall, since he wrote those words, campaign spending has tripled.

He also went on to add:

> I have little doubt that limiting the total that can be spent will ease the candidate's understandable obsession with fundraising and so free him and his staff to communicate in more places and ways unconnected with the fundraising function. I regret that, by rejecting a limit, the Court has returned them all to the treadmill.

I would argue there is no one here in this body who would suggest that that treadmill is not still there.

I have heard in the debate notions about how this would infringe on treasured values of the first amendment. But Justice White, in his opinion, pointed out that this is not a unique issue, that the limiting of the quantity of speech is done routinely.

As he said:

> Compulsory bargaining and the right to strike, both provided for or protected by Federal law, inevitably have increased the labor costs of those who publish newspapers. Federal and State taxation directly removes from company coffers large amounts of money that might be spent on larger and better newspapers. But it has not been suggested, nor could it be successfully, that these laws, and many others, are invalid because they siphon off or prevent the accumulation of large sums that would otherwise be available for communicative activities.

We do on a routine basis require newspapers, the great champions of the first amendment, the most vociferous defenders of the first amendment, to comply with laws that effectively limit the quantity of speech that they can put out. So this notion that what we are doing today trods on the sacred core of the first amendment, I do not think is right.

Indeed, I think we would be better off to have the Court reassess its opinion of Buckley and find that these limits are appropriate under the first amendment. But today, we are left with presenting to the American people the opportunity to make that judgment. I hope that, as I said, Buckley could be reviewed and indeed be recognized by the Court to be inappropriate based on the facts today. They have the authority to do that.

We have the authority to present to the American public this constitutional amendment. I urge that we do so.

I want to commend the sponsor, Senator HOLLINGS, for his leadership, for his perception of the issue, and for his unflinching commitment to develop a campaign finance system that is fair to all.

One last point. I have also heard in this debate the notion that this Congress would impose irresponsible and reckless limits. In reality, any limits we impose we would all have to recognize and work within. They would be the same as applied to Republican candidates or Democratic candidates. They would limit the amount of money that right-wing, special-interest groups could put in or left-wing, special-interest groups could put in.

They would, in effect, return our elections to the democratic process that our citizens believe we should have, a process by which they can listen to the voices of the candidates, they can communicate their views, they can, in effect, not be drowned out by an avalanche of money and 30-second sound bites. In fact, an election can be a dialog about democracy and not about who raises how much money. I urge my colleagues to support this amendment.

Again, I commend the Senator for his great leadership.

Mr. HOLLINGS addressed the Chair.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. I will yield in a second to the distinguished Senator from Washington.

I want to thank the distinguished Senator from Rhode Island. He was tortured with the same problem as a Member of the House. As a good old West Point graduate and with the discipline and the analytical approach that he has learned over the many years in public service, we really appreciate his contribution here today.

Mr. REED. Thank you.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, Senate Joint Resolution 18 almost certainly represents the most serious and fundamental attack on first amendment rights of free speech in the 210-year history of that first amendment.

Senate Joint Resolution 18 is not aimed at the entire ambit of free speech rights. It in no way grants Congress authority over obscenity, over beer advertising, over fine arts. It is focused solely on allowing the Congress sweeping authority over the freedom of political speech, not just of politicians but of all citizens and of the news media that serve those citizens.

The first Congress of the United States responded to the most serious objection to the ratification of our Constitution that was presented during those ratification debates—the absence of a bill of rights and, most particularly, the absence of a constitutional guarantee of free speech.

When James Madison and his colleagues drafted the first amendment and worked on its protection of free speech, they were not concerned, Mr. President, about defending obscenity. They were not concerned with limitations on beer advertising. They were not concerned with playwrights. They were concerned with debate over the political future of the people of the United States of America.

They believed, as did almost all of the citizens who worried about a new Constitution, that the new Government might, like its British predecessors, attempt to gag newspapers and individuals in their pursuit of a free and open debate over matters political. So they wrote a first amendment that was unconditional in that respect. They wrote a first amendment that said, ''Congress shall make no law . . . abridging the freedom of speech . . .'' They did not write, as this resolution would, in paraphrase, ''Congress shall make no law abridging the freedom of speech except such restrictions as Congress may deem reasonable.''

Mr. President, you and I and all the other Members of this body and every American who has ever run for office recognizes that, other than that vitally important meeting of people as individuals on a one-to-one basis, doorbelling, canvassing, and the like, important even to those of us who run for the U.S. Senate but obviously an impossible tactic when one represents hundreds of thousands or millions of voters, that there are fundamentally four ways in which we can communicate political ideas in the course of the campaign to the people who are constituents or whom we seek to represent.

The first of those, Mr. President, is through our own campaign committees. ''Gorton '94,'' ''McConnell '96,'' ''Hollings '98,'' formally organized and set up, receiving campaign contributions, writing advertisements, scheduling the candidates, doing so in a fairly transparent fashion. That is the first one.

The second way which our ideas can be communicated to those whom we seek to represent is through the party organizations with which we are affiliated. All candidates for Federal office are members of organized political parties. Most candidates for State office and many for local office are as well. In fact, in almost every State the only identifier on the ballot in addition to the name of the candidate is the political party that candidate identifies with. So the Republican Party and the Democratic Party, and the Socialist Worker Party also, involves itself in campaigns communicating en mass in the ways that they consider to be most effective with the voters.

The third way of communicating political ideas, Mr. President, is by the independent activity of individuals or organizations who are not, under most circumstances, directly connected with either the candidate or with any political party but who have a vital interest, on behalf of themselves as individuals or as members of organizations in which they are a part in the political future of the country, in who is elected to particular offices.

As I say, they may be individuals, they may be very wealthy individuals, they may be organizations from one end of the political spectrum to another, but they communicate quite freely and without any censorship from Congress their ideas about political elections, their support for candidates, their opposition to candidates.

Finally, the fourth way in which political ideas about elections get to the voters is through our mass media—through radio, television and the newspapers—many of which are vitally interested in these ideas, many of which literally editorialize and endorse, but even when they don't, they communicate such ideas as they deem relevant in explaining the positions of the various candidates.

Senate Joint Resolution 18 is, I must say, philosophically consistent and intellectually honest in that it permits Congress to regulate all four of those activities. It allows Congress to put reasonable limits on contributions or expenditures by, in support of, or in opposition to candidates for Federal office. That covers the candidates' committees, that covers the political parties, that covers the totally independent individuals and groups, and that covers the newspapers and television stations and radio stations that participate in these political campaigns.

I say, Mr. President, that this proposal is philosophically consistent and logical and principled in making no real distinction among those four methods of contribution, because, of course, the present campaign law does not. The law under which we operate today puts very real limits on candidates' campaign organizations, limits which, by the operation of inflation, have grown smaller in each successive election cycle on contributions from organizations or from individuals to those candidates, significant disclosure requirements on the source of those contributions, so significant that on many occasions, it would seem that our newspapers spend more time and more column inches reporting contributions than they do on reporting ideas.

The 1974 law imposes some, but vaguer, restrictions on contributions to and expenditures by political parties. It was unable, as a matter of constitutional law, to impose any significant restrictions on independent expenditures, and it made no attempt to impose any restrictions on the news media, recognizing even then the unconstitutionality of doing so.

What has been the net impact of the set of restrictions that we have today? In almost direct ratio to the restrictions on the amount of money that individuals and organizations can contribute to candidates, it has caused those individuals and organizations, when they feel passionately about a candidate, either for or against, to funnel their contributions to the political parties whom they know would support those candidates. And so we have the challenge of soft money today, largely because those who contribute soft money to political parties cannot contribute that money in hard form to the candidates themselves.

This, all by itself, has made political campaigns less satisfactory and candidates less responsible. Each of us as a candidate is responsible directly for the way in which he or she conducts his or her campaign. When our name is on the disclaimer of a television ad, we cannot disown it. When we have reported a contribution from an individual or a group, we cannot disown it. But even when that advertisement or that political activity comes from our political party, we can, to a certain extent, disassociate ourselves from the ideas or the messages involved. We may very well, we hope, benefit from it when they support us, but we cannot guarantee that we will gain such a benefit.

Now we have waiting in the wings, subject to validation only, I believe, if we adopt this constitutional amendment, a set of similar restrictions on political parties. If we adopt such a system of restrictions on political parties, Mr. President, it seems to me we know clearly what will happen, because it is already happening. Those same groups, those same individuals who feel passionately about Federal elections today and who are barred from providing the support they want to provide to the candidate directly, are barred from providing that support to the candidate's political party, will simply do it on their own.

Last Sunday's Washington Post had an interesting article about the 1996

campaigns, the headline of which is: ''For Their Targets, Mystery Groups' Ads Hit Like Attacks From Nowhere.'' The airwaves were filled with this kind of activity at the end of 1996—organizations with fictional names engaged mostly in negative advertising against particular candidates, the source of support for which was unknown and, therefore, the responsibility for the content of which was unknown. But as long as we have a Congress that impinges on every aspect of our social and individual and economic lives, we will have individuals who wish to participate and will participate in that fashion if they are not allowed to participate more directly and more openly.

So Senate Joint Resolution 18 very clearly will allow Congress to put limits on that kind of political participation. So it will say, in the ultimate analysis, we can do whatever we think is reasonable to shut people up when it comes to political debates.

Now, that still leaves the fourth element of communication: the radio, television stations, and the newspapers of this country. Very likely, the first bill that went through Congress after this constitutional amendment passed would not affect them, but they would sure be in clover, Mr. President, because then, with the candidate and the candidate's supporters and the candidate's proponents all muzzled, the only source of information would be the mass news media.

But now this passionately devoted and wealthy individual or this passionately devoted organization would soon find the answer to that question: Buy a newspaper; buy a television station. Then you are entirely free to spend all the money you want on political communication, totally divorced from any responsibility on the part of the candidate at all.

So the next law, Mr. President, will limit what the newspapers and the television stations and radio stations can do.

Mr. MCCONNELL. Will the Senator yield?

Mr. GORTON. I am happy to yield to the Senator.

Mr. MCCONNELL. There is a bill we will be discussing later this year called McCain-Feingold, which seeks, in this Senator's judgment, to essentially shut down legislative-advocacy-type independent expressions and to make almost impossible the ability of outside groups to engage in independent expenditures.

My question to my friend from Washington is, given the fact that we have bills that go that far now, given this authority under this constitutional amendment to set ''reasonable limits,'' is it not possible that Congress might decide such expenditures should be shut down entirely, that there is nothing reasonable about them, and that those voices should be quieted altogether?

Mr. GORTON. Congress, if this should be part of the Constitution, might well make just such a decision on the relatively rational grounds that all political speech they want to be directly attributable to candidates and not to permit anyone to engage in a partisan political debate except through the candidate's committees.

Now, I must say to my friend from Kentucky, I doubt that would happen in the Congress immediately after the adoption of a constitutional amendment like this. The sponsors of this constitutional amendment are all supporters of the McCain-Feingold proposal, and my inclination is that they would be content with the passage of that legislation with this constitutional provision in effect.

They know, or at least the most thoughtful and principled of them know, that McCain-Feingold is blatantly unconstitutional under the first amendment as the first amendment exists today. I rather imagine they would be satisfied with this reform as their predecessors were satisfied with the 1974 reforms. As soon as this reform showed itself to be as ineffective as 1974 has, as soon as it had pushed communication into another channel, they would be back to close off that channel.

At the present time, their frustration stems almost entirely from the fact that they are only permitted to dam one channel of the river, and all the water just goes around the other side of the island and flows into the political system to the same extent or to a greater extent than it does at the present time. This constitutional amendment allows them to dam the whole river for good and permanently.

It is for exactly that reason that I say, Mr. President, this is certainly the most fundamental attack on the most fundamental of American freedoms that has taken place in this body in the 14-plus years during which I have served and, I think, probably in the 210 years since the first amendment was adopted by the first Congress.

Mr. MCCONNELL. Will the Senator yield?

Mr. GORTON. I am happy to yield to the Senator.

Mr. MCCONNELL. Since the Congress composed entirely of incumbents has the power to determine what is a reasonable limit directly on campaigns, would it not be entirely conceivable, I ask my friend from Washington, in the very near future, if not in the very same Congress, after this became part of the Constitution, that these incumbents might seek to limit spending in campaigns directly by the candidates themselves standing for reelection and a challenger, quite dramatically?

Most incumbents start out with a pretty substantial lead unless they are running against a famous athlete, a movie star, or sitting Governor. It has often been described as the incumbent looking at it as a football field, and the incumbent at the beginning of the campaign is at the 40-yard line and sprinting toward the goalline; the challenger is back on the 5-yard line with 95 yards to go. Might not this Congress composed entirely of incumbents decide to set a spending limit of, say, $50,000 per House of Representatives race and declare that reasonable?

Mr. GORTON. Congress would certainly have the authority to pass just such a law, I say, Mr. President, to my friend from Kentucky. I think as a former State attorney general, he has argued a number of cases in the Supreme Court. I would probably be willing to take that challenge on a reasonable basis to the Supreme Court of the United States, and I might well win at that $50,000 figure.

But the vice of this constitutional amendment is that I would have to do that in the first place, and there would be an argument that that was a reasonable limitation. When we start down this road, we put the right of free speech and political matters of the people of the United States into the hands of Congress.

As the Senator from New Mexico said earlier, each of us believes sufficiently in this system to hold the opinion that most of the time we do the right thing and that almost all of the time we try to do the right thing. We are probably least likely to do the right thing when it affects our own individual fates and our own individual careers. Even when we are, we sometimes, at least, can make mistakes. That, I must say, is obviously the reason that Madison and the first Congress wrote the first amendment in unequivocal terms with a primary focus on political speech. They simply did not wish to give this authority to Congress, and they were right.

The Supreme Court of the United States, in dealing with the 1974 law in Buckley versus Valeo, I think put the issue in the simplest and clearest fashion when it says,

> In the free society ordained by our Constitution, it is not the Government, but the people individually as citizens and candidates, and collectively as associations and political committees, who must retain control over the quantity and range of debate on public issues in a political campaign.

That is the central issue here. Is this a matter that is up to the judgment of the people as individuals and as members of organizations? Or is it up to the Government—in this case a self-interested Government—to say what is reasonable? You and I, Mr. President, and the Senator from Kentucky and I believe that this is a matter for people as individuals and as members of voluntary associations. The proponents of this constitutional amendment believe this is a matter for the Government. Between us, there is a great gulf fixed which cannot be bridged. We stand on the Constitution as it was written by the Founding Fathers. We stand on a faith in the people, and we reject the interference of the Federal Government on this question.

Mr. MCCONNELL. Mr. President, I want to thank the distinguished Senator from Washington for his eloquent

defense of the first amendment. He certainly encapsulated, better than I could ever, exactly what the heart of this debate is. I thank him very much for his support and contribution.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Arizona.

Mr. MCCAIN. Mr. President, daily we are learning of new allegations and revelations regarding how last year's elections were financed. Just yesterday, we learned that the Chinese Government created a $1.8 million fund with which it sought to influence up to 30 Members of Congress with campaign contributions.

The Congress now faces a monumental task. How can the system be effectively and fairly changed? The answer is both simple and daunting: by passing comprehensive, bipartisan campaign finance reform. Some openly oppose campaign finance reform. One of the leaders, if not the leader, my friend, Senator MCCONNELL, is there. I admire him and respect the fact that he is a standup guy. He does not hide that fact. Others have said to me, ''I am for campaign finance reform, just not yours.'' I challenge my colleagues and say that every aspect of Senator FEINGOLD's and my bill is open for debate. Everyone is welcome at the table. I believe there is no excuse for inaction.

Real reform must do two things. It must limit the influence of money in campaigns, and it must level the playing field between challengers and incumbents. I believe those two principles cannot be compromised, but the rest is up for negotiation.

I find that there are fewer and fewer Americans—in fact, recent polls show that 9 out of 10 Americans believe that we must repair this system and that it is out of control. I just heard my colleagues talking about how in 1974 it didn't work, and if we passed further campaign finance reform, somehow that would be bad, as it was bad in 1974.

Now, Mr. President, I wasn't in Congress in 1974, but I am very aware that, in 1972, there were people walking around this town with valises full of hundred dollar bills. The stories I have heard concerned people being asked to contribute 1 or 2 percent of their gross income. Somehow to allege that the changes made in 1974 didn't help reform the system I think, frankly, flies in the face of facts. The facts are that, as a result of the 1974 reforms, we did fix the system for quite a while. Mr. President, when I was elected to Congress in 1982, there was a far different environment than exists today in fundraising. The fact is, it worked for quite a while, and then loopholes were exploited, Supreme Court decisions gave additional avenues for the funneling of so-called ''soft money'' into campaigns, and it is out of control again.

Mr. President, in 1986, we reformed the tax system in this country—supported overwhelmingly here in Congress—and closed some tax loopholes. We took several million people off the tax rolls, and it was generally applauded. We fixed the system to a significant degree. We all know now, in 1997, we need to fix the tax system again. I say to you, in 1974, much needed reforms were enacted by an overwhelming majority of Congress. They did some good things. It did clean up the system dramatically.

Now circumstances and times have changed. We all know the problems, Mr. President. We all know the problems. They are made abundantly clear by picking up any newspaper today. The pursuit of funds and money has become a full-time occupation, and the average citizen no longer has the same voice in Washington, DC, that they did years ago.

Earlier this week, a man who I have not only grown to respect and admire enormously, but I have also become a good friend with over the many years I have been here and worked very closely with, is Senator FORD from the other side of the aisle. I think many would describe Senator FORD, with admiration, as a partisan member of his party. I also know that there are many others of us who have had the opportunity of working with him for many, many years. If you want to reach a legislative result and you want to reach it in a nonpartisan and, if necessary, bipartisan fashion, you sit down with WENDELL FORD, along with, by the way, my friend from South Carolina, Senator HOLLINGS. Example: At the end of last year, we were able to pass legislation which was the most massive change in aviation, how we fund and structure it, since 1978 when we deregulated the airline industry. WENDELL FORD, acting in a bipartisan fashion, made that legislation possible. I intend, as is appropriate, when the time comes, to elaborate on my feelings of affection and respect for Senator FORD.

One of the things Senator FORD mentioned as the reason why he was not going to seek reelection was because he was going to have to raise $100,000 a week between now and election day. He also added, in his own inimitable style, that his wife would not allow him to rent out the spare bedroom. But the fact is, Mr. President, that every time one of our Members leaves this body, they cite the money chase. They cite the problem that money has become the overriding factor in the determination of candidacy and outcome. That should not be, Mr. President.

Ask anyone who is considering running for public office. They come here to Washington, DC, because they need the support of the party people and the money and the PAC's and the interest groups, and they will tell you they are only asked one question when they announce they are going to seek election, and one question only. It's not, ''How do you stand on taxes?'' or ''on the role of Government,'' or ''how do you feel about national defense?'' There is only one question they are asked, Mr. President: ''Where are you going to get the money?''

When we get into a full-blown debate on this issue—which I hope we will because I still hold the fervent hope and belief that we will address campaign finance reform on this floor in one way or another before this year is out, and I don't know when that will be—I suggest that it will only be done in a meaningful fashion when there is sufficient anger and outrage on the part of the American people who demand that we fix this broken system, and not until.

I don't think we really ought to debate this until we are ready to achieve a legislative result. I don't know when that will be, Mr. President. But I can tell you, we are a heck of a lot closer to that point than we were, say, 6 months ago. I believe 3 months from now, or 2 months from now—after the hearings Senator THOMPSON is going to be holding—there will be a much greater impetus and desire on the part of the American people that we more thoroughly and completely address this issue and try to fix the broken system. I believe that we can and should and will. It used to be that we waged a battle of ideas between candidates. The battle was well fought and hard won on the election battlefield. Now it is the battle of the bucks.

Again, at an appropriate time, I will talk about the well-known public facts and how much campaign costs have risen, how much it costs to run a Senate race, how much it costs in order to buy television, and how much soft money has grown in exponential numbers to the point where, according to the Washington Post not long ago, the cost of Federal campaigns was well over $2 billion, whether they be small States or large States.

Mr. President, I do not believe that the constitutional amendment is the answer. We can enact campaign finance reform without a constitutional amendment. S. 25, the McCain-Feingold bill, is fully consistent with the law. I can point out many more constitutional scholars, including a former chief counsel of the ACLU, as to constitutionality because it is based primarily on voluntary spending limits.

The Supreme Court has ruled that we cannot stop someone who is willing to spend an unlimited amount of money to campaign for a Federal office from doing so.

This bill provides strong incentives for candidates to voluntarily comply with spending limits regardless of personal wealth. Candidates who choose to spend unlimited amounts of their own money receive none of the benefits under our legislation.

Mr. President, there is an argument that is being bandied about that somehow we cannot place a limit on soft money, that it would be unconstitutional to do so. I find that curious. I find that curious because the courts

have clearly allowed the Congress to place limits on contributions to campaigns. We have placed an individual limit of $2,000. We placed a PAC limit of $10,000. We do not allow a corporation or a union to provide any direct contributions. Yet somehow people on this floor are saying somehow it would be unconstitutional to place limits on soft money. There is no rational constitutional argument there in my view. There is no justifiable need for soft money. All contributions made to the party should be done using hard, fully traceable, fully disclosed dollars. There is no constitutional right to soft money. The courts have stated that any contribution can be limited.

I will submit for the RECORD those court decisions that have stated that any contribution can be limited.

As you know, Mr. President, my good friend Paul Taylor has worked tirelessly to promote the idea of free broadcast time. Broadcasters use spectrum that is owned by the American people. As such, the Congress and the courts have agreed that when the Government gives out licenses to the broadcasters—enabling them to operate—that such licenses may be conditioned on certain activities deemed to be in the public interest.

When each broadcaster receives a license, they sign on that license that they agree to act in the public interest.

Some of the opponents of the McCain-Feingold legislation complain incorrectly that the bill will limit individuals free speech. As I have just explained, the bill is compatible with the Constitution. But there is even a greater question that must be asked. If spending is akin to free speech, then how much speech does an individual without means have? If money is free speech, how much free speech does a person without money have?

On March 2, on CNN a woman from Bartlesville, OK, called in, and, said, ''I have a question for you. I'm a Republican, supposedly. I'm more Independent than anything else. But I want to ask you something. At $735 a month, how much freedom of speech do I have? I cannot contribute to these big campaigns.''

Mr. President, men and women all over America ask in response to the equation of money and free speech about how much freedom of speech they have if they are a moderate- or low-income American. Where is her voice? Where is the voice of the woman from Bartlesville, OK? What can be done to ensure that her voice is not overwhelmed by the voices of monied special interests?

Spending limits will do more to both level the playing field between challengers and incumbents and give a voice to individuals who either give little or can afford to give nothing at all.

The most money tends to win elections. And this is the incumbent protection system. The reality is that the current, perverse system under which the richest takes all has resulted in entrenched incumbents.

The Congressional Research Service has compiled an analysis of congressional races in recent years, and the conclusion of that study is that the candidate who raises and spends the most money, even if that money is his or her own, usually wins the elections. As I have said before, elections should be about message and ideas. I do not believe it was an accident that in the last election we had the lowest voter turnout in any time in the history of Presidential elections in this century.

Mr. President, I have a letter from Common Cause. I quote:

Dear Senator: The Senate is expected to vote later this week on a proposed constitutional amendment to provide Congress with the ability to impose mandatory limits on campaign spending, thus overriding a portion of the Supreme Court's 1976 decision in Buckley v. Valeo.

Common Cause opposes the constitutional amendment because it will serve as a diversionary tactic that could prevent Congress from passing campaign reform this year. We believe that a constitutional amendment is not necessary in order to achieve meaningful and comprehensive reform.

Congress needs to act now to address the growing scandal in the campaign finance system. Congress can act now—and constitutionally—to adopt major reforms. Congress need not and should not start a reform process that will take years to complete by pursuing campaign finance reform through a constitutional amendment. Instead, the Senate should focus its efforts on enacting S. 25, comprehensive bipartisan legislation that represents real reform. It is balanced, fair, and should be enacted this year to ensure meaningful reform of the way congressional elections are financed.

Mr. President, I ask unanimous consent that this letter be made part of the RECORD.

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

COMMON CAUSE,
Washington, DC, March 12, 1997.

DEAR SENATOR: The Senate is expected to vote later this week on a proposed constitutional amendment to provide Congress with the ability to impose mandatory limits on campaign spending, thus overriding a portion of the Supreme Court's 1976 decision in Buckley v. Valeo.

Common Cause opposes the constitutional amendment because it will serve as a diversionary tactic that could prevent Congress from passing campaign finance reform this year. We believe that a constitutional amendment is not necessary in order to achieve meaningful and comprehensive reform.

Under existing Supreme Court doctrine, Congress has significant scope to enact tough and effective campaign finance reform consistent with the Court's interpretation of the First Amendment in Buckley.

The McCain-Feingold bill, S. 25, provides for significant reform within the framework of the Buckley decision. The legislation would: ban soft money; provide reduced postage rates and free or reduced cost television time as incentives for congressional candidates to agree to restrain their spending; close loopholes related to independent expenditures and campaign ads that masquerade as ''issue advocacy''; reduce the influence of special-interest political action committee (PAC) money; strengthen disclosure and enforcement.

A recent letter to Senators McCain and Feingold from constitutional scholar Burt Neuborne, the Legal Director of the Brennan Center for Justice and a past National Legal Director of the ACLU, sets forth the case that the McCain-Feingold bill is constitutional. Professor Neuborne finds that the key provisions of the bill are within the Court's existing interpretation of the First Amendment, and he thus demonstrates that a constitutional amendment is not necessary to enact reform.

Professor Neuborne concludes that the voluntary spending limits in the McCain-Feingold bill are consistent with the Supreme Court's ruling in Buckley. He further concludes that ''Congress possesses clear power to close the soft money loophole by restricting the source and size of contributions to political parties. . . .'' He also concludes that efforts to close loopholes relating to independent expenditures and so-called ''issue ads'' are also within Congress' existing authority.

It is, therefore, not necessary to amend the Constitution in order to enact meaningful campaign finance reform. Congress has the power, consistent with the First Amendment, to enact comprehensive reform by statute.

A constitutional amendment for campaign finance reform should not be used as a way to delay reform legislation. Typically, amending the Constitution takes years. After both Houses of Congress adopt an amendment by a two-thirds vote, it has to be approved by three-quarters of the state legislatures. Even then, the Congress would still have to take up enacting legislation. This is a lengthy and arduous process.

Congress needs to act now to address the growing scandal in the campaign finance system. Congress can act now—and constitutionally—to adopt major reforms. Congress need not and should not start a reform process that will take years to complete by pursuing campaign finance reform through a constitutional amendment. Instead, the Senate should focus its efforts on enacting S. 25, comprehensive bipartisan legislation that represents real reform. It is balanced, fair, and should be enacted this year to ensure meaningful reform of the way congressional elections are financed.

Sincerely,

ANN MCBRIDE,
President.

Mr. MCCAIN. Mr. President, I also would like at this time to have printed in the RECORD by unanimous consent a letter that is by Mr. Burt Neuborne who is the Legal Director at the Brennan Center for Justice.

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

BRENNAN CENTER FOR JUSTICE,
New York, NY, March 3, 1996.

Hon. JOHN MCCAIN,
Hon. RUSSELL FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATORS MCCAIN AND FEINGOLD. I am writing in response to a letter to Senator Mitch McConnell, dated February 20, 1997, from the American Civil Liberties Union, arguing that critical provisions of S.25, the Bipartisan Campaign Reform Act of 1997, are unconstitutional under existing Supreme Court precedent. I am the John Norton Pomeroy Professor of Law at New York University and Legal Director of the Brennan Center for Justice. I served as National Legal Director of the American Civil Liberties Union during the 1980's, and remain active in defense of the First Amendment. I

continue to serve as an ACLU volunteer counsel. I believe, however, that the ACLU letter on S.25 is simply wrong in a number of assertions, despite the fact that it was written by an able lawyer whom I respect and admire.

In assessing the ACLU's views on the constitutionality of S.25, it is important to recall that the ACLU believes that an restriction on campaign financing is unconstitutional, even those restrictions upheld by the Supreme Court in Buckley v. Valeo. The only Justice on the current Court who accepts the ACLU's position is Justice Clarence Thomas. Thus, the ACLU is quite right in predicting that Justice Thomas would find S.25 unconstitutional—but quite wrong in claiming that a majority of the Court would condemn critical parts of the statue.

I. EFFORTS TO PERSUADE CANDIDATES TO LIMIT CAMPAIGN SPENDING VOLUNTARILY BY PROVIDING THEM WITH VALUABLE INDUCEMENTS LIKE FREE TELEVISION TIME ARE CONSTITUTIONAL

The ACLU argues that Title I of S.25, which asks candidates to limit campaign spending in return for free or subsidized broadcast time and subsidized mailing rates, is unconstitutional. But, in Buckley, the Court approved precisely such an approach when it upheld the offer of campaign subsidies to Presidential candidates in return for a promise to limit campaign spending.

The fact is that the ACLU still believes the Buckley Court was wrong when it upheld Congress right to condition public campaign subsidies on a promise to limit campaign spending. But the ACLU lost that argument. It is, to say the least, difficult for the ACLU to argue that a far lesser set of inducements in S.25 would violate the First Amendment. In effect, the ACLU argues that virtually any inducement offered to a candidate to persuade her to limit campaign spending is unconstitutional as a form of indirect ''coercion''. But the Buckley Court clearly distinguished between inducements designed to elicit a voluntary decision to limit spending, and coercive mandates that impose involuntary spending ceilings. If giving a Presidential candidate a $60,000,000 subsidy is a constitutional inducement, surely providing free television time and reduced postal rates falls into the same category of acceptable inducement. Merely because a deal is too good to pass up does not render it unconstitutionally ''coercive''.

II. CEILINGS ON CONTRIBUTIONS BY PACS ARE CONSTITUTIONAL

The ACLU argues that a $1,000 cap on contributions from PACs, and a 20% limit on PAC contributions to a particular candidate violate the First Amendment. Once again, the ACLU's constitutional position is traceable to an issue that it lost in Buckley, but continues to re-argue in Congress.

In Buckley, the ACLU challenged the $1,000 ceiling on campaign contributions, arguing that campaign contributions were entitled to the same level of free speech protection as campaign expenditures. The Supreme Court rejected the ACLU's argument, and upheld the ceiling on contributions. Indeed, in the years since Buckley, the Supreme Court has upheld every contribution limit that has come before it in an election context. California Medical Ass'n v. FEC, 453 U.S. 182 (1981); FEC v. National Right to Work Committee, 459 U.S. 197 (1982). If Congress may limit contributions from individuals to $1,000, surely the First Amendment does not require preferential treatment of PACS. If individuals can be restricted to $1,000, so can PACS.

Moreover, Congress may surely determine that the greatest risk of corruption occurs in connection with campaign contributions from self-interested, interest PACS. Accordingly, placing a 20% ceiling on PAC contributions in well within Congress' power to prevent corruption, or the appearance, or the appearance of corruption, by placing limits on overtly self-interested campaign contributions.

III. LIMITS ON ENORMOUS CAMPAIGN CONTRIBUTIONS TO POLITICAL PARTIES FROM CORPORATIONS, LABOR UNIONS, AND WEALTHY CONTRIBUTORS ARE CONSTITUTIONAL

The ACLU argues that the First Amendment prevents Congress from closing the notorious ''soft money'' loophole that threatens to destroy the integrity of the Presidential campaign process. In the most recent Presidential campaign, donors poured more than $250 million through the soft money loophole to political parties, ostensibly for use in building local parties, registering voters, and increasing voter turnout. The vast bulk of soft money contributions came from corporations and labor unions, barred by law from participating directly in federal campaigns, or from wealthy individuals anxious to contribute in excess of existing contribution ceilings.

The ACLU argues that the First Amendment prohibits Congress from closing the loophole. But, once again, the ACLU's constitutional position is simply a reprise of arguments it has lost in the Supreme Court. In Buckley, the ACLU argued that any effort to limit campaign contributions violated the First Amendment, an argument the Court rejected. In later cases, the Court also dismissed the argument that corporations and labor unions have a right to use their money to influence federal elections. See, e.g., Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990); FEC v. Nat'l Right to Work Comm., 459 U.S. 197 (1982).

In 1978, the FEC, reversing an earlier ruling, opened a seemingly modest loophole in the contribution rules by allowing corporations, labor unions, and wealthy individuals to contribute funds directly to a political party free from the usual restrictions on contributions, as long as the funds were to be used in connection with local party building, voter registration or other activity not directly connected to a federal election. In the years since, the soft money loophole has become a threat to the integrity of the regulatory system. Hundreds of millions of dollars pour through the loophole each year to both major political parties from contributors who are barred from contributing directly to a federal campaign. The funds are often solicited by federal candidates and spent in ways designed to advance their candidacies. More ominously, the forbidden donors, if their contributions are large enough, are rewarded by both parties with preferred access to public officials, creating precisely the appearance of corruption that justifies restricting large campaign contributions in the first place. Thus, unless one accepts the ACLU's premise that contributions can never be limited no matter what the size and no matter what the source (and even Justice Thomas has not gone that far), Congress possesses clear power to close the soft money loophole by restricting the source and size of contributions to political parties just as it does for contributions to candidates.

The ACLU's suggestion that the recent Supreme Court decision in Colorado Republican Party provides First Amendment support for a soft money loophole is flatly wrong. Colorado Republican Party was an ''expenditure'' case, not a ''contribution'' case, and it involved hard money, not soft. It held, merely, that when a political party makes an expenditure attacking the candidate of another party six months before selecting its own candidate, the expenditure should be treated as an independent expenditure, as long as the funds come in small amounts from donors who are eligible to contribute to a federal campaign. The Court did not hold that ineligible donors, like corporations, labor unions and wealthy individuals, have a constitutional right to buy preferred access to public officials by pouring unlimited amounts of cash into a political party's coffers.

The most relevant Supreme Court decision is not Colorado Republican Party, but Austin v. Michigan Chamber of Commerce, where the Supreme Court held that corporations can be walled off from the electoral process by forbidding both corporate contributions and corporate independent expenditures because they have the capacity to distort the democratic process. Surely, the law cannot be that Congress has the power to prevent corporations from giving money directly to a candidate, or from expending money on behalf of a candidate, but lacks the power to prevent the corporation from pouring unlimited funds into the candidate's political party in order to buy preferred access to him after the election.

IV. THE NARROW LIMITS ON COORDINATED EXPENDITURES BY POLITICAL PARTIES IMPOSED BY S. 25 ARE CONSTITUTIONAL

Colorado Republican Party holds that political parties are entitled to make truly independent expenditures on the same terms and conditions as other entities. Since the expenditure at issue in Colorado Republican Party was made six months before the party's candidate was selected, there obviously was no coordination between the party and the candidate. The case says nothing, however, about coordinated expenditures. Indeed, the critical swing Justices—Justices Breyer, Souter, and O'Connor—explicitly refused to decide how to treat coordinated expenditures, noting that if coordinated expenditures were treated like independent expenditures, the critical line between contribution and expenditure would be destroyed, since every forbidden contribution could be recycled as a coordinated expenditure.

S. 25 attempts to deal with coordinated expenditures by providing that once a political party makes contributions, and engages in coordinated activities with its candidate, it can no longer be said to be making truly independent expenditures. The provision is merely a common sense effort to police the distinction between truly independent and coordinated expenditures. Since the ACLU rejects the critical distinction between expenditures and contributions put forth in Buckley, it believes that any restriction on the party's right to spend money, even a de facto contribution made in the form of a coordinated expenditure, is absolutely protected. But, if you accept the Supreme Court's ruling in Buckley that contributions may be regulated, it becomes critical to decide when an expenditure is truly independent, and when it turns into a *de facto* contribution. Thus, once again, the ACLU's opinion on the effort in S. 25 to draw a careful line between truly independent expenditures and coordinated contributions is an exercise in wishful thinking, not an accurate description of existing law.

V. THE EFFORT IN S. 25 TO DISTINGUISH BETWEEN AN INDEPENDENT EXPENDITURE DESIGNED TO AFFECT THE OUTCOME OF AN ELECTION, AND ISSUE ADVOCACY DESIGNED TO INFORM THE PUBLIC, IS CONSTITUTIONAL

Independent expenditures designed to affect the outcome of a federal election are subject to one important restriction—funds contributed to finance the expenditure must come from sources that would be lawful if contributed directly to the candidate and in limited amounts. Issue advocacy designed to

inform the public is, on the other hand, subject to no restrictions, either as to funding or disclosure.

The last election was characterized by numerous groups purporting to engage in public education outside the reach of the campaign laws. For example, both major parties spent substantial sums on so-called ''issue ads'', paid for by donors who were barred from contributing directly to a federal election campaign. Numerous private groups targeted close races and poured funds into them in the guise of issue education, even though the funds came from forbidden sources and in amounts that could not be contributed. S. 25 attempts to close that loophole by setting forth two tests to differentiate between campaign speech and genuine issue advocacy. Throughout most of an election cycle, the test is whether the speaker's purpose and effect was to advocate the election or defeat of an identified candidate. Within 60 days of the election, however, the test dispenses with an examination of the speaker's purpose and looks only to whether, applying certain enumerated criteria, a reasonable person would understand the ad to be advocating the election or defeat of a named candidate.

It is, in my opinion, unclear whether the latter test is sufficiently precise. I believe that the better approach would be to apply throughout the election cycle a purpose-and-effect test along the lines of the first one described above, but perhaps slightly more demanding. Speech should be viewed as campaign speech only if the speaker's predominant intent was to affect the outcome of a specific election, and the FEC should be required to establish the relevant intent by clear and convincing evidence, or, even, beyond a reasonable doubt before labeling speech as campaign-related. Such an approach would prevent egregious evasion of the rules governing campaign contributions, while providing ample space for genuine public education.

VI. THE EFFORT IN S. 25 TO ENHANCE THE ENFORCEMENT CAPABILITY OF THE FEC IS LONG OVERDUE

The FEC is currently powerless to cope with massive violations of existing law. For example, the last campaign saw both major parties accept illegal donations, and engage in blatantly illegal spending activities, like running phony ''issue ads'', or making phony ''independent'' expenditures in order to evade contribution restrictions. The FEC stood by like a helpless spectator while the law was turned into a mockery. S. 25 provides needed authority to seek injunctive relief against blatant violations. I would, however, tighten the enforcement provisions to permit injunctive relief only for clearly established violations. I would place a significant burden on the FEC in order to permit action against egregious violations, while preventing undue intrusion into the electoral process.

Finally, I would break the FEC's monopoly on enforcing the campaign funding laws. The FEC's current structure permits either major party to veto the enforcement activities of the FEC. The result has been an enforcement history that harasses minor parties and independents, but rarely challenges the questionable activities of the major parties. We will, I predict, never see an FEC proceeding against either or both major parties for their activities during the last campaign.

The solution is a private cause of action for violating the FEC. Abuse of such a private right of action could be minimized by provisions for attorneys fees and Rule 11 sanctions for frivolous claims.

Reasonable people can disagree over the merits of S. 25. Some believe that efforts to regulate campaign financing are misguided and doomed to failure. But opposition to the wisdom of S. 25 should not take the form of distorted descriptions of existing constitutional law. The complexity of existing campaign financing law in the Supreme Court makes it impossible to state with certainty what path the future Court will follow. But I believe that the best reading of existing precedent renders the foregoing provisions of S. 25 constitutionally defensible. Only Justice Thomas has embraced the ACLU's absolutist refusal to permit any regulation of campaign financing.

Respectfully submitted,

BURT NEUBORNE,

Legal Director, Brennan Center for Justice.

Mr. MCCAIN. Mr. President, the reason I asked that the letter be included in the RECORD is that he says:

I am writing in response to a letter to Senator Mitch McConnell, dated February 20, 1997, from the American Civil Liberties Union, arguing that critical provisions of S. 25, the Bipartisan Campaign Reform Act of 1997, are unconstitutional under existing Supreme Court precedent. I am the John Norton Pomeroy Professor of Law at New York University and Legal Director of the Brennan Center for Justice. I served as National Legal Director of the American Civil Liberties Union during the 1980's, and remain active in defense of the First Amendment. I continue to serve as an ACLU volunteer counsel. I believe, however, that the ACLU letter on S. 25 is simply wrong in a number of assertions, despite the fact that it was written by an able lawyer whom I respect and admire.

Mr. President, I think it is an interesting rebuttal to the position that the ACLU has taken on S. 25.

I would also like to point out that I have great respect for the ACLU. But there are very few occasions on which I have agreed with the positions that the ACLU has taken on a broad variety of issues.

We can argue the constitutionality of this issue, and, if we win, we will get into the major debate. But I will have a very large body of constitutional opinion—not just the ACLU—as to the constitutionality of the McCain-Feingold bill.

I also suggest again that we have to clean up this system. It is broken. It is out of control. Almost every American agrees with that. Poll after poll after poll is telling us that the American people are cynical about us, the way we are selected, and the system under which money seems to be the determinant factor in the selection of our public servants.

I will continue to seek support both inside the Halls of Congress and outside the beltway, and I and Senator FEINGOLD fully intend to bring this bill up this year. The ideal way that we would seek to do that would be us all sitting down together and coming up with a package as we did on the gift ban, as we did on lobbying reform, as we did on the line-item veto, as we have on a broad variety of reforms we have enacted by near unanimous if not total unanimous agreement.

My message to those who say I am now in favor of campaign finance reform is, as you know, so am I, so are many others, so are most Americans. So let us sit down adhering to principles and recognize what the problems are and sit down as mature individuals and move forward and reform this system for the benefit not only of those of us who have the honor and opportunity to serve today but provide an opportunity for dedicated and outstanding young men and women to serve this Nation in the future in elected office.

I intend to continue to conduct this debate with respect and appreciation for the views of my colleague from Kentucky, Senator MCCONNELL, who disagrees with me, my colleague from the State of Washington, Senator GORTON, and others. I believe that we can strongly disagree on this issue and respect each other's views, and I think the American people deserve a debate that is conducted in an environment of mutual respect. I am happy to say that at least in my view we have conducted this debate on that level during this period of time, recognizing that it is a very emotional issue on both sides. But I think the American people will be far better off if we continue to conduct this debate on the Hollings bill today as well as our overall debate on campaign finance reform in that vein in the future, and I commit to my colleagues that I will conduct it in that fashion.

Mr. President, I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I am honored to be here today with two great Senators who have been leading the discussion on a very important matter to this country.

During my campaign last fall, I was involved in a campaign in which I had two opponents spend over $1 million of their own money on a primary election, two others spent over half a million dollars—$5 million was spent really against me in the primary, which I eventually won, and we had a very contested race in the fall.

I know how difficult it is to raise money, how distasteful it is, how frustrating it is to have to deal with that problem. I came here with an idea that I would be quite willing to consider whatever reforms we could undertake to improve that system. I have given it thought. The results of my thoughts are that I have concluded that we are at a point where we have to admit the primacy of the first amendment and free speech and I have come down on that side.

We had in my general election campaign the trial lawyers association that spend hundreds of thousands of dollars, maybe over $1 million, opposing my candidacy. That frustrated me. Some of it was not properly reported. It was not required to be reported in a timely fashion to the public. So it was difficult to know where that money was coming from, and I do not think that was correct.

I ask, after having given it a lot of thought, how can we say that a group

of trial lawyers, a group of business people, a group of union people cannot get together and go on television and speak at the time of an election about candidates or issues in which they believe deeply. This is so fundamental. Some say, well, you can talk about issues; you just cannot do it at the election cycle.

Well, when else do we want to talk about it? When is it more important than when we are trying to decide the direction this country is going, when we are facing it during an election cycle. I do not see how we can avoid that.

The amendment of the Senator from South Carolina I think is an honest attempt to deal with the problem because I do not believe under the present constitutional structure we can make many of the changes that have been suggested to date. So I respect him for that. But I consider that it would be an astounding, a thunderous, a remarkable change of policy for America to adopt this proposed amendment.

It says Congress shall have the power to limit expenditures made by a candidate in an election. That is a remarkable thing to say, that a person cannot go out and say to the people, through their own resources or the resources of others, why they ought to vote for them or against their opponent. I think that is a fundamental alteration of the great democratic trends or tendencies of this Nation.

I do not think it is a complicated case. We can have professors and scholars, and they can write briefs and all this stuff, but look at this. This is a restriction on free debate in America. It is a fundamental issue that this country is dealing with, and I must say that I do not believe we should support it. I think it would be one of the most regressive actions, one of the greatest retreats from the democratic ideal that would have occurred in my lifetime, maybe in the history of this Nation.

I just wanted to take a few minutes to share those comments. I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Before the Senator from Alabama leaves the floor, I want to commend him for his statesmanship when he made the observation that our first inclination after a campaign is to think, boy, I would sure like to have shut up those people who were out there trying to beat me; wouldn't it have been easy if I could have just quieted those voices who were against what I was trying to do?

But as the Senator from Alabama has pointed out so well, America is a seething cauldron of voices, either individually or in groups who take an interest in the future of this country and try to sway our free elections one way or the other.

That is exactly what the founders of this country envisioned. And so what the amendment before us seeks to do is to take a big hunk out of the first amendment, which when it was passed over 200 years ago was almost entirely about political speech, and say that the Government now has the power to control how much not only we get to speak in our own campaigns but the Senator from Alabama knows, because he was referring to this amendment, not just the campaign that we are conducting against our opponent but this says in addition Congress may set reasonable limits on those in support of us or in opposition to us.

Given all the discussion that we have observed here in the last few months about the expressions of outside groups, whether it was through legislative activity or independent expenditures, I would just ask my friend from Alabama, does he not think it is conceivable that Congress might decide that kind of speech is unreasonable and eliminate it entirely in this environment?

Mr. SESSIONS. I think that is a very realistic possibility, and it is so incapable of enforcement or definition. Do you say that a private group that believes deeply in interests like pro-life or pro-choice cannot raise money and say don't vote for John Doe because he is opposed to our views? I think that is what America is all about. We have to be able to take the heat and defend our positions as best we can, and we should not turn that over just to the news media to do so.

Mr. MCCONNELL. I say to my friend from Alabama, I agree with him; we should not do that, but I think under this amendment we could do it.

Mr. SESSIONS. It troubles me greatly. I have read that language in this proposed amendment. I consider it frightening. That is the reason I felt obligated to come and express my opinions today, not for any other reason. I think we should not amend the Constitution in this fashion, and I want to be on record opposing it.

Mr. MCCONNELL. I thank my friend from Alabama.

The only other point I will make, now that he is an incumbent, like the Senator from Kentucky, and since all of us incumbents would get to decide what is reasonable, is it not, I ask my friend from Alabama, conceivable to think that Congress might decide it was reasonable to shut up all the outside groups and have such a low spending ceiling that a challenger to us could never get off the ground? All in the name of getting that nasty money out of the system; we want to get rid of that, want to control all that spending, stop the money chase. We could all stand up here in a chorus of 100 of us and say we are going to stop the money chase. Each of us here are going to set the spending limit in our respective States exactly where we think it is reasonable.

The Senators from Alabama would set the spending limit in Alabama, the Senators from Kentucky would set the spending limit in Kentucky, and the Senators from Idaho would set the spending limit in Idaho. I bet you we would all come up with just the right amount to make sure that nobody had a shot at us. I mean nobody. We would make sure the groups could not talk at all. We would make sure our opponent could not talk much. And, of course, under this, you could tell somebody they could not spend their own money to express themselves, the difficulty with which the Senator from Alabama was confronted in the primary. We could shut them all up under this. This in the name of healthy democracy?

The Democratic leader of the House—I just happened to have it posted. I do not want to detain the Senator from Alabama, but several people have mentioned this. I just wanted those who might be viewing to see it. The Democratic leader in the House, in support of an amendment like this, said, with a straight face, apparently—apparently with a straight face:

> What we have is two important values in direct conflict: Freedom of speech [on the one hand] and our desire for healthy campaigns in a healthy democracy. You cannot have both.

I am told he did not snicker when he said that. Everyone who heard it broke out laughing. This is one of the most astonishing comments in the history of American politics, made in behalf of a constitutional amendment, similar to the one before us today, to carve a niche out of the first amendment and give the Government, us, the Congress, the power to shut everybody up. That is what is before us today. This is about free speech. It is about political discourse in this country.

I thank the distinguished Senator from Alabama for a very important contribution to this most important debate.

Mr. SESSIONS. I thank the Senator from Kentucky. I agree with the Senator, the statement as printed behind him there on that chart is an astounding and very troubling statement. I think it reflects accurately, though, what thicket we get into when we attempt to pass laws to regulate speech in the campaign. I do not see how we can get out of this.

I think we need to make sure people report what they give so the public can know who is supporting whom. But I think this would be a historic retreat, the greatest retreat from free speech since the founding of this Nation, if we were to adopt it. It is bad policy, and I must speak in opposition to it.

I thank the Senator from Kentucky for his leadership in this effort.

Mr. MCCONNELL. I thank the Senator from Alabama.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senator from Oregon, Senator WYDEN, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina has the floor.

Mr. HOLLINGS. I thank the Chair. I had hoped, when I see the distinguished Senator, that he and others on the other side would have an open mind. I know there was a time when that occurred. But, obviously, you can see from their strategy here that they are taking the party position. It is unfortunate when you do that and try to hide behind free speech, which is not at issue. We are talking about paid speech. But instead, they hide behind James Madison and Patrick Henry and do not want to recognize the truth.

I would be ready to vote this afternoon. I can see at a glance that time and again we face a false charge. Time and again my opponents come up with the same false representation. And time and again we met with anecdotal ''could be's,'' and ''what would happen's.''

For example, the distinguished Senator from Alabama just said, ''This is remarkable. This goes to a fundamental issue. Congress should not be amending the Constitution.''

And under my amendment, Congress is not. Instead, it will be up to the people of America. This amendment simply is a joint resolution giving authority to the Congress to limit expenditures, should the States approve this. We have to get 34 States to approve of this joint resolution, and this joint resolution only gives to the people an opportunity to vote. I wrote the first version of this resolution 10 years ago with, ''The Congress is hereby authorized to regulate or control expenditures in Federal elections.'' The States and the Governors and everyone else said, ''Include us.'' So we amended the joint resolution giving the people a chance to vote. So it is not Congress that is running around amending the Constitution.

Then the Senator from Washington, Senator GORTON, ''When we put the rights of free speech in the hands of Congress''—we have done it. But we did it with respect to false and deceptive advertising. On television and radio, we gave Congress the right to regulate free speech when Congress acted in controlling obscenity. We told the Federal Communications Commission, as the administrative arm of the Congress, ''We want you to watch these programs and rule out obscenity.'' And then in Buckley, in a 5-to-4 decision by the Supreme Court, they held—as the Senator from Washington says, if we put the rights of free speech in the hands of Congress, oh, that would be a terrible thing. But if we look closely at the Buckley decision, it has been put there and has been found constitutional by none other than the U.S. Supreme Court.

When the Congress acted in 1974 to control expenditures in Federal elections, the U.S. Supreme Court, in Buckley v. Valeo, to use the opposition's expression, took a big hunk out of the first amendment. And there are those who would, in political discourse, see their freedom of speech to contribute as they choose limited. So don't come around here with the call of horrors—''this is fundamental''; ''this is so terrible''; or, ''this is remarkable.''

Their conduct in the treatment of this joint resolution is what is remarkable. They don't want to admit that what is involved here is limiting spending, not freedom. There is nothing free here at all but our chance to limit expenditures in political campaigns. If you want to limit spending, if you want to excise the cancer on the body politic that has grown so now that we can't even do our business except in a party fashion, so be it.

We have tried over the years in every way. I don't want to clutter the RECORD with the entire article in Congressional Quarterly a few years back discussing the need for campaign finance reform, but it I will read part of it:

> Most Democrats supported spending limits which would allow challengers to spend on a level equal to incumbents. Under the 1976 Supreme Court decision in Buckley v. Valeo, spending limits had to be voluntary. The Court said that public financing was a legitimate carrot to encourage compliance with those voluntary limits, a concept some Democrats supported anyway, calling public funding ''clean money.'' Most Republicans, however, strenuously oppose taxpayer financing of congressional campaigns which they liken to welfare for politicians. Many Republicans also argued that spending limits locked in incumbent advantages. They said challengers needed the option to outspend incumbents to make themselves equally viable to voters.

Then, Mr. President, going along:

> In 1987, debate over these issues threw the Senate into a virtually unprecedented procedural fit. Consideration of a bill that included spending limits and Federal funding stretched over 9 months and forced a record 8 cloture votes in an effort to break a Republican filibuster, a 53-hour-24-minute session and a Senator injured and dragged to the floor under arrest highlighted the episode. In the end, the Senate failed to overcome partisan divisions, and the bill succumbed to the process.

The article goes on to talk about a bill in 1992. They wrote:

> In the years that followed with a Republican in the White House pledging to veto any bill approved by the Democratic Congress, neither party showed much interest in restaging the drama. Instead, when an ethics scandal broke, such as the Keating Five affair in 1990 and 1991, in which five Senators were accused of accepting favors from a savings and loan magnet, campaign finance legislation was trotted out as a symbol of reform. The two Chambers reached agreement on a bill in 1992, after the House came under siege over the House bank scandal. That bill stapled a plan House Democrats had crafted for their campaigns to an entirely different plan Senate Democrats had sanctioned. Both plans, however, included spending limits and public finance and, as promised, President Bush vetoed the bill.

I only mention this because it has been a long, hard road, and I hoped, as that article said, that we would have another fit here. I thought that we would get a fit of conscience here and really do away with the partisanship stonewalling, because they know that is what is involved. They have the advantage, in spite of all that the White House did in the last Presidential race. Just mark it down in Senator THOMPSON's hearing that the Republicans got $150 million more. So whatever the Democrats did, the Republicans did better. We all know it, and you can ask anybody in the public.

We have been in the game, we have watched it, we have read about it, everybody knows about it, and we have tried over the years to correct it. In 1966, Congress adopted public financing for Presidential elections, and then in 1967, they repealed public financing for Presidential elections.

In 1971, there was the passage of the Federal Election Campaign Act.

In 1974, the amendments to that.

In 1976, a further amendment.

In 1979, another amendment.

By 1985, we had the Boren-Goldwater amendment—we had bipartisanship then—to change the contribution limits and eliminate the PAC bundling, but that was tabled.

Then, in 1986, the Boren-Goldwater amendment was adopted, but then it didn't go far.

In 1988, Senator BYRD forced nine votes on the motion to instruct the Sergeant at Arms and request the attendance while trying to get a vote on S. 2. That is when they arrested a Senator, only the second time in history, dragging him in.

In 1988, we had the Hollings constitutional amendment to limit campaign expenditures, and we got a 53 to 47 vote on cloture. Of course, we needed 60 votes at that particular time, and the majority didn't control.

In 1989, S. 139, a comprehensive reform passed the Senate but never made it out of the conference.

In 1991, of course, as I just mentioned, a comprehensive reform passed, which President Bush vetoed.

In 1993, we had a sense of the Senate by this Senator that Congress should adopt a constitutional amendment limiting campaign expenditures which passed 52 to 43.

In 1993, we had a comprehensive reform pass the Senate but it never made it out of conference.

In 1995, again the Hollings constitutional amendment to limit campaign expenditures offered as amendment to the balanced budget amendment. That was tabled by a vote of 52 to 45.

And, in 1995, the Senate passed the sense-of-the-Senate amendment to address the campaign finance reform during the 104th Congress. Again, we got a majority vote.

Then, in 1996, we had cloture on the McCain-Feingold campaign finance reform, and that cloture vote failed by a vote of 54 to 46.

So we keep hammering and hammering and trying every kind of which way. But we know that the intent in 1974 was to prevent individuals from buying their way into office. And now

we are continuing our fight in trying to overturn the Buckley decision that held the office must be bought. We are trying to remove that requirement, because the money in campaigns has gone up, up, and away. Good people are being withheld from public service, and the public is losing confidence in the democratic process.

The only way to save this democracy is amend the Constitution. And rather than recognize this fact, the opposition simply raises strawman after strawman.

The distinguished Senator from Kentucky and the Senator from New Mexico, Senator DOMENICI, say, ''Might a Congress not come up and cut off speech entirely?'' The Senator from New Mexico says, ''I could dream up a scenario where that would be constitutional.'' He said he did not think it was going to happen, but he could think of that later on at a time when Congress would act in an inordinate fashion.

Then he turns to the Senator from Washington. He asks, ''Can't you think of a Congress that may shut down entirely any opposition that just comes?'' Well, Senator GORTON, the Senator from Washington, said, ''I doubt that that would happen, but it is the most fundamental attack on the freedom of speech since the adoption of the Constitution.''

So they continue the same rhetoric about the freedom of speech. But if Buckley says that freedom of speech can be limited with respect to those contributing in politics, then why not for those spending? They do not want to answer that question.

Chief Justice Burger, in the better of the opinions in that case, said they are two sides of the same coin, contributions and expenditures.

To quote exactly, he said, ''The Court's attempt to distinguish the communication inherent in political contributions from the speech aspects of political expenditures simply will not wash.''

But, no, we come here with the Senator from Alabama, ''Congress should not amend the Constitution.'' I agree with him. It cannot. But instead, we let five Justices of the Supreme Court—over the opposition of four individuals—amend the Constitution whereby they limit freedom of speech as to contributions.

I put it word for word in this particular joint resolution. I wanted to show how we had come and aimed right down the barrel of the U.S. Supreme Court on the so-called freedom of speech. ''Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by * * *.'' That is word for word the Buckley versus Valeo decision. You can limit the amount of contributions.

That is what Congress did in the 1974 act. It is a frustrating thing that is going on today because we try and try over a 30-year period. We arrest people, get into a 9-month debate, and have cloture resolutions.

But now they ignore the need for action. They go in the back room and say, we are going to vote as a party so do not worry about it. We let it go on over the weekend, discuss it maybe on Friday or Monday, and vote on Tuesday, because no one is going to listen. All that is required is for someone to come out from time to time, mention freedom of speech, and talk about how remarkable, how untoward, how drastic this amendment is.

Then they have the Senator from Kentucky get up and say, ''Don't you think the Congress could do all these horrible things?'' Well, it has already occurred. Congress passed the 1974 act, and the Supreme Court has held it binding. Our mistake was in figuring that conscience and common sense would say, as Chief Justice Burger said: two sides of the same coin.

We say, ''Congress shall have power to set reasonable limits on the amount of contributions that may be accepted * * *.'' We have done it, and we are doing it. Then we add ''* * * and the amount of expenditures''—which is what we try to get—''that may be made in these campaigns.'' That is all it is. And it is said, let the people vote on it.

I wish I could get enough publicity to get the people focused on what is involved here and break down the stonewall thrown up by most on the other side of the aisle against limiting expenditures. We tried in a bipartisan way in 1974 to limit expenditures, and we said so much per our votes at that particular time.

After Watergate, Congress did not say, ''Heavens above, let's limit the campaigns to $50,000,'' or any such thing. We had limits in a small State like South Carolina where we could spend $510,000, and inflate that over the 20-year period. That is not $50,000. But no, they come up and say what Congress could do and how the U.S. Supreme Court, under the mandate of being reasonable, would agree with them.

You know and I know that is a straw man. It should not even be considered seriously. But they come here with a very analytical argument about, ''The media sets the agenda, the fourth branch,'' and try add to their parade of horribles as to what the media could do. Well, look at this particular joint resolution. It has nothing to do with the freedom of the press, absolutely nothing to do with the freedom of the press. And on the other hand, you have that freedom of the press right now.

I related in the debate yesterday that I was running along with a nice little lead going into the election in 1992, and along comes the Wall Street Journal and Paul Gigot. We had not heard of him before and we have not heard of him since. But it was coordinated with the London Economist and Robert Novak and others. Articles started being written about the right to work. They know South Carolina is a right-to-work State. And they said, by cracky, I was opposed to it, but in fact I voted for it as a member of the State legislature and have stuck with it throughout my political career. Organized labor knows that.

My opponents try to make the claim that I could say that the editorial was a contribution against me or a contribution for my opponent and therefore set it aside. Nonsense. They know that.

If you get a violent, caustic, scavenging editorial against you as a politician, wake up, because you are in the game. As Harry says, you have to take the heat or get out of the kitchen. If you are in the kitchen of politics, that is going to happen. There is no such thing as stopping it under our Constitution. Certainly not this amendment, which is to limit campaign expenditures, not the free press.

But they try to distort and stretch with this strawman exercise and charade that we have been going through here all day today. Here and now, and I have experienced it, that kind of activity has already occurred.

What we say here, and it is as simple as was testified before the Judiciary Committee in 1988, is 43 very simple, very clear-cut, words to limit expenditures in Federal, State, and local elections. That is all it is. Shall we do it? Shall we have the authority? It does not address those questions. It does not say how you do it or that you must do it.

The Senator from Kentucky, Senator MCCONNELL, has been forthright. He says we have not spent enough money on politics. He talks about how we spend way more money on cat food and dog food and Kibbles 'n Bits and yogurt. You would think that there would be some kind of dignity in the silly things they put out as real arguments against this particular mission. But the Senator from Kentucky has come forward and said we are not spending enough. Well, that is forthright. Maybe he can persuade others, as he has persuaded the stonewalling opposition here today, and he might get it increased. Then we can all get out and let the idle rich come in here and make the laws for the people of America, because we will not have any regular folks that are willing to listen to the people, who demand we get this money out of politics, that we limit this thing, that we get this corruption out of politics.

Everybody admits to it and everybody says, ''I am for reform, reform, reform, campaign finance reform.'' But you cannot get reform unless you have the authority. This has been proven over the last 30 years by all of these failed attempts. So if you want new authority, which does not say whether or not to do it, does not try to limit newspapers, does not say what it is expenditures, vote for this amendment. As a politician, you are not going to get anything free from the free press. Go to them and ask them for a quarter- or half-page ad and they will laugh at

you. They just do not give free coverage. I have not ever heard of a newspaper doing it yet.

The same with the radio and the TV advertisements. Go tell them how much you want to buy, and we are couched in a very sinister way into these 30-second ads. You cannot discuss intelligently the issues before the American people. That is the real burden on an incumbent. They say, ''Well, HOLLINGS, you voted in 1974 one way and now in 1994 you are voting another way.'' Well, you come forward and try to explain that, but you cannot explain that in a 20-second bite on TV. And try to buy 5 minutes. They will say, ''No, we are not selling that, and there is nothing you can do about it. Nothing you can do about it. We control the prime time that you need to do it. We control that freedom of your speech.''

It is already controlled here in the U.S. Senate with the filibuster rules, and over on the House side with the 1-minute, 2-minute, 5-minute rules, and in the committee with 5 minutes per Senator to examine the witnesses. We all agree and understand and know the reason for the limits, but then they bring on the dog and pony show, saying ''remarkable, fundamental, never heard of it before.'' Who believes that?

Mr. President, for 21 years Buckley versus Valeo has been on the books and we have abided by it, as the distinguished Senator from Arizona says. We have the PAC limits and individual contribution limits. But there is no limit on the individual candidate. That is what we were after back in 1974. I was there. I voted. We said, ''Mr. Rich Man, you cannot buy this office.'' Now with this half a haircut solution, what we have is the ones who contribute are totally limited, but the ones with the wealth are totally unlimited. In reality, then, you have taken away the speech of the poor. You have indirectly limited the speech of the poor in spending.

The Supreme Court, five individuals against four, have amended that Constitution. You know it and I know it, but yet you come up here and talk about what is remarkable and fundamental and ''the first time in 200 years'' and on and on and on. Congress was given the authority to prohibit false and deceptive advertising and it has been upheld by the Court. Congress has amended the right of free speech with respect to obscenity. It has been exercised, and in the decision of the U.S. Supreme Court upheld. In a sense, we now have the rights of free speech in the hands of Congress. They said that is fundamental, and do not ever do that. Like this is something new, putting the right of free speech in the hands of Congress. But Congress has done it, and it has been upheld in Buckley versus Valeo. To use their expression, the Court ''took a big hunk'' out of the first amendment, and found that among those who want to exercise their free speech by contributing, free speech is limited.

So we should get the real facts out about what we have here. We have a bottom line. Do not come here congratulating on a misdescription by the Senator from Texas as to whether or not you are for free speech. We say expenditure. We do not say anything about ''free'' in this amendment. It has nothing to do with free. It has to do with paid speech, paid expression.

I was really moved by the Senator from Texas, who tried to change the debate. That is what you have constantly with the stonewall against limiting spending on the other side of the aisle. That is what we have. They do not want to limit spending. They will say, ''Well, you have the advantages of people. You have the AFL–CIO, the organization labor fellows, but we have the banks and we have the money and you expect us to give up our money.''

Well, well, well, I think that both sides have the cancer of money. They ought to be able to recognize the reality that faces us after the 30-year trying. They ought to give the people of America the right to vote and amend the Constitution.

When my Southern State and a lot of other Southern States had the poll test, we amended the Constitution. I told the story about the poor minority that presented himself to the polls in the early years and we had the literacy test. They said to the poor minority, ''Boy, read that paper.'' They gave him a Chinese newspaper. What goes around comes around; we are back to China. And the poor individual just looked at it and he said, ''Yes, sir, I can read it.'' He said, ''You can? What does it say?'' ''It says, 'Ain't no poor minority fellow going to vote in South Carolina today.''' Yes, he could get the message. There were all kinds of devices to prevent some from voting. However, we have amended the Constitution to fix that.

If Madison, Patrick Henry, and Jefferson and all that crowd that the other side has been celebrating were so good, with their slaves, why did we have to pass the 14th amendment? We didn't agree with what they found, so we had the discrimination cases and the civil rights movement. In my lifetime, we have had the poll test. We changed the Constitution to fix that.

We changed the Constitution when we made a mistake in Prohibition. We changed the Constitution when we made a mistake with respect to the Federal income tax law.

Now, professors, all the studied minds, jurists, attorneys general, and the like have, said the Supreme Court made a mistake in Buckley versus Valeo, and the only way to correct it is with a forthright, restricted, limited kind of constitutional amendment. An amendment that says expenditures are limited in Federal, State, and local elections. It is not free speech, it is paid speech. We are just as assiduous as any other Senator in the protection of the freedom of speech. We know its value, but we know it must have exceptions.

I put in the RECORD, Mr. President, a statement by Prof. Lawrence Tribe of the freedom of speech and some of its exceptions that have developed over the years. So don't come here on the floor of the Senate with the act about fundamental, how remarkable this is. Egads, the U.S. Senate has voted for a constitutional amendment to grant Congress the authority to limit campaign spending three times. We just voted 4 years ago for a Sense of the Senate Resolution. Is there any sense of history and experience around here that we can finally come to grips with the fundamental—yes, it is a fundamental—money is a cancer on the body politic.

If money corrupts in political campaigns, then unlimited money corrupts absolutely in political campaigns. We know that, in warfare, he who controls the air controls the battle. We know and understand and appreciate that, in campaigns, he who controls the airwaves controls the campaign.

What you have here is the rich, as we saw 2 years ago in California, spending $30 million to be a Senator, and we think that is legitimate. It is a disgrace. It is buying the office, and everybody knows it.

The rich who walk in and say, ''I am making so much money, but I need another tax cut, a flat tax,'' and they sell it by controlling the airwaves with their millions of dollars in a Presidential race—they ought to hang our heads in shame. That kind of activity is going on and is even covered by the free press. They ought to understand that freedoms really are in jeopardy when we allow the rich to come along and buy the office.

My amendment says reasonable limits on expenditures, not on speech.

Mr. President, if others want to be heard, I will be glad to yield the floor, but I have plenty here with respect to the authorities and the witnesses that appeared before the Judiciary Committee. We have had hearings. The former Senator from Illinois, Paul Simon, was on the other side. He withheld in that committee for a long time. I had to struggle to get a majority vote. But we had the witnesses. They were heard, and a majority of the Judiciary Committee voted the amendment out and to the floor.

Please, my gracious, they reported it out. Once out, we didn't get it passed, but we got a sense of the Senate that it should be passed. Senators want to get that political credit. It's a pollster politician that says, ''I am for reform and that is what we ought to do.'' ''Yes, sir, I believe we ought to limit this financial cancer.'' ''Yes, I voted reform when it was only a Sense of the Senate.'' And then when they get to real reform, they put on this big show here trying to quote Mr. GEPHARDT and saying, ''You can't have a strong democracy and freedom of speech.'' They know and I know, this democracy is strong because of free speech—none of us believe otherwise. I think it is a distortion. I think it is a distortion perhaps

of what the gentleman said, but be that as it may, no one ascribes to that in this particular body.

Everybody knows how we got here. Incidentally, we all got here not through free speech—unless somebody was appointed, and I can't think of any appointments now that we have had the election—but every one of the 100 have had to pay through the nose to be heard on the TV, to be covered in the newspapers, to be heard on the radio, and seen on the television, billboards, and yard signs. So we know all about the paid speech.

That is what we are trying to do, put an ultimate limit on it because, once done, then we can get a handle on some of the real abuses. Then we control all of the monkeyshines that go on.

Once you get it limited and fully disclosed, like in the 1974 act where every dollar that I receive in a campaign is recorded in the secretary of the senate's office in my State capital and with the Secretary of the Senate, then you get it under control. With that limit and disclosure, you can see from whence they come, and who has, if at all, tried to buy or has been subject to undue influence.

After all, it is the people who are the ultimate jury. They decide on election day. You can refer to that public record and say, see, he is bought and paid for by such and such an industry or such and such an interest, whatever it is that comes out in the campaign. That is what the disclosure requires. You can't receive huge sums and have it obscured.

We ran it the right way back in 1974. But the justices who amended the Constitution in that Buckley decision, they created the system we have been tortured with now for the past 20 years. And every time we make the good college try to fix it, they come out here, and I am surprised, frankly, at this particular charade because they got a lot of good conscientious Members that have come to the Senate, and they say we will not fix it.

Some of those Members have run on the proposition of trying to limit spending. Here is the one opportunity to ask the American people if that is what they want to do. HOLLINGS is not amending the Constitution. The Senate is not amending the Constitution. The Congress is not amending the Constitution. We simply, in a little closely worded amendment, said the people will have a chance to vote on it in the several States.

The last amendment to the Constitution took 200 years to pass. That is the 27th amendment. ''No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.''

Congress submitted the text of the 27th amendment to the States as a part of the proposed Bill of Rights on September 25, 1789. The amendment was not ratified with the first 10 amendments, which became effective on December 15, 1791. The 27th amendment was ratified on May 7, 1992, by the vote of the State of Michigan.

Just like the 27th amendment, you can put this Hollings-Specter amendment up and let the people decide. You don't have to talk about this amendment being so remarkable. It is not remarkable to let the people decide. Only the people will change our fundamental rights. Don't believe those who say it is going to guarantee incumbency or any other of those parade of horrors that they bring up. Just remember, we are just giving the people, the good, commonsense American people, the chance to vote.

When the people looked at the 27th amendment, it wasn't until 203 years later, in 1992, that they finally got the State of Michigan to ratify it and the people decided. So there you are. It is just a chance to give the people chance to clear up this Buckley versus Valeo decision.

The distinguished Chief Justice said, ''The Court's result does violence to the intent of Congress.'' There isn't any doubt about it. I was there. Chief Justice Burger,

> The Court's result does violence to the intent of Congress in this comprehensive scheme of campaign finance. By dissecting the act bit by bit and casting off vital parts, the Court fails to recognize the whole of this act is greater than the sum of its parts. Congress intended to regulate all aspects of Federal campaign finances.

I read again Chief Justice Burger:

> Congress intended to regulate all aspects of Federal campaign finances. But what remains after today's holding leaves no more than a shadow of what Congress contemplated.

This decision, a 5-to-4 decision, and they are talking about what Congress might do. Look at what those five individuals have done.

Look what Justice White said in dissent,

> The judgment of Congress was that reasonably effective campaigns could be conducted within the limits established by the act and that the communicative efforts of these campaigns would not seriously suffer. In this posture of the case, there is no sound basis for invalidating the expenditure limitations so long as the purposes they serve are legitimate and sufficiently substantial, which in my view they are.

So there is Justice White finding them ''substantial'' back 20 years ago, long before any kind of Keating Five, long before the Lincoln Bedroom, long before the soft money scourge with the Colorado decision. Long before all these things, there was ''substantial'' then, and they are more than ''substantial'' today. ''Expenditure ceilings reinforce the contribution limits and help eradicate the hazard of corruption.''

Justice Byron ''Whizzer'' White couldn't be more correct. He couldn't be more on target. We know it. The American people outside this Chamber know it. They have asked for a chance to correct it. Let me read further from Justice White.

> I have little doubt, in addition, that limiting the total that can be spent will ease the candidate's understandable obsession with fundraising and so free him and his staff to communicate in more places and ways unconnected with the fundraising function. There is nothing objectionable, indeed, it seems to me, of weighing the interest in favor of the provision in the attempt to insulate the political expression of Federal candidates from the influence inevitably exerted by the endless job of raising increasingly large sums of money. I regret that the Court has returned them all to the treadmill.

Mr. President, when you talk of that treadmill, you can't ignore the description that was used by the distinguished writer some 15 years ago, Elizabeth Drew, in the New Yorker when she described, if you please, the same situation with respect to that treadmill in her article ''Politics and Money.'' And I read:

> Until the problem of money is dealt with, it is unrealistic to expect the political process to improve in any other respect. It is not relevant whether every candidate who spends more than his proponent who wins—though in races that are otherwise close, this tends to be the case. What matters is what the chasing of money does to the candidate and to the victor's subsequent behavior. The candidates' desperation for money and the interests' desire to affect public policy provide a mutual opportunity. The issue is not how much is spent on elections but the way the money is obtained. The point is what raising money, not simply spending it, does to the political process. It is not just that the legislative product is bent or stymied. It is not just that well-armed interests have a head start over the rest of the citizenry—or that often it is not even a contest . . .
>
> It is not even relevant which interest happens to be winning. What is relevant is what the whole thing is doing to the democratic process. What is at stake is the idea of representative Government, the soul of this country.

That was written in 1982, some 15 years ago. We were worried then about Buckley versus Valeo. That was 6 years after everybody had looked at it and seen the treadmill, exactly as Justice White called it, and the damage to the soul of the country as a result of this treadmill. It was an injury to our democracy, according to Elizabeth Drew.

There is no question that this has to be dealt with. They might run, as Joe Louis said, but they can't hide. I am not going to let them hide behind this freedom of speech babble. I have it in here word for word. Mr. and Mrs. American people, you are given the authority to vote. You are not controlling it unless you vote yea, allowing Congress to have the power to set reasonable limits on the amount of contributions.

That is already in place under the Buckley versus Valeo constitutional decision. We have that limit on the freedom of speech which is so remarkable and so fundamental that they inaccurately continue to caterwaul about. Now, we are attempting to limit the amount of expenditures, not freedom of speech. It is limits on the amount of contributions, limits on the amount of expenditures, nothing free. It is contributions and it is expenditures, and it is limits thereof, and it is

whether or not the American people shall have the right to vote on it after this 30-year trial.

Otherwise, as Justice Thurgood Marshall in another one of the distinguished dissenting opinions stated, and I quote:

It would appear to follow that the candidate with the substantial personal fortune at his disposal is off to a significant head start. Of course, the wealthy candidate can potentially overcome the disparity in resources through contributions from others, but ability to generate contributions may itself depend upon a showing of a financial base for the campaign or some demonstration of preexisting support, which in turn is facilitated by expenditures of substantial personal sums. Thus, the wealthy candidate's immediate access to a substantial personal fortune may give him an initial advantage that his less wealthy opponent can never overcome. And even if the advantage can be overcome, the perception that personal wealth wins elections may not only discourage potential candidates without significant wealth from entering into the political arena but also undermine public confidence in the integrity of the electoral process.

There it is, that last phrase—''not only discourage potential candidates without significant personal wealth, but also undermine public confidence in the integrity of the electoral process.'' That is exactly what is occurring

That is the trouble. As Marshall said:

Large contributions are the less wealthy candidate's only hope of countering the wealthy candidate's immediate access to substantial sums of money. With that option removed, the less wealthy candidate is without the means to match the large initial expenditures of money of which the wealthy candidate is capable. In short, the limitation on contributions puts a premium on a candidate's personal wealth.

Think about that. This is, as expressed, ''a big hunk of the first amendment,'' as expressed by my distinguished colleague from Kentucky. We are capable of limitation on contributions. And that is sustained here by the U.S. Supreme Court in the Buckley case. That puts a premium on a candidate's personal wealth because the only way that a less wealthy candidate can catch up is with large expenditures. But the Court, has ''limited the freedom of speech for the first time in 200 years.'' I will use their expression and see if anybody believes it. This happened in 1976. It happened after many other times the Court has upheld limits, but let us use their expression if that is what everybody wants to believe. The Supreme Court, in Buckley versus Valeo, for the first time in 200 years, limited a contributor, his expression, and his freedom of speech in politics and therefore has put a premium on the candidate's personal wealth. He is penalized. The speech of the less affluent candidate is taken away because the less affluent candidate can only make it up, if he has no personal wealth, by larger contributions. But the Court, in limiting contributions, limited free speech for the first time in 200 years.

Maybe that is the way they will understand it. I do not know how to get their attention and get them out from this stonewalling on limiting spending in political campaigns.

Everywhere we go, they all say, what about campaign finance reform, Senator? I say, ''Oh, yeah, I am for reform.'' And then one chance we get here this week to vote for it, we decide to put it off until next week. We hope it does not appear on the Sunday programs or anything of that kind so the people will never know we had that chance. And once we have done that, then they will tell Senator FEINGOLD and Senator MCCAIN, ''Well, you had your vote; you can see Congress does not want to limit it. We cannot spend a whole year on reform. You have had your chance, and the majority voted against that chance. You did not pass the joint resolution of Hollings-Specter so let's go on to something else.'' Thereby, the entire thing is supposed to be swept under the rug. Well, it was almost swept under the rug on Monday. On Monday, they had it greased. They had a majority vote out of that Rules Committee, Mr. President, to just look at the illegal and not look at the improper, and they thought they had a majority vote along party lines. But Senator THOMPSON of Tennessee won out. He said we had a fit of conscience of at least eight or nine on that side. They were going to have egg on their faces. They were going to lose to a Democratic amendment.

''My gracious, we cannot ever let that happen. We are so bipartisan around here,'' they said. My Aunt Ida. Instead they said, ''we just cannot have a Democratic amendment prevail in this particular score. So, we will just all join in, then, and vote the 99 votes and adopt it.'' They had a fit of conscience.

Maybe we will get a fit of conscience. Maybe not today, maybe not tomorrow or next week, but we will keep coming back. We have had it three other times. We will get this the fourth time. We keep picking up steam.

My difficulty over the years has been in trying to put up an amendment again and again, because they tell me at the desk, that according to parliamentary rules, you cannot amend a simple bill—three readings in the House, three in the Senate, signed by the President—because this is a joint resolution. It is not to be signed by the President, but to go directly to the people for their ratification in the several States.

So, if I bring it up on any and every bill—which I am prepared to do, because I know the people are demanding it, and we will finally make a breakthrough—I have to wait for a joint resolution. That is why I finally got it up on the balanced budget amendment to the Constitution, for the simple reason that last year Senator Dole would not let me up. He just would not bring up a joint resolution on anything. When he got his unanimous consent to bring up the balanced budget amendment, I told them that I had an amendment to offer. They said later on, ''Oh, that is not relevant and our agreement meant relevant amendments on the balanced budget amendment to the Constitution.''

So I struggled all last year, 1996, and could not even get it up. I am going to look for any joint resolution that quietly comes by, and I will draft my resolution so that it is separate and apart from the other resolution, so that it would not interrupt it, and we, maybe we can get an up or down vote at that particular time again. But I can tell what the strategy is here, now. It is to get an arguable reason to stonewall McCain-Feingold. We can say, ''Well, we have had enough debate. We debated it 3 or 4 days, and everything else. Everybody has considered it. They are not going to limit campaign expenditures, so why do McCain-Feingold? If you do this, you are going to limit it. If you do that, we are going to limit it. We have already voted on limits in the Hollings amendment and that is it. Forget about it and let us all go home and say we all tried. We were all for reform.''

Oh, yes, we are all for limiting it any time it is in a sense of the Senate. It is kind of hard to hide behind that. Maybe that is what I will continue to do, on every bill, get a sense-of-the-Senate resolution. I think you have to get 25—we can get 25 Senators to cosponsor that right easily, and keep bringing it up until they get that fit of conscience.

They do not have it now. They are not interested in the soul of democracy. They are not proud to be in public service. What they are proud to do is outmaneuver; what they are proud to do is avoid and evade; what they are proud to do is finesse, in a clever, parliamentary way. What they are proud of is parliamentary maneuver. So, then they all vote up or down on this. They smile at each other. And they will give that praise to the Senator from South Carolina. They will say, ''We know he is sincere, but he is so misdirected, the poor fellow. He has tried hard. We respect him for trying so hard, but, bug off, son. You are not going to pass anything here that has to do with limiting expenditures in Federal elections.''

That is what we have considered, time and time and time again. And it is not freedom of speech—it is the protection of speech. But if they want to say it is the freedom of speech, then we have drafted it after Buckley versus Valeo, which said that part of the speech is already limited. Let us give a neat little other side. There are two sides to the Buckley coin, as Justice Burger said. Let us take care of the expenditures themselves and not dance around the mulberry bush with Patrick Henry and James Madison and anybody else from the time that they believed in slavery.

That is the forefathers. I think we have come a long way. They did not have to go down the road in the wagon and solicit $14,000 every week. They did

have freedom of speech and free elections.

They did a pretty good job, though. We got a good Constitution, generally. But we have had to amend it because they did believe in slavery and we have outgrown that particular cancer. We are trying this afternoon to outgrow this particular cancer. We can get elections back to the issues and the confidence of the people back in their Congress and their democracy. And we can get participation. But why did less than 50 percent come out to vote? The votes say, ''What is the reason? The money controls the whole blooming thing.''

Look at what is in the headlines, that is all we have had—January, February, down into March. There is another shoe that falls every day. They begin to think this political contribution character is a centipede. I have never seen so many shoes falling.

We go from Indonesia to China to all these different countries to everything else of that kind. It would be helpful to me if they all would say: ''Look, we tried to compete. We stretched every law. We intentionally stretched every law. We asked Philadelphia lawyers, 'Can you do it?' And when the Philadelphia lawyers said, 'You can do it,' then we said, 'We have to do it, because that Republican crowd is going to outraise us anyway you look at it.''' And they did. They raised over $150 million more than the Democrats were able to raise.

So, why don't they admit to what exactly occurred and then let us pass this amendment and give the people an opportunity to vote on what they have been asking for 30 years now. I went down the litany of failed reforms, Senator, from 1966 right on.

But when we get the distinguished former chairman of the Judiciary Committee, and now ranking member of the Foreign Relations Committee, to come to the floor, the Senator from South Carolina knows when to hush. I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Delaware.

Mr. BIDEN. Mr. President, I want to apologize to my friend from South Carolina because, as usual, he has been carrying the heavy load here. He has been carrying the water for all of us. I do apologize for not being here, to be more engaged in this debate. Frankly, I say to my friend from South Carolina, everything else we talk about—all the other talk about what we are going to do about campaign financing and campaign finance reform, and who has more money and who has less money, and how to avoid the stain and stink of money—ultimately, cannot make a difference until, we do what you have been telling us we need to do for the last decade or more.

We have a Supreme Court that has interpreted the first amendment in a bizarre way. This is not only with regard to the Buckley case. Take, for example, all this talk about soft money. We would not be in the spot we are in with soft money in terms of both political parties had it not been for the Supreme Court decision last year. At least there used to be a couple of veils left in this dance of seven veils. Now, you have major, major contributors who can come in and just change the whole dynamic of Senate and House races.

I just came from a meeting on chemical weapons. This is sort of the biological agent of politics that we are trying to eliminate here. Two years ago, in the last cycle, if somebody wanted to come in and put up $100,000, $500,000, $1 million, $5 million—if they did it all by themselves, did not coordinate it with a political party, put up billboards and advertisements and did not collude with the one or the other political parties against a specific candidate, then they could spend all the money they wanted. But there was this little veil that sat there. It did not allow the multimillionaire to pick up the phone and call the chairman of the Democratic Party or Republican Party in Delaware and say, look, I want to defeat BIDEN or I want to defeat the other guy and I have a million bucks; how do you want me to spend it?

The Supreme Court came along—a fellow I voted for, a brilliant guy—and wrote an opinion and said in effect, ''Oh, no, there's no distinction between you going out and spending it yourself, in first amendment terms, and giving it to and coordinating with a political party.''

What happened? We have a thousand dollar limit on individual contributions. But what does that mean? In my campaign this last time out, all of a sudden I find—I assume in coordination with the political party; by the way, I am not saying Democrats would do the same thing if they had the money—all of a sudden, I am finding all these ads on the radio with our good friend Malcolm Wallop. He was a good friend; he is a good man. He was heading up Americans for Freedom or some organization with a name like that.

He said, ''This is Americans for Freedom. Do you realize Senator JOE BIDEN is taking away your freedom?'' Another group came in and did specific radio ads against me, coordinated by the Republicans.

All of a sudden, my opponent had money. When he had to go out and get little pieces at a time, he had a hard time convincing people to give him the money. But, you get a couple of those big guys, they come along, and here is 10, 20, 50, 70, 100,000 bucks.

The point I am making is, all that is legal now. So what are we going to do? We can pass all the laws. I support McCain-Feingold. I am going to vote for it. But, I am reminded of that person who once said, ''You know, moderate reform is like moderate chastity.'' That is about what we are getting here with legislation.

When I arrived here, one of the first things I did, to the best of my recollection—it was Dick Clark and JOE BIDEN—was propose Federal funding of elections, congressional elections, because I wanted to get the private money out of this deal. I wanted to challenge incumbents, to let challengers have the same money incumbents had. I did not want public officials to be beholden to anybody but the American taxpayer.

I will never forget, some Democratic Senators, God bless their souls, like Warren Magnuson—''Maggie,'' as we used to call him—from Washington State, and some very prominent Republicans, looked at me and said, ''Kid, do you know what you're doing here? Do you understand this?'' I am not joking about this. ''Do you understand this?''

One Senator I will not name but has long since passed, called me into the Cloakroom, pulled me aside and said, ''JOE, come here.'' I was 30 years old at the time. I walked in and said, ''Yes, sir?''

He said, ''Enough of this stuff now, all right?''

I said, ''Enough of what?''

He said, ''This thing about giving the other guy the same amount of money we get.'' He said, ''I worked too''—I won't quote him precisely—''I worked too darn hard to get to the point where some little sniveling brat will get the same money I have to run against me.''

Well, that is why nobody in here wants to have it that way. I am not crazy about the fact. I have been around longer now. I am a senior Senator, so I can raise more money than the other guy. But, the other guy should have as much money as me to run, and neither of us should have to go around with our hats in hand saying, ''Will you help me?'' because it is a corrosive process, especially for a new guy and a new woman.

The reason I am saying that is this. I believe the vast majority of people who contribute to campaigns contribute to campaigns because they, in fact, find a Senator who already has a position they agree with. The problem I worry about is the young person who decides to run for the first time.

I will repeat this story. I told it in a hearing once, and I paid for it. But I will repeat it again and probably will pay for it again.

Toward the end of my first campaign, when I was 29 years old, I had no money, didn't have a thing—no television money—and all of a sudden, the guy that couldn't possibly be beaten, I am within a point of him, the polls said.

About 10 days before the election, I get a phone call from a group of men I never heard from before in an area of my State, I say to the Presiding Officer, where we used to only ride through and say, ''My God, look at the size of those houses.'' I get a phone call. They were decent men, by the way, decent, honorable men. They called me, and we went out to this place they call ''the hunt country'' in my area. You know it. You know some of the people. I was just so flattered they invited me.

I was thinking, 10 days. My brother, who is 6 years younger than me, was my campaign finance chairman. You can tell how effective we were. We had no money. He was 24 years old. The Senator from South Carolina knows my brother. Jimmy says, while driving me out there, ''You know, Joe, we got a call from the radio stations. If tomorrow we don't have the check for next week, we're off the air.'' Now, like anybody who is running for office, you pour your heart, your soul, everything into this.

Mr. HOLLINGS. That's what they call free speech.

Mr. BIDEN. Right, free speech. You pour everything into it. So I was sitting there, and I was within a point, according to the polls, of pulling off at that time, that year, what was viewed as the upset of the year. I wasn't even old enough, Mr. President, to be sworn in the day I got elected.

So I was riding out there. I walked into this room with nice big leather couches. I get offered, like we do in the Foreign Relations Committee, a sherry. That is a kind of foreign relations thing, sherry. I get offered a sherry. I don't drink, so I politely said, ''No thanks.''

These guys are real nice guys, five or six of them, and most of them made a living, God bless them—I don't begrudge them this—by clipping coupons. They came from wealthy families with a lot of money, and they are decent guys. Two of them had already been helping me. They thought this was a nice little revolution, this kid coming up doing this.

They sat there and looked at me. The one guy who was the older of this group—I say I was 29, so they were probably between the ages of 32 and 40. One guy looks at me and says, ''JOE, can you tell us your position on capital gains?'' Now, Mr. President, I knew the right answer for $30,000. I knew the right answer. Capital gains had not been an issue in the campaign. I had never spoken out on capital gains. No one had talked about it, but I am not stupid.

I was sitting there—and this is the God's truth—I was sitting in that room seeing what I worked for for 2 years about to go down the drain because I don't have $20,000 to keep my radio ads on the air. $20,000 wouldn't get you anything these days, but it would have kept me on the air for 10 more days with my radio ads, which were very effective, as it turned out.

I sat there, and I don't know why I did it—not because I am so honorable and brave or anything—I just blurted out, ''I don't think we have to change the capital gains structure.'' That was the end of the conversation. Everybody was very polite to me, said, ''Great idea,'' and talked about a few other things. They said, ''JOE, lots of luck in your senior year.'' I got up and left. I didn't raise any money from them.

I could have said, ''You know, gentlemen, I think the capital gains rate should be reduced.'' I knew that is how they all made their living. By the way, there is a legitimate, serious argument that capital gains should be reduced. It is not like it is something that is immoral or bad. I just happen to disagree with it. The truth is, I had not even thought that much about it, so it would not have been like I was selling my soul had I changed a position. But, the contrariant instinct got the better of me. I heard the words come out of my mouth and I thought, ''Oh, my God, what did I just say?''

Maybe I should not be so honest, but I have been around here too long. I have been here 24 years. And, this story illustrates the corrupting nature of the process. I have never known anybody I have worked with where a contributor says, ''Here, I got some money for you if you go ahead and take a certain position.'' That is not how it works. That is not the corruption. The corruption is sort of an insidious thing. It is insidious. But, in the public's mind, it is all bad now, even when we get support from people for positions we die for politically—whether somebody contributed to us or not, we would hold them dear, we would go down.

I always say to young people when they say they want to run for office, answer one question: Is there something you are willing to lose over? If you are not willing to lose over something, you should not get involved in politics; you should go do something else.

And for all the women and men in the Senate, there are positions over which they are willing to give up their seats rather than yield on. Somebody who contributes to them, who happens to share their view on that issue—now it is tainted in the public's mind. When we get support from people who are supporting us because we are of like mind, not because we changed our mind to get their support, we are viewed in a way that we must have done it because of the contribution. That is how bad it has gotten.

So what I do not understand, I say to my friend from South Carolina, is, you would think out of mere self-preservation and our own honor——

Mr. HOLLINGS. Right.

Mr. BIDEN. You would think we would want to change the system. I would say, to the best of my knowledge, all 100 Senators here are honest and decent people. But the perception out there is that there must be—must be—something wrong because all this money is in here.

So, it seems to me, I say to my friend from South Carolina—and I am not being solicitous—as usual, you have cut to the quick of the matter. Nothing can fundamentally change—fundamentally change—with regard to the way in which the process works until we have the ability under the law to limit the amount of money we spend, to determine how we can raise it, and to limit certain outside excesses that presently exist. If we did the things that we all would agree privately we have to do, the Supreme Court, I believe, would rule under their recent case law that it was a violation of the first amendment.

So what I am saying to my friend from South Carolina is, besides thank you, that you are dead, dead, dead right. I am going to vote for things in addition to this amendment, but not because I think without this amendment they are going to work, but because I think they are the only things we can do. And, I hope that I am wrong in terms of my reading of the Court's assessment of the first amendment.

My colleagues sometimes kid me, Mr. President, because they know I teach constitutional law in law school now. I think it must send shutters through Justice Scalia and others that I have been teaching the last 5 years a course on constitutional law and separation of powers issues. But you know what they say, if you want to learn a subject, teach it. If you want to learn a subject, teach it.

I am an adjunct professor at Widener University Law School, and I have taught a seminar on constitutional law for the past 5 years on Saturday mornings. I might add for the record, I do it without any conflicts to my job in the Senate. I do it Saturday mornings, on my time. Nobody helps me with it.

I am telling you, Senator HOLLINGS, you are right. Without changing the Constitution and giving us the power to determine what parameters we set or how we raise money for elections or how much we can spend, then anything we do here is subject to significant change by the Supreme Court.

Twenty-one years ago the Supreme Court ruled that spending money was the same thing as speech. The Court said that writing a check for a candidate was speech, but writing a check to a candidate was not speech.

The Supreme Court made a supremely bad and, I believe, supremely wrong decision. By saying that Congress shall make no law abridging the freedom to write a check, the Court is saying that Congress cannot take the responsible step of limiting how much money politicians can spend in trying to get elected. And we have to start putting limits on this because money is just permeating the system.

I am sure I am going to repeat a few things here that have been said by others, but I think they are worth being repeated.

In just the last 4 years, the total amount of money given to the political parties has increased 73 percent—73 percent. The total amount of money spent on races for Congress has increased 600 percent in the last 20 years. These are in real dollars—600 percent.

I ask you, how do these young pages, some of whom hopefully have dreams and aspirations of standing where I am right now—hopefully, a number of you have that aspiration—how do they get started.

When I started to get involved in public office, I had to raise the awful

sum of $150,000 to make the race credible, $250,000 to be in the game, and $350,000 to win in little old Delaware.

Today, somebody who wants to beat an incumbent, me or BILL ROTH, they better be able to raise a minimum of $2 million. But guess what? We only have 700,000 people in my whole State. But you know why they need so much money in Delaware? The reason is, we are in the fourth most expensive media market in the country. And as everybody knows, just to get to the point where 60 percent of the people in your State know enough about you to make a judgment whether they should vote for you or not, costs a lot of money. Just to get to know you—nothing else, not even to get to the point where they have any idea what your views are. Just to get to the point you are known. You know what it costs, I say to my friends who are from States much bigger than mine but in places where it is a lot cheaper to buy television? You know what it costs to air one 30-second ad at a good time on Philadelphia television on one of the network stations? It is $30,000 for 30 seconds.

Mr. HOLLINGS. You do not have a TV station.

Mr. BIDEN. I do not have a TV station. I believe we are the only State in the Nation that does not have its own commercial television station. That is not because we are good, bad, or indifferent. It is because it would make no economic sense. I live within 22 miles of the antennae of every one of the major stations—every one of the major networks in America. They are located in Philadelphia. I live in Delaware.

And so what happens when I buy an ad or my opponent buys an ad on television? For every 100 people who see the ad, 96 of them live in New Jersey, Maryland, or Pennsylvania and are unable to vote for or against me. But I have to pay for them all. Now I am not complaining because I have an advantage. I am an incumbent. It is an advantage and a disadvantage. The disadvantage is that you are an incumbent. People do not like incumbents. The advantage is that people know your name.

If you are an unknown person running, like I was the first time, how do you get to the point where even enough people know your name—unless you have a lot of money? And, my goodness, what it must be in the State of Michigan or Pennsylvania or South Carolina. Nevada is a little bigger now, but when I got here we were bigger than Nevada. Those States are bigger in population than Delaware.

I can speak knowledgeably only about one of our colleagues who did not run the last time. I will not mention his name. I know why he did not run. He would have won, and most people say he would have won. The State he happened to represent required him to raise at least, he thought, $12 million. He did not want to do that anymore—did not want to do that.

Look, the way we can raise the money is we can raise it at $1,000 a shot. That is the most we can raise from an individual. How many phone calls—from non-Federal property—do you make to be able to raise, in $1,000 increments, $12 million? That is a lot of money.

But guess what that does now? It means that you have to go from a circle of people who you know—and you know you do not have to worry about their backgrounds, their circumstances, where they came from, what their objectives were—to the universe. And, I want to tell you there is not a single U.S. Senator, myself included, who, I believe, could vouch for the character or motive or motivation of all the people who contributed to them unless they have the FBI working for them. We would have to spend more money than we raise to do background checks.

You know what I always think of, I say to my friend from South Carolina? I think of the guy who was probably more chaste than Caesar's wife, Jimmy Carter. I will never forget when he was running for President. He showed up at a fundraiser, and there was a guy named John Gacy—remember him, the mass murderer? Seriously, I am not joking. This literally happened. Gacy walks in and he contributes to Carter. And he is standing between Rosalynn Carter and Jimmy Carter. Then, later, we find out that the guy is a mass murderer. I say that not just because it is kind of humorous and we all laugh about it. But, I say that because there is no way, no matter how thorough you are as a candidate, that you can know about all your contributors. And I would have thought by now that we would all be worried about how it reflects on our reputation if a contributor turns out to be somebody that should not have contributed.

For example, recently there was a name of somebody who was an unsavory contributor, as it turned out, in the newspaper. It was a Chinese man. One of my guys said, ''My God, we have a man by that name that contributed to you,'' and I said, Oh, my God, find out who this guy is. It is a name that is a relatively common Chinese name, I found out later, like Smith or Jones. Guess what? It turns out the guy with that name who contributed to me was a librarian with the Library of Congress. I will never forget sitting in my seat going, Oh, thank God, thank God. Because, really and truly, what would have happened if it turned out to be the guy everybody was writing about? If I were up for election I would have to spend $100,000 in television ads to prove I did not know the guy.

Now, maybe we are counting on the people being so cynical that they will not hold anybody accountable for this. But I just think for pure self-preservation—not self-preservation of our jobs, self-preservation of our reputations and our integrity—that we would very much like the system to change.

I might add, you know how they kid around here. We joke when we have colleagues who announce they are not running again and they have been here for some time. We always joke and say things like, Well, now you will be able to tell them what you think. There was a guy that my friend from South Carolina knows well, and I will never forget him. Remember Steve Young—Senator Young from Ohio? Senator Young had been out of office about 2 or 4 years, but he was a guy I think who was widowed at that time, a man in his eighties, if I am not mistaken. And, he hung around here. He did not lobby anybody but he hung around, in the gym, in the dining room.

You may remember this story, Senator HOLLINGS, and I apologize for being so personal. But, the reason I am telling these stories is I want to communicate to the American people who are listening in real personal terms how this system works. I will never forget the effort of the distinguished Senator from South Carolina who took me under his wing when my first wife was killed in an automobile accident. When I got remarried and wanted to introduce my new wife, Jill, to the people, he had a reception for me up in the famous caucus room and everyone from the Vice President, President, the Supreme Court, really laid it out to welcome my wife. And, I might add, as they say, a point of personal privilege, I still appreciate that.

I will never forget there was a reception line and, Senator HOLLINGS, you introduced me to people. Later in the night the reception line was still going on but you were having to entertain some of the people you brought along. Old Steve Young came in the line, Senator Young was being nice, welcoming people who were coming in. This is a true story. And, a guy walked up to Senator Young—he was to my left—put out his hand, and said, ''Senator, I bet you don't know my name.'' I can't quote what Senator Young said exactly because I am on the Senate floor and it would be inappropriate, but Senator Young turned to me and said, ''Joe, will you tell this horse's tail his name? He has forgotten it.''

All of us would like to say that once in a while. So we joke and we say when someone leaves this place, Well, guess you will be able to tell them what you think now. The implication in that comment is that how nice would it be if you were totally unfettered, even indirectly, totally unfettered? I envy, and I mean this sincerely, the women and men in here who have close to unlimited wealth, and I do not begrudge that. I mean that sincerely. I would love nothing better than to be able to run for office and say I do not want anybody's money. I do not want one single penny from anybody, thank you very much, because then I know people would look at me and no one would be able to even think or imply that anything I did was because of anything anybody contributed to me.

I do not know why there is not a stronger instinct on this floor for that

notion of not having to be beholden to any contributors—and more support for public funding. We may never get to the point where we even get television time made available to challengers. We may never get to the point, and I am a distinct minority, where we have public financing, so the taxpayers are deciding whether they in fact, support a candidate. But, at least we could get to the point, if we have the Senator's amendment, where we could limit the amount of money in the process for everybody across the board, for everybody. Boy oh boy, do you not think it would be nice not to have to go out and do all those fundraisers?

Let me say what our friend from Nebraska, Senator KERREY, says. The danger in having this kind of discussion is that we imply that the 99 percent of the honorable people who contribute to us are somehow motivated by a bad reason. The vast majority of people who contribute to both political parties are people who contribute because it is their way of participating in the system and they want to promote the person whose ideas they agree with. That sounds naive to say after all these years, but it is true. I understand why the public does not believe any of it. I understand why the public does not believe any of that.

I will conclude, Mr. President, because I see there are others here who wish to speak. I will never forget thinking as a young man when I arrived here that the best thing to do, and I still think it is, is to bring everything out in the cold light of day. That is why I have spent time explaining how the system works. I am often reminded of that phrase, that saying, that comment attributed to Bismarck in Germany. Bismarck allegedly said there are two things you should never watch being made. One is sausage and the other is legislation. I would amend that slightly. Once the American people got a chance to see exactly how this worked, with all the disclosures which I think are necessary and good in the long run, I think the thing that suffered was our collective integrity—our collective integrity.

To the average person like my dad, anybody who was able to contribute $1,000 to a public official for a campaign must be doing it for a reason, and maybe is not so altruistic.

So, what does it say now that they pick up the paper and realize that individuals and corporations and unions and anybody else can contribute $20,000, $30,000, $50,000, $100,000, $1 million? Why do we expect them to say, ''Well, it must be nobly motivated, it is not for selfish reasons.'' In many cases it probably is totally nobly motivated.

Mr. President, I think that the single most important thing that has to be done from a purely practical sense is to amend the Constitution and give us the right to limit the amount of money that candidates are able to spend. I lay you 8 to 5 that if you ask every Senator to stand up and say whether or not they thought too much money was being spent in public elections, 90 out of 100 would say yes. I bet that if you asked them, do you think we should limit the amount of money that is spent, at least 70 would say yes. But if you asked them, ''Will you or your party lose political advantage if you do that?'' they may change their views. The truth is that it is not just the Republicans who don't want this reform; it is some Democrats, too. And, the truth of the matter is, if we do what you and I, Senator HOLLINGS, talked about a long time ago—essentially make it available for everybody to have the same amount of money, either by establishing a limit so that everybody would be able to be equal, or by providing public funding—every one of us would have a race every time. None of us like having those races.

Mr. HOLLINGS. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. HOLLINGS. I know others want to be recognized, and I am hopeful to hear from them. As usual, you are unfettered, and you don't wait until you get out of office to do that. You have been masterful, because in this exchange we have had, talking about charades, there is no charade in your presentation here this afternoon; it is right on target. I thank the Senator for yielding and for his talk today.

Mr. BIDEN. I thank the Senator. I must tell you that there is a piece of me that says keep the system the way it is, because it is awful hard to beat me the way the system is. There is a Senator we used to know who was very powerful here. I would say, ''Senator, how in the Lord's name did you get that person to contribute to me?'' He said he told them, ''It's not so much what BIDEN can do for you; it's what BIDEN can do to you.''

The truth of the matter is, if you are here and you have gained seniority and you are in a good position—better in the majority than the minority—it is a lot easier for you to stay if you are challenged. So I have to admit to you that I know if I ever prevail in making sure everybody running has the same amount of money, or by practically making it low enough so everybody could raise the same amount of money—I might say, ''Oh, my God, what have I done?'' But it is the right thing to do. I don't have a lot of hope that we can do it.

I thought when I got here in the midst of Watergate that maybe that episode would shock us into doing something serious—and we did it, until the Supreme Court overruled it. I hope we take advantage of the current situation and have the courage to act at a time when the spotlight is going to be on not only potentially illegal, but clearly unseemly, aspects of how these funds are raised.

I want to make it clear that I am not suggesting that I am any better or worse than anybody else in this body. I am merely suggesting that we should change, for our own safety's sake and for our reputations, the way we do it now. I don't know how to really do it unless you first have the authority under the Constitution to be able to do it.

I thank the Chair and yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the gentleman for yielding, and I appreciate the opportunity to speak on this issue because I think it is so important. When we are talking about amending the Constitution, and especially the first amendment to the Constitution, which is, in effect, what this would do, I suggest that we think very carefully about the ramifications.

So what are we doing here? We are actually considering an amendment that would open the door for restriction on first amendment political speech and freedom of association of many kinds. It seems to me, if we are rating the amendments, the free speech amendment is one of if not the most revered in our country. If we are going to dissect the freedom of speech that we have known for over 200 years in our country and effectively establish various levels of free speech, I think we must examine the impact this would have. By allowing restrictions on political speech, as this amendment would do, but not other forms of speech, we are opening the door to rendering political speech secondary to commercial advertising or even pornography. What could we be thinking? Of all of the rights we have, the ability to have freedom of political expression is perhaps the greatest, and must be preserved at least as vigorously as other rights.

Additionally, Mr. President, I would suggest that this amendment might also be called the Incumbency Protection Act of 1997. If we unduly restrict the ability of people to spend money to support the candidate of their choice and to likewise have the ability to raise adequate funds to run against incumbents in political office, as this amendment would allow, what we are doing is saying that, forever more, incumbents will have an advantage that challengers will not have. In fact, the reason we have the ability to have relatively free access to campaign funds or free access to the news media by challengers is so our democracy will work. Our democracy will only work if everyone gets a fair chance to do his or her very best to run against an incumbent or anyone else for political office. The idea that we would allow for almost limitless restrictions on that fundamental right is unthinkable.

Mr. President, many of us believe that campaign reform is essential, that we would look at our system and that we would make sure that there is accountability, openness, and transparency—that whoever contributes to campaigns would be known to the voting public. We need to make sure that

is the case. But to say that we would open the door to allowing restrictions on free access to the media or that we would require the media to, in effect, give access to anyone who might decide that they are going to pay a filing fee is really an inhibition not only of free speech but of the right of free press, which is also a crucial element of our first amendment. This resolution raises this as a real possibility and encroaches unacceptably on our hallowed Bill of Rights—that document that has made our democracy work and has kept our Government in the hands of the people. Our democracy will simply not be as strong if we do not preserve the freedom to be able to go out into the news media, or the sidewalk, or anyplace else and proclaim why we are running and what cause we care about for public office.

So I applaud Senator MCCONNELL for standing up for the first amendment, for making sure that we do not do something that would amend our Constitution without careful consideration.

I know that many in this body are frustrated. They are frustrated with our campaign system. I am sure that Senator HOLLINGS is frustrated and is clearly trying to fix a system that has problems. I would just say to my colleague from South Carolina that I think we need to address campaign reform, but this is not the vehicle. Amending the Constitution to provide for the ability for any State legislature or any Congress in the future to limit access to the airwaves or freedom of speech or association or of any organization to lawfully contribute to a campaign is simply not the way to go.

Let us in Congress come together on real campaign finance reform so that the people of America will be informed voters. But whatever we do, we should never relegate political speech to second-class status. Rather, we must work to ensure that the basic right to speak one's mind in the political marketplace of ideas remains the most protected of all of our rights.

Thank you, Mr. President.

Mr. MCCONNELL. Mr. President, I want to congratulate the Senator from Texas for a very important contribution to this important debate. We have finally gotten on to the real subject. The real subject is the first amendment, free speech, and protecting political discourse in this country. I just wanted to congratulate the Senator from Texas for her contributions today.

Mrs. HUTCHISON. Mr. President, I appreciate the opportunity to speak today, and I appreciate the Senator from Kentucky managing this amendment in opposition because we are exercising that free political speech that we enjoy. I think the ability for us to disagree while not being disagreeable is very important in the process.

I thank the Senator from Kentucky for leading the opposition.

Thank you, Mr. President. I yield the floor.

Mr. KENNEDY. Mr. President, I oppose the amendment offered by my friend Senator HOLLINGS. I respect his leadership on campaign finance reform, but it is a mistake to write it into the Constitution.

The current system of financing elections clearly needs reform. Something must be done to curtail excessive spending on the campaign trail. The billions of dollars spent by candidates and the massive exploitation of loopholes in current law have led to a growing cynicism and distrust of our system of government. We must act on reform, but amending the Constitution is the wrong way to do it.

In the entire history of the Constitution, we have never amended the Bill of Rights, and now is no time to start. It would be wrong to carve an exception in the first amendment. Campaign finance reform is a serious problem, but it does not require that we twist the meaning of the Constitution.

Campaign finance reform is clearly possible without a constitutional amendment. The Buckley decision does not make it impossible for Congress to pass legislation achieving far-reaching reform. In fact, a large number of experts believe that the Supreme Court's 1976 decision in Buckley versus Valeo went too far, and that the Court is likely to reconsider it in an appropriate case. Over 50 prominent lawyers have said that the Buckley decision is ''a mistake, unsupported by precedent and contrary to the best understanding of prior first amendment jurisprudence.''

These lawyers and other constitutional scholars believe that Congress should pass campaign finance reform legislation and give the Supreme Court the opportunity to revise the Buckley decision.

The McCain-Feingold legislation provides us with that opportunity. As President Clinton commented during his State of the Union Address, Senator MCCAIN and Senator FEINGOLD have reached across party lines to develop a solution to uncontrolled campaign spending. Contrary to what Majority Leader LOTT believes, this legislation is not, ''food stamps for politicians.'' It is a serious bipartisan effort to solve this problem, and the Senate should make it a priority.

The constitutional amendment before us today—unlike statutory reform—will not make a difference. It merely empowers Congress to pass legislation that would place mandatory limits on campaign spending in Federal elections. After the long ratification process, Congress would still have to actually pass legislation setting those limits. Though well-intended, this constitutional amendment is simply a distraction. We should get on with the business of enacting reform, without waiting for ratification of a constitutional amendment, and certainly without tampering with the Bill of Rights.

UNANIMOUS CONSENT AGREEMENT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate resume consideration of Senate Joint Resolution 18 at 11:30 a.m. on Tuesday, March 18, and that there be 1 hour remaining for closing remarks to be equally divided between myself and Senator HOLLINGS; that the Senate then resume consideration of the resolution at 2:15 p.m. on Tuesday for 30 minutes equally divided; and, finally, following that time on Tuesday, the joint resolution be read for the third time and the Senate proceed to vote on passage of S.J. Res. 18 with no intervening action or debate with paragraph 4 of rule XII being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, as a reminder to all Senators, this consent agreement allows for a rollcall vote on the measure currently before us at approximately 2:45 on Tuesday, March 18.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Nevada.

Mr. REID. Mr. President, I am a sponsor of Senate Joint Resolution 18. I am proud to be a sponsor of that resolution.

What we have to understand is that the present system must change. It is hard for me to comprehend that since I was first elected to Congress more than 14 years ago the system is still the same as it was. It has not gotten better. It has gotten worse. Ten years ago when I was elected to the Senate, I came to this floor, and one of the first speeches I gave was about the need for campaign finance reform. It is hard for me to really believe that here it is 10 years later and it has not gotten better. It has gotten worse. I thought it might stay the same. In my most pessimistic thoughts I thought there was a possibility that the system would remain the same. It has gotten worse.

What our friend from Delaware just talked about in this very remarkable good speech is what other abuses take place. Independent expenditures—we didn't have independent expenditures when I was first elected to Congress. What is an independent expenditure? That is a good question. No one really knows. But they are legal. They are legal. They are not illegal. If a group gets together, they don't have to identify themselves. They can make up a name. Senator BRYAN, for example, was Governor of the State Nevada, and he ran for the Senate. A group of individuals got together and they represented the automobile industry. They ran a bunch of ads, hundreds of thousands of dollars' worth of ads, tens of thousands. I don't know how much money. There is no way to know. They do not have to list how much they spent against Senator BRYAN, using Social Security as their issue. It had nothing to do with their field of interest. But it was a way to embarrass my friend, the Governor of the State of Nevada, who was running for the Senate. That is an independent expenditure.

In my race the last time I ran for the Senate, a wealthy person from Las

Vegas ran ads against me dealing with something about the military on submarines and aircraft carriers because I didn't visit with one of his grandchildren when they came to Washington. I was busy. I don't know what it was. I didn't visit with his grandchild when they came to Washington to visit me. He is a rich man who spent money trying to defeat me. He doesn't have to list where the money comes from. That is an independent expenditure.

Early this century Congress outlawed corporate money in Federal elections. They are not illegal anymore. The Supreme Court ruled last year that you can give unlimited amounts to State parties, and they can spend the money any way they want. That is what happened this election. That is what all this campaign mess is about—State parties spending all of their money.

So things have gotten worse; they have not gotten better since I have been in the Congress. It is really too bad that the system has reached a point where it is.

I have heard a lot of speeches here today about our Founding Fathers and about the first amendment. Well, the Founding Fathers who drew up this little instrument, the Constitution of the United States, would turn over in their graves if they saw how money was being used in campaigns. The first amendment wasn't meant to allow unlimited spending of money in campaigns. Should we wind up in this Congress with 535—it can't just be a millionaire—multimillionaires? The answer is no, that isn't the way it should be.

When I first was elected to the House of Representatives, we had a plumber, a tradesman, who represented a congressional district from Missouri. He ran and he won. He could not win working on those wages anymore; he couldn't win.

We cannot let what has now become the status quo—which is worse than the status quo of the election before—continue. Under the current campaign finance laws, Government is restricted from regulating campaign spending. This is a result, as we have heard here several times, of a U.S. Supreme Court in a 5 to 4 decision equating spending money in a campaign to free speech.

There are all of these speeches here about first amendment rights. If the resolution of the Senator from South Carolina passes, there is nothing that will violate the first amendment. Every day that we come on this floor to pass legislation we have to be aware of the first amendment. We are not going to do anything to denigrate the first amendment rights. The Supreme Court struck down the expenditure limits imposed by the Federal Campaign Practices Act of 1974 as an unconstitutional restriction on free speech. The intent of that legislation which restricted campaign spending was to equalize the ability to run for office between persons of differing wealth. The Supreme Court, through their decision, made the playing field not level.

What happens in a relatively small State like Nevada is, if someone wants to come in and spend, it will cost now $4 million to run in the State of Nevada, or more. What if somebody wants to come in and spend $10 million, a third as much as was spent in the California race an election ago where a man came in and spent $30 million of his own money—$30 million. He could save $20 million if he decided to move to Nevada.

I have to say, as popular as the present Governor is in the State of Nevada, as popular as my friend, the junior Senator from Nevada is, $10 million would test their ability. The airwaves would be drowned with TV messages, radio, and, of course, newspapers throughout the State. Is that fair? I really do not think it is. I think that we need to be able to stop that. The playing field is not level.

Most Americans believe that the current system is flawed. Their central concern is special interest influence. It is ironic that the Court equated free speech with money. Their decision has the opposite effect. It actually ensures that those with money can talk and those without money cannot talk.

I want to also spread across the record of this Senate my appreciation for the courage of the Senator from South Carolina for continuing on this issue. We are only here today as a result of the persistence of the Senator from South Carolina. We are here by virtue of a unanimous consent agreement that was entered into sometime ago saying we are going to debate this issue or I am not going to let something else move forward on the Senate floor. That is what the Senator from South Carolina did. And it took someone with experience, prestige, and abilities to get us to the point where we can at least talk about it.

I also say to my friend from South Carolina, I think we know we are not going to get 67 votes. I am disappointed. And maybe a miracle will happen. But that does not mean we are not right. That does not mean what the Senator from South Carolina is leading is not right. And we are going to win some day. It is only a question of when. I say thank you from the people of the State of Nevada to the Senator from South Carolina for allowing us to have the opportunity to talk about this.

Campaign finance is a sore that is festering in the body politic of America, and we have to do something to change it. We may not change it with this resolution passing, but we are going to change it because we are going to keep talking about it, because what is going on now is wrong. It is wrong you have independent expenditures, somebody spending money against people because they refused to see their grandchild. And in the middle of the night they go to the TV station and run these ads because they are wealthy. Is that the way to conduct business in this country? I say no.

I say people can stand up and say, well, it is free speech; they can do what they want. But they can play by the rules everybody else plays by. If somebody wants to contribute to my campaign under the Federal law that I thought existed when I came here—you have to list how much they give and they cannot give more than $1,000 an election, their occupation, where they live—why shouldn't they have to do the same. You do not know who these groups are that come in the middle of the night. I did not learn until after the election someone was mad at me because I did not see their grandchild.

I repeat, the Supreme Court equated free speech with money. Their decision has the opposite effect. It actually ensures that those with money can talk and those without money cannot talk.

Over the last decade we have seen an unsettling trend in American politics. Most of our candidates for Federal office have money. There are some estimates which say $1.6 billion was spent on campaigns this past year. And campaigns have become more expensive with each election. You can call it free speech; call it whatever you want. That is wrong. You cannot make something wrong right by saying it is wrong enough times. It is wrong to have the ability to be elected depend on how much money you have.

Thomas Jefferson was a bad speaker. He could not be elected today. As much of a genius as Thomas Jefferson was, he could not be elected today unless we change these rules.

The skyrocketing costs are prohibitive and serve as a deterrent for average Americans who want to participate in the political process. As long as costs continue to rise, so will the need for more money. Limiting spending is the only way of keeping the cost of campaigns down.

I wish we had a way of shortening the election cycle. The Presidential election just finished and people are already beginning to run for President.

Over the past 10 years, Congress has tried to get around the Buckley decision with at least 100 different proposals. There are numerous proposals now pending. But we are never going to slow the amount of money associated with campaigns until we address the Buckley decision head on. That is what the Senator of South Carolina has done.

Congress must undo the Buckley decision and reinstate campaign spending limits. This legislation amends the Constitution to authorize Congress to cap campaign expenditures in Federal elections. I do not take lightly amending the Constitution or our precious freedom of speech, but it is the only way to undo the Buckley decision.

No one is in favor of free speech more than I am, and I think I have the record to indicate that. I represented newspapers before I came here. Some of my clients went to court on first amendment cases. But equating free speech with campaign spending simply

creates a constitutional protection for wealthy candidates to buy Federal elections.

An alternative to this amendment is to continue to spin our wheels, working on hundreds of different initiatives designed to provide public financing, financial inducements in exchange for voluntary spending limits or one of the other failed proposals we have debated over the years.

I have been in the Senate 10 years, so I do not want to go back further than that, but let me read to my friend, the prime sponsor of this resolution this year and the years gone by: During the years I have been in the Senate, we have had 6,742 pages of hearings. We have had 3,361 speeches, 62 now with this one, 1,063 pages of committee hearings, 113 Senate votes on campaign finance reform, and we even had one bipartisan Federal commission which went nowhere. The vast majority of those votes, I would say 90 of the 113 votes were for cloture—stop debate so we could get to vote on one of the issues.

Now, I am a cosponsor of McCain-Feingold, an imperfect piece of legislation, but I say I do not know how we could make things worse than what they now are. I support McCain-Feingold; I hope it passes, but I think the chances of passing are pretty remote. I have to tell you that. I hope it passes. I am a sponsor of it. But until we do what the Senator from South Carolina suggests we do—and I am cosponsoring the amendment, an original cosponsor—I think we are just going to add to this. We are going to have probably by the time this year is over 7,500 pages of hearings, maybe 500 floor speeches, maybe 1,300 pages of committee reports, and probably 125 votes rather than 113, and accomplish nothing.

So I think we have to stop talking about limiting spending and look for a way to hit Buckley head on. We cannot enact powerful campaign spending limitations as long as this is the law.

Overall funding for the Democratic and Republican Parties totaled almost $1 billion last year, a 73 percent increase over the same period during the 1992 cycle. We can get up and say all we want that this is just part of free speech. I do not buy that. I do not think we can be whipsawed into cowering because the free speech argument is raised. I am not going to be. I am going to talk about this issue every chance I get.

I would like to be able to spend more of my time debating issues dealing with education, dealing with the trade deficit, dealing with juvenile crime, adult crime; I have some environmental things I would like to come here and talk about. That is one of my prime responsibilities on the Environment and Public Works Committee. I would like to come here and talk about that. I would like to spend some time talking about the ISTEA bill. But, frankly, a lot of us have to spend a lot of time making phone calls to raise money.

It is too bad, isn't it.

Mr. HOLLINGS. Yes, siree.

Mr. REID. The public believes that escalating cost of elections puts a price tag on our democracy. So why is there this call for campaign finance reform? Let us go over the issues.

No. 1, record-breaking spending. As I said, we hear all kinds of estimates, but just the parties spent over $1 billion; in overall spending, $1.6 billion at least.

No. 2, Americans feel shut out. Americans, more than ever, believe that the emphasis on money in elections excludes them from meaningful participation. They believe that special interests who contribute large sums of money have more influence on elected officials and that candidates are forced to spend too much time raising funds and too little time listening to voters' concerns.

No. 3, campaigns are too expensive. Campaigns have become more expensive with each election. The skyrocketing costs are prohibitive and serve as a deterrent to the average American who wants to participate in the political process. As long as the costs continue to rise, so will the need for more money. Limiting spending is the only way of keeping these costs down.

My friend, the Senator from Delaware, talked about these pages. We have serving in the U.S. Senate today a fine senior Senator from the State of Connecticut who was a page. I am sure, years ago, he sat where you young people are sitting and heard speeches delivered by various Senators. I am almost embarrassed to stand here and talk to you four young people about this issue. It is embarrassing to me, to admit the system is failing. I don't like to talk about the system failing. I started last summer coming on this floor talking about how good Government was, that we should be proud of Government. And I do believe that. There are many things we should be proud of: Our National Park System, how well FEMA reacts to crisis, our Consumer Safety Products Commission—many, many things we should be very proud and happy over. But this is one thing I am not proud of. I am embarrassed to come here and admit a Government failure, and that is what this is. I hope you young people are not so turned off by the speeches that are relating to this proposed constitutional amendment that you turn against Government, because you should not.

No. 4, comprehensive reform is the only lasting solution, and comprehensive reform can only come about as a result of our amending the Constitution to allow us to get around the 5–4 decision made by the Supreme Court.

We need bipartisan action. I say to my friend, the junior Senator from South Carolina, that we have a sponsor on this resolution, Mr. SPECTER, who is second in line. The second sponsor of this amendment is the Senator from Pennsylvania, the senior Senator from Pennsylvania [Mr. SPECTER]. I commend and applaud his courage for stepping out on this issue. We need more bipartisanship. This is a bipartisan resolution. I wish we had a few more from the other side of the aisle, but this is bipartisan and I, again, want to congratulate my friend from the State of Pennsylvania for having the guts to step forward and say he also believes that this resolution should pass.

No one can say anything about his ability to analyze the law. I have heard him give hours of speeches here, with detailed legal analysis. I am sure he has spent time, recognizing we are not violating any free speech. If there is no other reason that we should feel good about this, it would be because we have bipartisan support from a Senator who has joined us who has great qualifications as a legal scholar. So we need bipartisan action and I think we need to move forward now and pass this resolution.

I hope that I am wrong. I hope that over the weekend—we are going to vote on this early next week—I hope that people get the idea that this is the only way to go and that we are surprised and get 67 votes, enough to pass this constitutional amendment. I hope so.

The time to act is now. Over the next 2 years, Congress will deal with changes in regulations and programs that affect virtually every American, from clean air and water to education programs for our children and Medicare and Medicaid for our Nation's elderly. In order to address these concerns, Congress must first act to reform itself. That is what we are talking about. We talk about reforming everybody else, why don't we reform ourselves? Why don't we reform ourselves? Because the present system is pretty comfortable. We, who have access, have the ability to raise money and, unless you are independently wealthy, access is really, really important. Why don't we do something that would level the playing field, like we tried to do in 1974?

So I close with the plea that we can reform the way we handle campaigns in this country. The only way we can reform the way we handle campaigns in this country is if we follow the admonition and the courageous activities of the junior Senator from South Carolina, ERNEST F. HOLLINGS, who has worked so hard and so long on this issue. I am proud to be a cosponsor of this resolution.

Mr. HOLLINGS. Would the distinguished Senator yield? I know others want to be recognized, so before you yield the floor, let me take this opportunity to thank the distinguished Senator from Nevada. He has really given a very, very cogent analysis of the dilemma that we face, the real-life experience, now, that we have all engaged in, and what we are trying, in the best of our ability, to reform, and reform ourselves, as you so sincerely pointed out.

So I cannot thank you enough for your presentation and joining with us. I have been delighted to work, over the many years that we have been here, together. This is one more time. I, again, admire the Senator from Nevada. He has sincerity and bipartisanship. I have seen him work with the other side of the aisle so often. So he is looking at getting something done and making headway rather than headlines. It is with that knowledge, listening again this afternoon to your sincerity of purpose, that I truly thank you for your support and your cosponsorship.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 438 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to speak in support of the pending business, the constitutional amendment which will authorize the Congress or State legislatures to control campaign finance spending. I believe it is a matter of great urgency that the Congress of the United States deal with the subject of campaign finance reform.

Day after day we have seen disclosures about very serious violations of existing Federal law and disclosures of very substantial improprieties which call for additional Federal legislation. Regrettably, the opportunities for Federal legislation are sharply restricted by decisions of the Supreme Court of the United States which have limited Congress' ability to act on the stated grounds that such action would violate the first amendment relating to freedom of speech.

The case of Buckley versus Valeo, decided on January 30, 1976, equated speech with money in a very curious manner. It said that an individual could spend as much of his or her money as he or she chose, but upheld congressional limitations on what others could spend in support of a person's candidacy.

The Court also left an exception on what is called the independent expenditure. That decision was a very forceful one for me personally, because at that time I was a candidate for the Republican nomination for U.S. Senate. I was running against John Heinz, who later became a colleague of mine in the U.S. Senate and a very, very close personal friend. At that time, we were friends, too, but we were political opponents.

Senator Heinz at that time was a Congressman. I had been district attorney of Philadelphia, and we entered that race in April looking forward to the primary. The Federal election provided that someone running in a primary in Pennsylvania would be limited to spending $35,000, computed on a per capita basis for the size of the State. That was about as much money as I had, having been in the practice of law for a short time after having been district attorney of Philadelphia. So it was an even playing field.

On January 30, the Supreme Court of the United States said that an individual could spend as much of his money as he chose, and John Heinz chose to spend millions. I was limited to my own bank account which was $35,000. As a matter of fact, I spent that.

At that time, I had a brother who could have financed my campaign, although not on the size perhaps of some others. But my brother, Mort Specter, was limited by law to contributing $1,000 to my campaign.

It struck me then, and strikes me now, as being curious. Mort Specter's speech was limited to $1,000 in support of his brother, but John Heinz' speech was unlimited. There have been cases of others having come to this body after having spent into the millions of dollars and overwhelming their opponents. Last year, we saw a Presidential election where Steve Forbes came into the field and declined to be bound by Federal spending limits and spent in excess of $30 million, as the reports have demonstrated.

I believe that there ought to be authority in the Congress to regulate campaign expenditures. The Supreme Court in Buckley and a number of my colleagues here in the Senate have stated that limiting campaign spending would violate first amendment protection of freedom of speech. I take second place to no one in defense of the first amendment and the freedom of speech clause, as well as freedom of religion, freedom of right to assembly, freedom of right to petition the Government. But I believe, as someone who studied the Constitution in depth for some years, that the Buckley decision was wrong as a matter of legal interpretation.

There are many who agree with that. In fact, on November 10, 1996 some 26 scholars joined together to urge the Supreme Court to reconsider and reverse the decision in Buckley versus Valeo. Among them are some of the most prominent constitutional scholars in the United States, including Pro. Bruce Ackerman of the Yale Law School, Pro. Ronald Dworkin of the New York University Law School, Pro. Peter Arenella of the University of California Law School, Pro. Robert Aronson of the University of Washington Law School, and many, many others.

Following the statement of the professors, the attorneys general of 24 States called for the reversal of the Buckley decision in January 1997.

The simple fact is that the Buckley decision makes no sense as a matter of law. Why should an individual be able to spend an unlimited amounted of money when an individual's brother is limited to $1,000 in speech? If freedom of speech applies to a candidate, why does not the same freedom of speech apply to a candidate's brother?

Freedom of speech has traditionally been limited by Supreme Court decisions. It is not an unlimited, absolute right. You have the famous decision by Oliver Wendell Holmes on clear and present danger. If there is a clear and present danger, speech may be limited.

The most famous example of limiting free speech is the rule that you cannot cry ''fire'' in a crowded theater. If you cry ''fire'' in a crowded theater that endangers other people who would be injured in the stampede for the exits.

Likewise, you are not free to use a racial or religious slur against somebody. There is a famous Supreme Court opinion on this issue by Justice Murphy. An individual had uttered a racial slur and the target of the slur punched the speaker in the nose. The speaker then sued the individual who hit him for assault and battery. Justice Murphy ruled that the person who had uttered the slur and was punched could not sue. He held that racial slurs were fighting words, and you cannot utter fighting words even within the context of freedom of speech.

We know from very complex decisions by the Supreme Court that there is a limit as to what you can say in the way of obscenity. If material appeals to the prurient interest, if it is contrary to accepted moral standards, it can be restricted.

In addition, this body has gotten involved in some very controversial issues in the effort to protect children's viewing on television. So there are clearly limits to first amendment protection.

As I say, I take second place to no one in wishing to safeguard the first amendment. But I have heard a lot of talk in the U.S. Senate that this amendment would be an invasion of cherished freedoms of speech. I disagree. Money is not speech. Just on its face it is not speech. And to enable the wealthy to, in effect, buy elections is not sound public policy. Congress ought to have the authority to make that change.

We have seen the most recent decision of the Supreme Court of the United States on the subject in Colorado Republican Campaign Committee versus Federal Election Commission, a 1996 decision which defies logic, defies reason, and defies reading to understand what this opinion means.

There is an opinion by Justice Kennedy concurring in the judgment and dissenting in part with Chief Justice Rehnquist, and Justice Scalia joining.

There is an opinion by Justice Thomas, concurring in the judgment and dissenting in part, in which Chief Justice Rehnquist and Justice Scalia joined in part.

There is an opinion by Justice Stevens with a dissenting opinion, with Justice Ginsburg joining.

There is another opinion by Justice Breyer joined by Justice O'Connor and Justice Souter.

All that to the viewing audience on C–SPAN sounds extraordinarily complicated, but you ''ain't heard nothing yet.'' It is a lot more complicated than that.

In order to have an opinion of the Supreme Court, you have to have five Justices who state a judgment and then articulate an opinion so you know what the ruling of the Court is. There is no opinion which five Justices joined in. You have four Justices saying they have one conclusion, which leads them to the judgment that results, and other Justices saying they have different reasons leading to a judgment. In other words, you have a majority of the Justices agreeing on the conclusion but not agreeing on the reasons.

You hear the Supreme Court often criticize legislative intent, criticize what the Congress of the United States does because it is not clear. Some Justices, Justice Scalia in particular, say they do not pay any attention to legislative intent because they cannot find it.

We spend a lot of time on the floor of this Senate seeking to clarify legislative intent: stating what we are trying to accomplish and asking the managers if they agree with that and expect that to be followed, trying to give some guidance because we cannot anticipate every last conclusion and every last consequence when we have legislated. But our muddled congressional activities and actions are clear as crystal compared to what the Supreme Court does frequently as illustrated in this Colorado case.

By the time you finish reading this case about what parties can do and about what soft money can do, there is absolutely no guidance. That guidance ought to be presented by the Congress of the United States. If we had a constitutional amendment on campaign spending, all of the confusion of the Buckley opinion and the Colorado opinion would be eliminated.

You have an extraordinary situation where the President of the United States is reported, in the book by his campaign director, Dick Morris, as sitting down and editing the campaign commercials paid for by millions of dollars of soft money collected by the Democratic National Committee.

Federal election law provides that soft money must be spent on independent expenditures. But money is certainly not being spent independently of President Clinton's campaign if President Clinton sits and edits the commercials. But that is precisely what President Clinton did.

Some have argued that President Clinton did not violate the election law because the DNC spent soft money and the soft money was used for issue advocacy instead of express advocacy on behalf of a specific candidate.

The general rule of what constitutes express advocacy for a specific candidate is ''vote for Senator BENNETT.'' That would be express advocacy. Or ''vote against Senator BENNETT.'' But if someone engages in issue advocacy and lists all the votes which Senator BENNETT has made which they claim are undesirable and mentions all of the good qualities of Senator BENNETT's opponent, that is often considered issue advocacy. That is often not controlled by the Federal election laws. Let's face it, the line between issue advocacy and express advocacy is impossible to draw.

We are approaching the issue of campaign finance reform in the activities of the Governmental Affairs Committee. This was the subject of heated discussion on this floor, though maybe not as heated as it was in the Republican caucus. The distinguished Presiding Officer was there. I might say, parenthetically, it is very troublesome to have our deliberations among Republican Senators in the caucus reported to the press. I was called by the press. My standard answer is, ''I will tell you what I said, but I won't tell you what anybody else said.'' Then the reporter says, ''Well, do you mind confirming this?'' And they repeat exactly what happened in the Republican caucus, which was limited to Republican Senators. Very distressing. That really is a confidential communication that ought to be respected.

But when we looked at that issue, we came to the conclusion that we have to have a wider scope which includes not only illegal but improper activities. That is because we want to correct what has gone on, and not only with the use of these millions of dollars in soft money, but what has gone on in foreign expenditures. We have seen very substantial moneys contributed illegally by foreigners. We know it is illegal because the Democratic National Committee has returned the money.

When I talk about the Democratic National Committee, I do not wish to be unduly partisan. I favor an inquiry which would take in not only the Democratic Presidential campaign, but the Republican Presidential campaign, and not only the Presidential campaigns but congressional campaigns, so that we would take a look across the board and not with a limited scope.

But the foreign contributions as disclosed to the media have been received by the Democratic National Committee. And we know they are illegal because the Democratic National Committee has returned a great many. We do not know if they returned them all. This is a matter that we ought to look into.

Although contributions by foreigners, noncitizens, are illegal, maybe we ought to extend our laws beyond the bounds which we have now. If we are to really be able to regulate campaign money, we are going to have to have the authority to do it without having the Supreme Court hand down the Colorado case and without having loopholes virtually as broad as the planet.

These are issues of great importance. We have really seen our democracy, our Republic, on the line in terms of what has happened on campaign irregularities. This is something that the Congress ought to take up. The Congress cannot take it up realistically unless we have a constitutional amendment.

I see my distinguished colleague, Senator HOLLINGS, has come back to the floor. I am happy to start again. I am not sure where he came in.

Mr. HOLLINGS. If the Senator will yield, I came in at the very beginning. I could not repeat it better than what the distinguished Senator from Nevada said when he congratulated the Senator from Pennsylvania not just on the guts to be able to cosponsor this, because he takes it from his side—there is no more erudite attorney and legal scholar within this body. I would not miss a word of it.

Mr. SPECTER. I am glad I know that Senator HOLLINGS was here. Otherwise, he would not have made those flattering, complimentary statements.

I know Senator HOLLINGS has been here all day today and all day yesterday, because I came over to look for an opportunity to speak yesterday and the floor was taken, and earlier today I was looking for a chance to speak, and I came out of hearings on the Agriculture Subcommittee where we have a major problem with dairy pricing in Pennsylvania, which occupied me all afternoon.

As I was about to say, Senator HOLLINGS has been the leader on this, and it has been the Hollings-Specter constitutional amendment for the better part of a decade. Senator HOLLINGS asked me to join him in the news conference Tuesday morning at 11:30 where we talked about this amendment and campaign finance reform generally, and then questions from the media got into the issue of what the Governmental Affairs Committee would be doing, more broadly than the constitutional amendment. Some of that got on to the wires and stimulated some of the discussion we had later at the Republican caucus. It was synergistic and moved the issue right along.

It is very difficult to pass this amendment because it takes a two-thirds vote. There is no doubt about that. On May 27, 1993 the Senate adopted by a vote of 52–43 a sense-of-the-Senate resolution that this amendment should be passed, and my sense is that one day this constitutional amendment will pass. It will take a lot of effort. I am not optimistic about its chances at the present time. I do not believe there will be campaign finance reform until the Congress has to act.

We have in here a conflict of interest in passing campaign finance reform because it benefits incumbents. Some say that the absence of campaign finance reform benefits the Republican Party. I disagree with that. I believe the Republican Party would do just fine with

campaign finance reform. I think it would be tougher on incumbents, but we are not going to get it until we do overturn Buckley versus Valeo.

The Supreme Court has often reversed itself when the Court was wrong, and there have been constitutional amendments when the Court was wrong. We have an amendment process where two-thirds of the House of Representatives and the Senate, and three-fourths of the States, can change the Constitution—because the U.S. Supreme Court is not the last word. They can be overturned.

There have been proposals to overturn Supreme Court decisions by a two-thirds vote of the Senate. I would hate to see that happen because we muster two-thirds of the Senate sometimes on issues which may not really reflect long-range interests of the United States. I think it is important to have a high barrier to have a constitutional amendment. I think one day the public alarm, the public dismay, the repugnance of the public will reach a level which will motivate the Congress to have campaign finance reform and to have a constitutional amendment.

I think it is a solid constitutional principle that money ought not to be equated with speech, and we ought to overturn Buckley versus Valeo and then Congress ought to have sensible legislation to ensure that democracy is protected and our Republic is protected.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I want to thank the cooperation of the Senator from South Carolina and all the other Senators involved in this debate for their cooperation. It certainly has been a full debate and not a lot of quorum calls were taken. I believe we have entered into, now, an agreement where we will get a final vote on this on Tuesday at 2:45.

Mr. HOLLINGS. That is correct.

Mr. LOTT. We will have further debate on the issue?

Mr. HOLLINGS. Early Tuesday morning, just immediately after the party caucuses.

Mr. LOTT. So all Members will understand there will be a vote on this issue, then, on Tuesday at 2:45.

We are about ready to propound a unanimous-consent request and/or take other action if it is necessary. We have been communicating with the Democratic leader about getting some agreements entered into that could affect Monday and Tuesday and perhaps even Wednesday.

So that we can have a final opportunity to consult, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO PROFS. ROBERT F. CURL AND RICHARD E. SMALLEY

Mr. GRAMM. Mr. President, I would like to congratulate Profs. Robert F. Curl and Richard E. Smalley of Rice University in Houston for their work in the field of molecular chemistry. Along with Prof. Harold Kroto of England, Professors Curl and Smalley were awarded the 1996 Nobel Prize in chemistry for their discovery of the third molecular form of carbon.

Professor Curl, a native Texan from Alice, and Professor Smalley are co-discoverers of the carbon molecule called Buckminsterfullerene. It was named after R. Buckminster Fuller, the architect famous for his geodesic domes, because this new molecule closely resembles his designs. In fact, the term used to describe these molecules is ''buckyballs.''

This breakthrough discovery by Professors Curl and Smalley promises to revolutionize the world we live in. This new carbon molecule will have scientific and practical applications across a wide variety of fields, from electrical conduction to the delivery of medicine into the human body. These extremely stable molecules are impervious to radiation and chemical destruction, and can be joined to form carbon nanotubes which are 10,000 times smaller than a human hair, yet 100 times stronger than steel. Buckyballs will establish a whole new class of materials for the construction of many products, from airplane wings and automobile bodies to clothing and packaging material.

The work of Professors Curl and Smalley is just one example of the excellent work being done at Rice University and at the many other fine research institutions in Texas. Rice University has long been a premier research center, and with the new Center for Nanoscale Science and Technology, Rice is the first university in the United States to focus on submicroscopic methods for fabricating new structures on the atomic and molecular scale. As Professor Smalley himself described it, ''This is the ultimate frontier in the game of building things.''

Given that nanoscale science and technology requires an interdisciplinary approach, Rice University is the ideal setting for this new center for nanoscale research. The collaborative scientific approach, which is common at Rice but less customary at larger research institutions, encourages the sort of scientific breakthroughs exemplified by the discovery of buckyballs. These discoveries are essential if we are to guarantee that America will remain the world leader in research. We must be sure we do all we can to support our Nation's scientists, because our Nation's future depends upon the work of people like Professor Smalley and Professor Curl.

Once again, I congratulate Professor Robert Curl and Professor Richard Smalley, as well as Rice University, for earning the Nobel Prize in chemistry. Their contribution to the body of scientific knowledge has been invaluable and will touch the lives of millions.

MESSAGES FROM THE HOUSE

At 1:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker appoints Ms. Jo Anne Barnhart of Virginia as a member from private life on the part of the House to the Social Security Advisory Board to fill the existing vacancy thereon.

The message also announced that the Speaker appoints the following Member on the part of the House to the U.S. Holocaust Memorial Council: Mr. YATES.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1408. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the notice of a multi-function cost comparison; to the Committee on Armed Services.

EC–1409. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a rule entitled ''Government Securities Sales Practices'' (RIN1557–AB52) received on March 12, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1410. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a rule entitled ''Policy and Planning Guidance'' received on March 6, 1997; to the Committee on Energy and Natural Resources.

EC–1411. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a memorandum of justification and a schedule of proposed obligations; to the Committee on Foreign Relations.

EC–1412. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation entitled ''The Saving Law Enforcement Officers' Lives Act of 1997''; to the Committee on the Judiciary.

EC–1413. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, seven rules received on March 11, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1414. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report of indemnification actions approved during calendar year 1996; to

the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. SPECTER:

S. 435. A bill to provide children with improved access to health care; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. WYDEN, Mr. JEFFORDS, Mr. BIDEN, Mr. KERRY, Mr. DEWINE, Mr. LEAHY, and Mr. SPECTER):

S. 436. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of an intercity passenger rail trust fund, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. INOUYE, Mr. CAMPBELL, Mr. JOHNSON, Mr. MURKOWSKI, Mr. STEVENS, and Mr. BINGAMAN):

S. 437. A bill to improve Indian reservation roads and related transportation services, and for other purposes; to the Committee on Indian Affairs.

By Mr. GRASSLEY:

S. 438. A bill to provide for implementation of prohibitions against payment of social security benefits to prisoners, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI (for himself, Mr. AKAKA, Mr. DOMENICI, and Mr. KYL):

S. 439. A bill to provide for Alaska State jurisdiction over small hydroelectric projects, to address voluntary licensing of hydroelectric projects on fresh waters in the State of Hawaii, to provide an exemption for portion of a hydroelectric project located in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 440. A bill to deauthorize the Animas-La Plata Federal reclamation project and to direct the Secretary of the Interior to enter into negotiations to satisfy, in a manner consistent with all Federal laws, the water rights interests of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 441. A bill to improve health care quality and reduce health care costs by establishing a National Fund for Health Research that would significantly expand the nation's investment in medical research; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. KERRY):

S. 442. A bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DOMENICI (for himself, Mr. DODD, Mr. COCHRAN, Ms. MIKULSKI, Mr. BENNETT, Mr. LIEBERMAN, Mr. KEMPTHORNE, Mr. DORGAN, Mr. FRIST, Mr. CLELAND, Mr. ROBERTS, and Mr. SPECTER):

S. Res. 63. A resolution proclaiming the week of October 19 through October 25, 1997, as ''National Character Counts Week''; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. AKAKA):

S. Con. Res. 7. A concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed; to the Committee on Governmental Affairs.

By Mr. ROBB:

S. Con. Res. 8. A concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should be effective on the same date as other cost-of-living adjustments given to federal retirement programs; to the Committee on Governmental Affairs.

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. DODD, Mr. MCCAIN, Mr. BIDEN, and Mr. LUGAR):

S. Con. Res. 9. A concurrent resolution expressing the sense of Congress regarding cooperation between the United States and Mexico on counter-drug activities; to the Committee on Foreign Relations.

By Mr. GRASSLEY:

S. Con. Res. 10. A concurrent resolution expressing the sense of the Congress regarding certification of Mexico pursuant to section 490 of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

By Mr. GREGG (for himself, Ms. MIKULSKI, Mr. JEFFORDS, and Mr. KENNEDY):

S. Con. Res. 11. A concurrent resolution recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act of 1965; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. WYDEN, Mr. JEFFORDS, Mr. BIDEN, Mr. KERRY, Mr. DEWINE, Mr. LEAHY, and Mr. SPECTER):

S. 436. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of an intercity passenger rail trust fund, and for other purposes; to the Committee on Finance.

AMTRAK TRUST FUND LEGISLATION

Mr. ROTH. Mr. President, I rise to introduce legislation that would create a dedicated source of capital funding for Amtrak. Joining me as cosponsors are Senators MOYNIHAN, LAUTENBERG, WYDEN, JEFFORDS, BIDEN, KERRY, DEWINE, LEAHY, and SPECTER.

Mr. President, all major modes of transportation have a dedicated source of capital funding, except for intercity passenger rail.

My legislation would correct this inequity and create a secure and reliable capital trust fund for Amtrak, no different than what other major modes of transportation now have.

My legislation would transfer one-half cent of the 4.3 cent per gallon motor fuels tax currently going to the general fund, to a new intercity passenger rail trust fund.

This rail trust fund would total approximately $3.9 billion dollars over 5 years to be used for capital improvement projects. After the fifth year, the revenues from the half cent would revert back to the general fund. My bill would create contract authority to allow Amtrak to enter into contracts necessary for long-term capital projects. For States that do not have Amtrak service, it would provide funding for qualified transportation expenses.

This capital funding proposal is critical to Amtrak's future.

Amtrak needs capital funding to bring it's equipment, facilities, and tracks into a state of good repair. Much of Amtrak's equipment and infrastructure has exceeded its projected useful life. The costs of maintaining this aging fleet and the need to modernize and overhaul facilities through capital improvements to the system are serious financial challenges for Amtrak. My proposal would help reverse these problems and give Amtrak the resources necessary to meet its capital investment needs.

Mr. President, Amtrak, and the National Commission on Intermodal Transportation have called for a secure source of capital funding for Amtrak. I believe that now is the time for this Congress to reverse our current policy that favors building more highways at the expense of alternative means of transportation such as intercity passenger rail. Despite rail's proven safety, efficiency, and reliability in Europe, Japan, and elsewhere, inter-city passenger rail remains severely underfunded in the United States. In fact, over half of the Department of Transportation's spending authority is devoted to highways and another quarter to aviation; rail still ranks last with roughly 3 percent of total spending authority.

Last year we spent $20 billion for highways while capital investment for Amtrak was less than $450 million.

In relative terms, between fiscal year 1980 and fiscal year 1994, transportation outlays for highways increased 73 percent, aviation increased 170 percent, and transportation outlays for rail went down by 62 percent. In terms of growth, between 1982 and 1992 highway spending grew by 5 percent, aviation by 10 percent, while rail decreased by 9 percent.

A problem that is going to increase is the congestion on our roads. Between 1983 and 1990, Vehicle Miles Traveled increased nationwide by 41 percent. If current trends continue, delays due to congestion will increase by more than 400 percent on our highways and by more than 1000 percent on urban roads. Highway congestion costs the United States $100 billion annually, and this figure does not include the economic and societal costs of increased pollution and wasted energy resources.

Air travel is equally congested. Commercial airlines in the U.S. presently

transport over 450 million passengers each year. A recent transportation safety board study revealed that 21 of the 26 major airports experienced serious delays and it is projected to get worse. Again, the costs are enormous. A 1990 DOT study estimated the financial cost of air congestion at $5 billion each year, and it expects this number to reach $8 billion by 2000.

Congestion is a problem and it must be addressed. However, the current path we are on directs more money for highways and airports. For us in the Northeast, building more roads is simply not an option. We do not have the land nor the financial resources to build more highways or more airports. For these reasons, we must provide more than just good roads but a good passenger rail system as well.

Adequately funded passenger rail can successfully address highway gridlock and ease airport congestion. Passenger rail ridership between New York and Washington is equal to 7,500 fully booked 757's or 10,000 DC–9's. Between New York and Washington, Amtrak has over 40 percent of the air-rail market.

Improved Northeast rail service will also have the same positive impact on road congestion—5.9 billion passenger miles were taken on Amtrak in 1994. These are trips that were not taken on crowded highways and airways. Improved rail service in the Northeast is projected to eliminate over 300,000 auto trips each year from highways as well as reduce auto congestion around the airports.

Improved rail service will also have a positive affect on rural areas. Twenty-two of Amtrak's 55 million passengers depend on Amtrak for travel between urban centers and rural locations which have no alternative modes of transportation.

Mr. President, now is the time to invest in our rail system.

Opponents of my legislation have said that we should not use revenues from our motor fuels tax to pay for Amtrak. I disagree. States are currently using revenues collected from our motor fuels tax for many non-highway uses. For example, Virginia uses its motor fuels tax receipts on mass transit and ports; New Hampshire uses its motor fuels receipts to bolster their Fish and Game Department; Wyoming uses its portion of the motor fuels tax for snowmobile trails and boating facilities; Florida and Arkansas use the motor fuels tax for environmental protection. Like these States have already done, I believe Congress should spend the revenues raised by the motor fuels tax on those programs it feels best serve our transportation needs. I think passenger rail should be one of those programs.

Another argument I often hear is that we should stop subsidizing Amtrak. Amtrak needs to be self-sufficient.

I would like to see that happen, but to date, I am not aware of any transportation system that supports itself without Federal assistance. Further, I am not aware of any transportation system that supports itself through user fees. According to the Department of Transportation, in fiscal year 1994 nearly $6 billion more was spent on highways than was collected in user fees.

In fiscal year 1995 nearly $8 billion more was spent on highways than was collected in user fees. Transit which is exempt from the motor fuels tax, received $3 billion in revenues in motor fuels revenues last year. I repeat, no mode is self-financed.

In closing, our national passenger rail system is important.

My legislation would provide capital funding to help improve and maintain the corporation's infrastructure. Amtrak will not be able to make it to zero operating subsidies by the year 2002 without it. If we are to adequately fund our passenger rail system like we fund our highways and other major modes of transportation, Amtrak will need this trust fund.

By Mr. DOMENICI (for himself, Mr. INOUYE, Mr. CAMPBELL, Mr. JOHNSON, Mr. MURKOWSKI, Mr. STEVENS, and Mr. BINGAMAN):

S. 437. A bill to improve Indian reservation roads and related transportation services, and for other purposes; to the Committee on Indian Affairs.

THE AMERICAN INDIAN TRANSPORTATION IMPROVEMENT ACT OF 1997

Mr. DOMENICI. Mr. President, I rise to introduce a bill on behalf of myself, Senator INOUYE, Senator CAMPBELL, Senator JOHNSON, Senator MURKOWSKI, Senator STEVENS, and Senator BINGAMAN.

Our bill, the American Indian Transportation Improvement Act of 1997, says that the U.S. Congress desires to treat the Indian people of the United States fairly when we pass a new ISTEA; that is, a new highway and transportation and transit bill. As everybody who knows anything about our Indian reservations and Indian pueblos knows, the Indian people buy gasoline just like average Americans. They have cars and pickup trucks. But they have a road system that is maintained for the most part by the Bureau of Indian Affairs. Now, if there is not a dedicated source of revenue, then obviously you have to take money out of the Bureau of Indian Affairs general funding to build roads.

For a number of years we have decided—and I am pleased that I took the leadership—to set aside some significant portion of money out of the highway trust fund that should go to Indian roads.

Today, I am introducing a bill that says to our 557 Indian tribes and the Alaskan Native villages, which are served by about 50,000 miles of road—about 42 percent of these roads are Bureau of Indian Affairs roads, as I indicated—we are going to try to begin a program that will not only build some more roads but will maintain them and will give the Indian people their share of each category of ISTEA money for their road needs, be it construction of bridges, transit programs, highway safety, scenic byways, or the like.

Mr. President, our Nation's 557 Indian tribes and Alaska Native villages are served by over 50,000 miles of roads. About 42 percent of these roads are Bureau of Indian Affairs [BIA] system roads. Beginning in the 1982 Surface Transportation Assistance Act, these BIA system roads were included in the national highway trust fund for the first time in history. The gasoline tax, paid by every Indian who buys gasoline, was invested on Indian reservations through the Indian Reservation Roads [IRR] Program. Indian tribes were included in subsequent major highway legislation, most recently in the Intermodal Surface Transportation Efficiency Act [ISTEA], where annual funding has been $191 million for the past 5 years. Prior to ISTEA, annual IRR funding was $80 million per year.

Our best estimates indicate that at least $300 million is needed annually to begin to bring the IRR system up to par with the rest of American roads and highways. Today, I am proud to be joined by Senators INOUYE, CAMPBELL, and JOHNSON in introducing the American Indian Transportation Improvement Act of 1997. Our legislation increases the Indian Reservation Roads Program from $191 million per year to $250 million in fiscal year 1998; $275 million in fiscal year 1999; and $300 million each year for fiscal years 2000 through 2002. These funds are primarily used for the design and construction of the BIA road system in Indian country. It is significant to most tribes that our bill also includes road maintenance as an eligible activity.

In addition to increasing the planning, design, construction, and maintenance money in our bill, we make other significant changes in the IRR Program and related ISTEA Programs to improve the transportation system on our Nation's Indian reservations. These changes will improve the bridge construction program; provide a set-aside for transit systems; allow DOT certification to directly operate DOT programs; provide a set-aside for highway enhancements like lighting and transfer points to buses; create a competitive grant process for scenic byways; exclude State roads on tribal lands from the apportionment adjustment provisions of ISTEA; and increase funding for Indian Technical Centers from $200,000 each to one million dollars each for the six existing centers.

In the ISTEA Bridge Program, which now requires each State to set aside 1 percent of its ISTEA Bridge Program funds for Indian tribes, our bill would consolidate the 50 separate State set-asides into one national pool. This national set-aside is then distributed to all tribes using to the BIA National Bridge Inventory Standards Program. This BIA Bridge Program rates each Indian bridge and gives it a national

ranking by deficiency. Funding priorities for all tribes would be set through the BIA bridge ranking system.

To encourage and expand transit systems on Indian reservations, The American Indian Transportation Improvement Act of 1997 [TAITIA] would also establish a 1 percent set-aside from ISTEA—and its successor—transit programs. While a national formula to allocate transit funds is developed in consultation with tribes, the Federal Transit Administration of the U.S. Department of Transportation [DOT] would allocate the funds. Without the new set-aside, tribes would have to continue to compete within each State for transit moneys. Our bill also allows the conversion of up to 3 percent of IRR construction and design funds for local transit purposes.

Under current law, tribes are not included as eligible entities for direct certification by DOT. This situation is clearly detrimental to tribes hoping to directly operate DOT highway programs other than those operated by the BIA. While only a handful of tribes, like the Navajo Nation, are potentially capable of meeting the DOT certification standards, none are allowed to be certified under the terms of current law. Without changing any of DOT's certification standards, this bill would allow tribes that qualify to become certified by DOT to directly operate Federal highway programs.

In a related certification issue, any tribe certified by DOT, as States are now certified, would be allowed direct access to DOT highway safety program funds. Other tribes—most tribes—would continue to fund their highway safety programs through the BIA–DOT program.

Indian tribes need better access to the Highway Enhancements Program for such improvements as lighting, bike trails, transfer points to buses, and other enhancements. States are allowed to use up to 10 percent of their ISTEA funds for these types of enhancements. Our bill creates a national Indian set-aside of 1 percent and would be administered through the Federal Highway Administration competitive grant process. Each tribe would be eligible to compete for these funds.

The Scenic Byways Program of ISTEA is essential to many tribes for enhanced access to scenic areas for improved economic development activities and other purposes. The Jicarilla Apache Tribe in New Mexico, for example, has committed $3 million of its IRR funds—about 2 years of its total allocations—to complete its portion of the narrow gauge scenic highway to Colorado. To improve critical roads like this one without detracting from the more basic highway needs, our bill would create a 1 percent set-aside for Indian scenic byways. The Federal Highway Administration would allocate these funds through a competitive process with priority consideration given to tribes with the greatest potential for tourism and other economic development activities for tribal members.

Many States commit ISTEA resources to public lands highways on Indian reservations. Under current law, there are apportionment adjustment hold harmless provisions between donor and donee States. If a donee State like New Mexico decides to allocate funds for a public land highway through an Indian reservation, that donee State's allocation for the following year is reduced by the amount of money committed to the public land highway through the Indian reservation—as well as public land highways elsewhere in the State. To encourage States to commit their ISTEA resources to these critical highways on Indian land, like New Mexico highway 537 on the Jicarilla Apache Tribe's reservation, our bill exempts State commitments to public lands highways that are built on Indian land.

If The American Indian Transportation Improvement Act of 1997 were law today, the State of New Mexico and similar donee States would not be penalized for committing their resources to State roads like New Mexico highway 537. Our bill does not address the more general issue of the apportionment adjustment hold harmless provisions in ISTEA, we simply exempt Indian land highways from those provisions.

Finally, The American Indian Transportation Improvement Act of 1997 increases the allocation of IRR funds to the Indian technical centers from $200,000 per center for six centers to $1 million per center for the same six centers. These centers provide training to Indian tribes in all phases of highway planning, design, construction, maintenance, procurement, and related bridge programs. Increasing the ability of these centers to train Indian highway administrators, engineers, and others involved in the IRR Program will significantly enhance the ability of tribes to operate their own programs and improve their transportation systems.

Mr. President, The American Indian Transportation Improvement Act of 1997, was developed in close consultation with Indian leaders. I would like to give special recognition to Paulson Chaco and Sam Johns of the Navajo Nation Transportation Department and Arnold Cassador of the Jicarilla Apache Tribe and Mark Wright, their tribal roads engineer. Their assistance in developing this bill has been essential and their knowledge of these highway programs is impressive.

The American Indian Transportation Improvement Act of 1997 will be a considerable improvement in the current way we do business for the BIA roads system. This system serves over a million American Indians who live on or near a reservation. In my home State of New Mexico, IRR funds have made a large difference in the past decade. It is time to accelerate this effort for the direct benefit of Indian people in America.

Under the current relative needs formula for distributing the IRR money, the Navajo Nation—in New Mexico and Arizona—is now scheduled to receive about $55 million annually in IRR funds. New Mexico Pueblos receive about $12 million and the Apache Tribes receive about $3 million in New Mexico. I know from personal observation, that these funds are generally well spent and much needed throughout Indian country. I believe they are critical funds for improving the poor employment opportunities on most Indian reservations. I urge my colleagues to study the importance of Indian roads for economic development opportunities, and support our effort to greatly improve the Indian Reservation Road Program as described in our bill. Our bill will go a long way toward helping American Indians make the best use of our Nation's highway programs to improve their daily lives.

We have not heretofore broadly applied this degree of Indian participation in the trust fund we set up for highways and mass transit. We have, in the past, principally put money in to build roads. This year, the new bill that we introduced with the cosponsors that I have spoken of, will increase the ISTEA Indian Reservation Road Program to $250 million in 1998, to $275 million in 1999, then $300 million in each of the years 2000, 2001 and 2002. The ISTEA Indian Reservation [IRR] Roads program is currently funded at $191 million per year.

I want to have a list printed in the RECORD at this point to show the current distribution of IRR funds by the BIA regional offices. Mr. President, I ask unanimous consent that this be printed in the RECORD, and I ask that a program activity allocation, showing how this IRR money is currently allocated among the participating Federal agencies, be printed in the RECORD at this point.

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

INDIAN RESERVATION ROADS PROGRAM, DESIGN AND CONSTRUCTION

[Dollars in millions]

	RNF (percent) [1]	Amount
Bureau of Indian Affairs, Central Office, $191 million:		
Aberdeen	9.109	$15.2
Anadarko	2.987	5.0
Billings	6.052	10.1
Juneau	9.460	15.8
Minneapolis	5.045	8.4
Muskogee	7.705	12.9
Phoenix	9.327	15.6
Sacramento	2.863	4.8
Albuquerque	7.026	11.8
Navajo	32.752	54.8
Portland	5.700	9.5
Eastern	1.974	3.3
Total	100	[2] 167.25

[1] RNF=Relative Needs Formula (Allocation distribution).

[2] Approximate amount available for design and construction after deductions for different categories.

INDIAN RESERVATION ROADS [IRR] PROGRAM ALLOCATION PLAN

IRR Program Activity	Allocation (percent)	Million
Yearly Authorization	.....	$191.0
Less FHWA Administration	~3.00	5.7
Less BIA Administration	~5.00	9.0
Less IRR Transportation Planning	~2.00	3.8
Less 2 percent Tribal Transportation Planning *	2.00	3.8
Less Mapping	~.13	.25
Less LTAP	~.63	1.2
Available for design and construction	.....	167.25

* 23 U.S.C., Section 204(j)(b)-Up to 2% of funds made available for Indian Reservation Roads for each fiscal year shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or metropolitan planning organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding. Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary (of Transportation).

Mr. DOMENICI. Mr. President, I send the bill to the desk and ask it be referred to the appropriate committee or committees.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. DOMENICI. Mr. President, I send a summary of the provisions, the purpose and various provisions. This document will show that Indian reservation bridges, for example, will be handled in a better way. Our bill continues the basic design and construction of Indian roads. We also add road maintenance as an eligible activity. We also provide transit, scenic byways, highway enhancements, and other Indian set-asides in our bill.

We include scenic byways, especially those that will help to develop reservation economies. We think if there are byways that are scenic in Indian country and can add to the reservation economy, they ought to get their share of these highway trust funds. We allow DOT certification for tribes who can qualify to directly operate DOT programs without going through the Bureau of Indian Affairs. We increase funding for Indian technical centers to enhance tribal capabilities in the entire range of highway planning, design, construction, and maintenance.

I ask that this bill summary be printed in the RECORD.

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

THE AMERICAN INDIAN TRANSPORTATION IMPROVEMENT ACT OF 1997

PURPOSE

To increase the Indian Reservation Roads (IRR) Program of the Intermodal Surface Transportation Improvement Act (ISTEA) from $191,000,000 per year to $300,000,000 per year, and to include Indian tribes in other relevant programs of ISTEA as described below.

IRR FUNDING AMOUNTS AND ROAD MAINTENANCE

IRR Program funding will be increased from $191 million in fiscal year 1997 to $250 million in fiscal year 1998; $275 million in FY 1999; and $300 million in fiscal years 2000 through 2002. Road maintenance is made an eligible activity.

INDIAN RESERVATION BRIDGES

The current Indian reservation bridge program in ISTEA is operated through the states. Each state has a set-aside of one percent for Indian bridges. The American Indian Transportation Improvement Act of 1997 (TAITIA) creates a single national bridge program from amounts previously allocated to the states. TAITIA allocates one percent to the Secretary of Transportation for Indian bridges. Priorities for distribution among tribes will be determined by the Bureau of Indian Affairs' (BIA) National Bridge Inspection Standards Program which determines deficiency levels for Indian reservation bridges. Priority for TAITIA funds will be given to bridges with the highest level of deficiency.

INDIAN TRANSIT SET-ASIDE

In The American Indian Transportation Improvement Act of 1997, one percent of the ISTEA Mass Transit funds will be set aside for transportation services to Indian tribes. The Secretary of Transportation will develop an allocation formula in consultation with tribes. Until the allocation formula is formally developed, the Administrator of the Federal Transit Administration of DOT will establish a temporary allocation formula. the funds through a temporary formula.

SCENIC BYWAYS PROGRAM

One percent of the funds for scenic byways are set-aside for Indian tribes in a competitive grant process for the planning, design, and development of Indian tribe scenic byway programs. These scenic byways are important for tribal economic development programs.

CERTIFICATION ACCEPTANCE AND HIGHWAY SAFETY

The American Indian Transportation Improvement Act of 1997 allows tribes with advanced transportation planning and construction capabilities to be certified by DOT for direct participation in DOT programs in a manner that is now allowed for qualified states. Under current law, even a qualified tribe is not allowed to be certified by DOT. This certification acceptance provision will allow tribes that are able to meet the national standards to be accepted by DOT. TAITIA makes no changes in the certification standards.

Tribes that are able to achieve certification acceptance by DOT will also be eligible for direct access to DOT highway safety funds, Section 402 of ISTEA. These activities include traffic safety, traffic law education, seatbelt law enforcement, and free infant restraints.

INDIAN TECHNICAL CENTERS

The six Indian Technical Centers are now funded at a level of $200,000 each. To improve tribal capacity to plan, design, construct, maintain, and otherwise operate their own Indian Reservation Roads Programs, TAITIA will increase each center's amount to one million dollars, adding $4.8 million for this vital function.

TRANSPORTATION ENHANCEMENT ACTIVITIES

ISTEA allows each state to use up to ten percent of its allocation for transportation enhancements such as bike trails, transfer points to buses, and lighting. Tribes are allowed to compete for these funds in each state. TAITIA sets aside one percent of the national transportation enhancement pool to be used by the Secretary of Transportation to make competitive grants to Indian tribes.

PUBLIC LANDS HIGHWAYS

TAITIA exempts states from the apportionment adjustment provisions of ISTEA for Public Lands Highways built on Indian reservations. Although these are not IRR funds, states are currently discouraged from committing their resources to Public Lands Highways in Indian Country due to the hold harmless provisions of the apportionment adjustment requirements. This exemption is intended to encourage states to make commitments of state ISTEA resources to Public Lands Highways on Indian reservations.

Mr. DOMENICI. Mr. President, I would like to indicate the distinguished former chairman of the Indian Affairs Committee, Senator MCCAIN, is very interested in the bill, and has indicated his support when it reaches his committee.

● Mr. CAMPBELL. Mr. President, as Chairman of the Committee on Indian Affairs, I am pleased to join Senator DOMENICI and Vice Chairman INOUYE in introducing the American Indian Transportation Improvement Act of 1997, to amend the Intermodal Surface Transportation Efficiency Act. [ISTEA].

More than any other communities in the United States, Indian tribes and Alaska Native villages suffer from a lack of adequate infrastructure, and the necessary tools to build and maintain that infrastructure. The United States has a special responsibility to Indian tribal governments to help them achieve economic self-sufficiency and political self-determination.

Economies today, whether State, tribal, or national, are increasingly dependent on interstate and international commerce for their livelihoods. Solid physical infrastructure is the foundation for those economies.

Federal ISTEA funding to tribal governments has lagged behind spending for States and local governments over the years, despite acute and unmet needs in Indian country. Poor and unsafe roads and highways, crumbling bridges, and nonexistent transit and transportation systems all contribute to and result in tribal economies that are third world in nature.

In addition to facilitating the delivery of basic social services such as health, education, and nutrition to tribal members, solid physical infrastructures act as an incentive to outside investors to invest in tribal economies and to locate their businesses on tribal lands.

The legislation I am cosponsoring today recognizes the special Federal obligations, and will assist in the development and maintenance of Indian transportation infrastructures and in the process pave the way for higher levels of economic growth and job creation.

By increasing the funds available for the Indian reservation roads program, this bill will provide immediate relief to those tribes that have a backlog of road development and maintenance. By strengthening the capacity of tribes through transportation enhancement activities, the reservation bridges programs, and technical centers, this legislation will ensure that Indian tribes are not precluded from building stronger, more vibrant communities.

I urge my colleagues to join in enacting this legislation so critical to tribal governments and economies across the Nation.●

Mr. INOUYE. Mr. President, I rise today to join my esteemed colleague, Senator PETE V. DOMENICI of New Mexico, as a cosponsor of legislation that he has authored which proposes an increase in the funding for the Indian Reservation Roads Program and which would improve the quality of Indian roads by directly including Indian tribes in Federal transportation service programs.

Indian reservation roads are the lifeline of tribal economic and social wellbeing, with about 50,000 miles of roads serving Indian tribes and Alaska Native villages nationwide. Over 90 percent of these roads are comprised of State and county roads and roads constructed and maintained by the Bureau of Indian Affairs.

The Bureau of Indian Affairs' road system includes approximately 21,000 miles of roads which comprise about 42 percent of all roads serving Indian country. The overwhelming majority of these Bureau of Indian Affairs' roads—about 89 percent—are rated as being in poor condition. This is an alarming statistic which this legislation is designed to remedy.

Historically, funding for the construction and maintenance of Bureau of Indian Affairs' roads has failed to keep pace with tribal transportation needs and the result has been inferior Indian road conditions. In the 1950's, BIA funding reached a high of $10 million per fiscal year. By 1979, funding levels rose to $80 million per year. Thereafter, BIA funding significantly declined.

The Surface Transportation Assistance Act of 1982 made the Indian Reservation Roads Program eligible for support from the Highway Trust Fund at $100 million for fiscal years 1984 to 1986. Between 1987 and 1991, funding from the Highway Trust Fund decreased to $80 million. In 1992, funding rose to $159 million and from 1993 to 1997, funding for Indian roads increased to $191 million.

Although funding for Indian reservation road construction and maintenance improved, the increases were nonetheless woefully inadequate to meet tribal construction needs and to improve Indian roads so that they might be able to meet national standards. Furthermore, the current funding level of $191 million falls well short of the estimated national tribal transportation need of $300 million annually. Unless funding is increased, tribal roads will continue to fall behind national standards to the economic and social detriment of Indian tribes.

The American Indian Transportation Improvement Act of 1997 includes necessary funding increases and significant changes to the Indian Reservation Roads Program and to relevant Federal transportation programs that will provide Indian tribes with greater opportunities to meet their transportation needs. The improvements to Indian transportation include the following:

One, funding for the Indian Reservation Roads Program would be increased from $191 million annually to $250 million for fiscal year 1998, $275 million for fiscal year 1999, and $300 million for fiscal years 2000 through 2002. Funds are primarily to be used for the design and construction of roads in the BIA system.

Two, identified as high priority by tribes, the bill includes Indian reservation road maintenance as an eligible activity for funding under the Indian Reservation Roads Program. For BIA roads, Indian Reservation Roads Program funds would be used to supplement the nominal funding provided for road maintenance.

Three, to encourage donee States to fund public land highway projects that serve Indian country, the bill exempts funds expended on a public land highway constructed on an Indian reservation from the apportionment adjustment hold harmless requirement which has in the past had the effect of decreasing a State's surface transportation program allocation by the amount a State expended on a public land highway located on or running through an Indian reservation.

Four, this bill would establish a 1-percent set-aside of funds allocated for the National Scenic Byway Program for the development of an Indian scenic byway program to enhance access to scenic areas for economic development and other purposes with funding to be distributed through competitive grants.

Five, currently, tribes qualified to meet the requirements of direct certification in order to operate their own Federal highway programs are not eligible to do so. The bill overcomes this impediment by authorizing the eligibility of Indian tribes for certification by the State or tribal highway department to directly operate Federal highway programs. For example, certified tribal governments will have direct access to Federal highway safety funds and be able to manage the highway safety programs.

Six, to promote tribal highway enhancement activities on Indian roads, including bus transfer points and highway lighting, the bill authorizes the transfer of 1 percent of the funds available to States for transportation enhancement for competitive grants to Indian tribes.

Seven, in order to remedy the inefficient distribution of Indian bridge funds, the bill would establish a national Indian bridge program by consolidating the 1 percent of funds the States set aside for Indian bridges. The Secretary of Transportation would distribute the funding with priority given to bridges with the highest level of deficiency as determined by the BIA National Bridge Inspection Standards. This process efficiently allocates Indian bridge funds based on demonstrable need.

Eight, to enhance the capability of Indian tribes to improve their transportation systems and qualify for direct certification, $1 million per fiscal year is authorized for each of six Indian technical centers where tribal members receive training in areas including highway planning, construction, and maintenance.

Nine, finally, to address the inability of Indian tribes to apply directly for mass transportation funds and to meet increasing transit needs, the bill provides authority for a 1-percent set-aside of mass transportation funding for tribes with the allocation formula to be established by the Secretary of Transportation following negotiations with the tribes. In addition, the bill authorizes the conversion of up to 3 percent of Indian reservation road funds to provide mass transportation services to Indian tribes.

The American Indian Transportation Improvement Act of 1997 will significantly improve surface transportation service on or near Indian Reservations—improvements that will provide greater mobility for tribal members, increase economic opportunities for the tribe, including much-needed employment, and improve the overall quality of life.

Mr. President, I want to recognize the outstanding leadership demonstrated by Senator PETE DOMENICI in developing this important legislation. I urge my colleagues to join the chairman of the Indian Affairs Committee, the Honorable Senator BEN NIGHTHORSE CAMPBELL, Senator PETE DOMENICI, and me in acting favorably on this bill when it comes before the Senate for consideration.

Mr. BINGAMAN. Mr. President, I rise to speak briefly about the American Indian Transportation Improvement Act of 1997. This is an act that is long overdue. It would ensure that the native American communities in our country received the necessary funding to keep up with their growing infrastructure needs, in this case, roads. This bill would also ensure that we continue the Federal responsibility and commitment to native Americans. In addition, Mr. President, the American Indian Transportation Improvement Act would go a long way toward providing native American communities the necessary means toward economic and rural development to attract more business enterprises, tourism and thereby, job creation.

As my distinguished colleague from New Mexico, Senator DOMENICI, has aptly described today, Indian tribes and Alaskan communities must maintain over 50,000 miles of roadways. Many of our Nation's bridges and roadways are in great need of repair and upgrade, and tribal roads and bridges are by no means an exception. This year as we work toward ISTEA reauthorization, we must address many complicated issues. For example, we must determine whether and to what extent distribution formulas should be adjusted, whether to provide States added flexibility in administering programs, and whether and to what extent current environmental protections should be enhanced.

But as we toil to address these issues, we must realize that tribal communities are facing and must address transportation issues just as challenging as those we address on a State and national Level. Tribes have the same needs and are just as interested as our Nation's urban dwellers in improving roads and bridges. Tribal communities are interested in establishing and maintaining mass transit systems especially to assist their elderly, disabled, and youth get to and from places for goods, services, health care, and after-school activities.

Mr. President, our investment in city, State, county, and tribal transportation systems is an investment from which we will certainly reap larger economic benefits and a much greater quality of life for communities greatly in need of help.

By Mr. GRASSLEY:

S. 438. A bill to provide for implementation of prohibitions against payment of Social Security benefits to prisoners, and for other purposes; to the Committee on Finance.

THE NO CASH FOR CONVICTS ACT

● Mr. GRASSLEY. Mr. President, today I am introducing legislation to prohibit the payment of Social Security benefits to convicted criminals who are incarcerated at the expense of hard-working taxpayers.

The fate of the Social Security program has become a major topic of debate in Washington and in the homes of the American people. In the news, on Capitol Hill, and in the conversations of people all across this country the question of how to address the pending financial problems of Social Security has caused considerable anxiety. Congress must face one of its stiffest challenges in the next couple of years to enact legislation that will rescue the Social Security program for the long term.

However, there are other flaws in the Social Security program that we must not overlook. Because Social Security provides a lifelong entitlement to cash and health care, it is often a target of fraud and abuse. In the last couple of years, we have taken action to suspend benefits paid to drug addicts and alcoholics and have increased funding so the Social Security Administration can perform continuing disability reviews which ensure that beneficiaries who may have recovered are no longer receiving benefits.

Just last year, Congress enacted legislation to help SSA identify prisoners who received benefits from the Supplemental Security Income Program. Unfortunately, Congress was unable to provide similar help to the Social Security Disability Insurance Program.

No one incarcerated for a crime should continue to collect Social Security Disability Insurance. Criminals should not be allowed to double dip and receive Federal money earmarked for the purchase of food and clothing while they are part of a prison system which provides these necessities already. The average SSDI payment in January of 1996 was $682. When an individual's shelter, food, and clothing needs are already being paid for at government expense—at least $13,000 a year in some States—paying out additional Federal funds is inexcusable.

Under current law, criminals are prohibited from collecting disability insurance benefits if they are incarcerated and if that incarceration arises from a conviction punishable by imprisonment of more than one year. However, this narrow standard applies to a limited number of criminals.

In order to fully confront this problem we must enact legislation that accomplishes two goals. First, the law needs to be expanded to close the existing loophole that allows criminals who are serving time for misdemeanors or who receive a sentence of less than one year to continue to collect benefits. Second, we must amend the law to facilitate the flow of information between Federal, State, county and local officials.

Right now, SSA is able to identify only a few of the individuals who have been imprisoned to stop their benefits. The Social Security Act already requires that any Federal, State, county or local agency send the SSA the names and social security numbers of anyone who is confined to a penal institution or correctional facility in writing.

What's needed is an incentive for State and local law enforcement authorities to report to the SSA any inmate illegally collecting DI benefits. In testimony to the House Ways and Means Oversight Committee on March 4, 1996, the General Accounting Office testified that SSA lacks timely and accurate information to stop benefit payments to prisoners.

My bill provides State and local law enforcement agencies with a financial incentive to report convicted criminals who are receiving benefits while serving time in jail. The bill awards $400 for each criminal reported to SSA within the first 30 days of confinement, and $200 if the required information is reported to SSA after the 30 day period ends. If the local authorities do not notify SSA within 90 days after confinement begins, no award will be made.

Last year, as part of welfare reform we took steps to stop the flagrant abuse of the Social Security system with respect to SSI payments. Now we must finish the job by extending the law to include the illegal collection of DI benefits.

By passing this legislation we will protect the financial soundness of Social Security disability insurance and preserve the program for the people it is meant to assist. The only way to protect the hard-earned money of the American taxpayer is to insure that every penny is being spent properly. This legislation is projected to save $35 million over the next 7 years. In this day of hundreds of billions of dollars in deficit this may not seem overwhelming, but it will ease the administrative burden on SSA and most importantly, help restore confidence in this vital program.●

By Mr. MURKOWSKI (for himself, Mr. AKAKA, Mr. DOMENICI, and Mr. KYL):

S. 439. A bill to provide for Alaska State jurisdiction over small hydroelectric projects, to address voluntary licensing of hydroelectric projects on fresh waters in the State of Hawaii, to provide an exemption for portion of a hydroelectric project located in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL POWER ACT AMENDMENT ACT OF 1997

● Mr. MURKOWSKI. Mr. President, along with Senators AKAKA, DOMENICI, and KYL, I am today introducing legislation to address several issues associated with hydroelectric projects.

Section 1 gives the State of Alaska jurisdiction over small hydroelectric projects 5 megawatts or smaller. Section 2 precludes the voluntary licensing of hydroelectric projects on fresh waters in the State of Hawaii. Section 3 provides an exemption from licensing for the transmission line portion of a hydroelectric project located in the State of New Mexico. Section 4 gives the FERC the authority to extend for up to 10 years the deadline for commencement of construction of hydroelectric projects.

Sections 1, 2, and 3 of this bill are virtually identical to sections 7, 8, and 9 of S. 737 as reported in the 104th Congress. By unanimous vote, S. 737 was ordered reported by the Committee on Energy and Natural Resources (Report No. 104–77). On September 27, 1996, the Senate unanimously passed S. 737 (Senate Calendar No. 100). Unfortunately, just a few days later, on October 6, the House of Representatives went out of session not having acted on the Senate-passed bill.

Sections 2 and 3 are of direct interest to Senators AKAKA and DOMENICI, and they will speak separately on their merits. I will discuss sections 1 and 4, which are of direct interest to me.

Section 1 gives the State of Alaska jurisdiction over hydroelectric projects 5 megawatts or smaller. It goes into effect when the Governor of Alaska notifies the Secretary of Energy that the State has in place a comprehensive process for regulating these facilities. The required process is modeled on the one contained in the Federal Power Act for the FERC. The authority granted to the State of Alaska would apply only to projects that are located entirely within the State. Moreover, these projects may not be located on an Indian reservation, a unit of the National Park System, a component of the Wild and Scenic Rivers System, or a segment of a river designated for study for potential addition to such system. In the case of a project that is

already licensed by the FERC, the project sponsor may elect to make it subject to State authority. Projects located on Federal lands are subject to the approval of the Secretary of the Federal agency having jurisdiction, and that Secretary may include such terms and conditions as may be necessary for the protection of the public interest. The provisions specifically provide that nothing preempts the application of Federal environmental, natural, or cultural resources protection laws according to their terms.

Section 4 amends section 13 of the Federal Power Act to give the FERC authority to extend for up to 10 years the deadline for the commencement of a hydroelectric project. Under existing law, a project must commence construction within 2 years of the date of the issuance of the license. That deadline can be extended by the FERC one time for as much as 2 additional years, for a total of 4 years. If construction has not commenced at the end of the statutory time period, the license must be terminated by the FERC. Termination not only results in the licensee losing its investment of time and many tens of thousands of dollars to obtain the license, it also delays the construction of the project by requiring a new licensee to start the licensing process all over.

In the past, 4 years was adequate time to commence construction. However, with growing uncertainty in the electric power market, it is proving increasingly difficult for licensees to obtain the power purchase contract necessary to secure financing so as to permit commencement of construction. This has resulted in a number of individual requests to Congress to legislatively extend on a case-by-case basis the commencement of construction deadline. During the 104th Congress, for example, 28 bills were introduced in the House and Senate to extend the deadline for individual projects. Acting on these individual requests proved to be very time consuming for the committee and for the Congress. Had this provision been enacted, all of these requests could have been accommodated administratively by the FERC. Hence, I am introducing this bill to give the FERC the generic authority to extend the deadline for the commencement of construction for up to 10 years.

Mr. President, it is for these reasons that I am introducing this legislation along with Senators AKAKA, DOMENICI, and KYL.●

● Mr. AKAKA. Mr. President, the State of Hawaii, its delegation in Congress, and conservation organizations throughout the State are deeply concerned about Federal efforts to regulate hydroelectric power projects on State waters. The question of who should have authority for hydropower regulation—the State or the Federal Government—is very contentious.

Those who care for Hawaii's rivers and streams recognize that continued Federal intervention may have serious repercussions for our fresh water resources and the ecosystems that depend upon them. Whenever a hydroelectric power project is proposed, a number of environmental considerations must be weighed before approval is granted. Important issues must be evaluated, such as whether the proposed dam or diversion will impair the stream's essential flow characteristics, or what effect the hydropower project will have on the physical nature of the stream bed or the chemical makeup of the water. Will a dam or diversion diminish flow rates and reduce the scenic value of one of Hawaii's waterfalls? Will it harm recreational opportunities? These, and other questions must be answered.

The effect of a new dam or diversion on the State's disappearing wetlands must be weighed. Wetlands provide vital sanctuary for migratory birds, as well as habitat for endangered Hawaiian waterfowl. They serve as reservoirs for storm water, filtering water-borne pollutants before they reach the fragile coastal habitat, and provide a recharge area for groundwater.

Historic resources may be at risk on streams when hydropower projects are proposed. When Polynesians first settled our islands, Hawaiian culture was linked to streams as much as it was linked to the sea. The remnants of ancient Hawaiian settlements can be found along many State rivers. Will the Federal Government give adequate attention to stream resources that have unique natural or cultural significance when it issues a hydroelectric license or permit?

Most important of all, hydropower development must be compatible with preserving native aquatic resources. Hawaiian streams support many species that depend on undisturbed habitat. Perhaps the most remarkable of these species is the gobie, which can climb waterfalls and colonize stream sections that are inaccessible to other fish. These are some of the complex factors that must be considered during Federal hydropower decisionmaking.

Federal agencies that have responsibility for fish, wildlife, and natural resource protection have raised questions about the State of Hawaii's commitment to protecting stream resources. They assert that the Federal Energy Regulatory Commission is better equipped than the State to protect environmental values.

Nothing could be further from truth. The State of Hawaii has demonstrated its commitment to protect stream resources by instituting a new water code, adopting instream flow standards, launching a comprehensive Hawaii stream assessment, and organizing a stream protection and management task force.

Meanwhile, FERC has shown little regard for stream protection and has granted a preliminary permit to a hydropower developer on the Hanalei River. This is the same river that the Fish and Wildlife Service is fighting to preserve. The Hanalei National Wildlife Refuge is the largest refuge on the island of Kauai, and is home to four endangered water birds. Sixty percent of the State's taro crop is grown in the wetlands adjacent to the river. When it comes to protecting environmental values, FERC is off to a very poor start.

The experience with the proposed Hanalei hydropower project raises serious questions about appropriateness of the Federal efforts to regulate hydropower in Hawaii. Our rivers and streams bear no resemblance to the wide, deep, long, and relatively flat rivers of the continental United States. Hawaiian streams generally comprise groups of short riffles, runs, falls, and deep pools. There are only five streams with a length of 40 miles or more. Only two streams have a median flow rate greater than 100 cubic feet per second. By comparison, the mean discharge of the Mississippi River is nearly 40,000 times the annual flow of Hawaii's longest river, the Kiikii River.

The Federal interest in protecting the vast interconnected river systems of North America is misplaced in our isolated mid-Pacific location. When it comes to regulating hydropower in Hawaii, FERC is a fish out of water.

Chairman MURKOWSKI has agreed to include the text of my legislation to exempt Hawaii from the FERC hydropower jurisdiction in section 2 of the hydropower legislation he introduced today. Section 2 would terminate FERC's jurisdiction over hydropower projects on the fresh water of the State of Hawaii. Section 2 is identical to the legislation passed by the Senate during the 103d Congress as part of an omnibus hydropower bill, but the House and Senate could not resolve their differences on the bill. In the 104th Congress, the Senate Energy and Natural Resources Committee again approved the bill. I will continue to fight for the passage of this legislation during the 105th Congress.●

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

S. 440. A bill to deauthorize the Animas-La Plata Federal reclamation project and to direct the Secretary of the Interior to enter into negotiations to satisfy, in a manner consistent with all Federal laws, the water rights interests of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe; to the Committee on Energy and Natural Resources.

ANIMAS-LA PLATA PROJECT LEGISLATION

● Mr. FEINGOLD. Mr. President, today I am introducing legislation to deauthorize the construction of the Animas-La Plata water project in Colorado. I am very pleased to be joined in this effort by the Senator from Kansas [Mr. BROWNBACK]. This measure is identical to a bipartisan effort in the other body introduced on February 13, 1997, by my colleague from Wisconsin [Mr. PETRI] and my colleague from Oregon [Mr. DEFAZIO].

The Animas-La Plata project is a $744 million water development project planned for southwest Colorado and northwest New Mexico that is largely taxpayer funded. Designed to supply 191,230 feet of water, it will consist of 2 major reservoirs, 7 pumping plants, and 200 miles of canals and pipes. The project will pump water over 1,000 feet uphill, consuming enough power to run a city of 60,000, to supply municipal, industrial, and irrigation interests.

The legislation I am introducing today deauthorizes the Animas-La Plata Federal reclamation project and directs the Secretary of the Interior to work with the Southern Ute and Ute Mountain Ute Tribes to find an alternative to satisfy their water rights needs. It is supported by a broad coalition of taxpayer and environmental groups that includes: Taxpayers for Common Sense, Americans for Tax Reform, Citizens Against Government Waste, Citizens for a Sound Economy, and National Taxpayers Union. This legislation was also profiled in the 1997 Green Scissors Report, and the Animas project has shown up on a number of deficit reduction target lists, including one recently proposed by the Chairman of the Budget Committee of the other body [Mr. KASICH].

I believe that Federal legislation to terminate the Animas-La Plata project is needed for four reasons. First, as a Senator who is extremely concerned about the Federal deficit and debt, this project has an extremely high price tag—a projected total cost of $744 million in fiscal year 1998. That total projected cost estimate has increased $30 million over the fiscal year 1997 estimate of $714 million. The Federal share of that cost now exceeds half a billion dollars, $503 million to be exact, which is nearly 68 percent of the total cost. I believe, especially in these times of tight budgets, that commencement of significant Federal discretionary spending should be critically evaluated.

By no measure or metric is this project cost effective, Mr. President. A July 1995 economic analysis by the Bureau of Reclamation, the only analysis that used economic procedures approved for Bureau analyses and a current discount rate, reported that the project's benefit-cost ratio is 0.36:1. In other words, Mr. President, the project will return only 36 cents for every taxpayer dollar invested. I am additionally concerned, Mr. President, because recent GAO reports have highlighted that Federal water projects, once built, do not recoup the costs of the projects from the users, who are supposed to be paying the government back for its investment. Municipal and industrial users are required under the Water Supply Act of 1958 to fully repay all the construction costs and operation and maintenance costs attributable to the supply of municipal and industrial water. Those repayment contracts are to be in place before construction begins. Currently, the Bureau has signed a repayment contract with two non-Indian project beneficiaries. Those that have been signed do not cover the construction costs of the full project, due to cost increases. It is questionable if the project will ever comply with the law and obtain full reimbursement of municipal and industrial costs from the project beneficiaries.

Second, I am introducing this legislation because I believe that the Congress should support the State of Colorado's ongoing dialog over lower cost alternatives rather than proceed to initiate construction. The Animas-La Plata project has been the focus of controversy and litigation for many years. In response to legislative activities last Congress, which I will describe in further detail, Colorado Gov. Roy Romer and Lt. Gov. Gail Schoettler convened a discussion process in October 1996 with the Bureau of Reclamation, the Southern Ute and Ute Mountain Ute Tribes, interested water districts, irrigators, and environmentalists in an attempt to resolve disputes among the parties. To assist in the success of this process, the Bureau and the other parties executed a legal ''stand still'' agreement establishing basic ground rules for the dialog and identifying the activities that could take place outside the process. While the eventual outcome is not known, a recommendation for a different formulation of the project is possible.

Thus far, the Department of the Interior, acting through the Bureau, is committed to finding a solution acceptable to the parties in general, and to the Colorado Ute Tribes specifically, due to the Federal Government's tribal trust responsibility. My legislation will codify that direction by specifically directing the Bureau to continue with these negotiations, rather than proceed with Animas-La Plata.

Third, this legislation has been drafted to acknowledge the importance of demonstrating support for ensuring that the Federal Government's obligations to the Colorado Ute Tribes are fulfilled. During debate over the fiscal year 1997 energy and water appropriations bill, colleagues will remember that I offered an amendment to terminate funding for Animas-La Plata. I believe that amendment was not successful last year due to concerns by colleagues that the project is necessary to fulfill Ute tribal water rights.

As I made clear to colleagues during the appropriations debate, despite the contention that the project will address the Ute claims, Animas-La Plata was not initiated as a way to address these claims. This project was authorized in 1968 to supply irrigation water to farmers growing forage crops in arid areas. Even back then, in the heyday of big water projects, this one was riddled with so many problems it couldn't get going. In 1988, nearly 20 years after it was authorized, the settlement of the Ute Indian water rights claims became an additional justification for pushing this project through.

Construction of this project has not yet begun because of a variety of factors, including concerns raised about the adequacy of the April 1996 Supplemental Environmental Impact Statement, issues surrounding cost-sharing and repayment agreements, and compliance problems with New Mexico's water quality standards.

Both the Ute Mountain Ute and the Southern Ute tribal governments formally support construction of Animas-La Plata. The water that the Utes will be provided from the project, however, is only a fraction of the project's total capacity. Of the 191,230 acre-feet of water the project will supply, two-thirds will go to nontribal interests with only 62,000 acre feet of the total to be supplied to both tribes. There is dissent within the Southern Ute Tribe about the wisdom of this project, and I am pleased that this legislation terminating the project has received the support of the Southern Ute Grassroots Organization.

I am concerned that the Animas-La Plata as currently proposed cannot meet the needs of the tribes because the initial construction phase of the project will neither provide the delivery system nor the quantity of water needed to fully honor the Federal Government's commitments. We should not spend hundreds of million of dollars and still find the tribal needs potentially unmet. Rather, I want to see that the Bureau is engaged in actively solving these problems rather than half-heartedly moving forward with construction and at the negotiating table to examine alternatives. The Ute Tribes' water rights settlement says that if the project isn't built and fully functional by the year 2000, the tribes may void the settlement and go back into negotiations or litigation. Last year, the Bureau indicated that it cannot complete the project before 2003. It is not unreasonable to expect that the Utes may seek to void their settlement, wherein the non-Indian irrigators will get their expensive project and Congress in the year 2005 or so will have to fund a new water rights settlement.

Finally, I believe that there needs to be a proactive legislative solution put forward to address the Animas-La Plata project because the political support for continued appropriations for this project is eroding. Last year, during the 104th Congress, the other body voted 221 to 200 to stop the funding for the Animas-La Plata project as it is currently designed. The chairman of the Budget Committee in the other body has put Animas-La Plata on a target list of corporate welfare cuts. I believe that during the appropriations cycle for fiscal year 1998, the other body will again vote to terminate funding for this project.

Politically, we may go back and forth for a few years with the other body terminating funding and this

body restoring the money. But eventually, both Houses of Congress will resist and we will have wasted millions of dollars.

My bill seeks to put this project back on a positive track. It directs the Bureau of Reclamation to address legitimate water needs and explore all the alternatives to meeting those needs, and terminates this project that we can no longer afford. I ask unanimous consent that this measure be printed in the RECORD.

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

S. 440

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

SECTION 1. DEAUTHORIZATION OF ANIMAS-LA PLATA FEDERAL RECLAMATION PROJECT.

(a) DEAUTHORIZATION.—The Animas-La Plata Project, Colorado and New Mexico (a participating project under the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.), and the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.)) is not authorized after the date of enactment of this Act.

(b) CONFORMING AMENDMENT.—The first section of the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620), is amended in the proviso by striking ''Animas-La Plata,''.

(c) NEGOTIATIONS.—The Secretary of the Interior shall promptly seek to enter into negotiations with the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe to satisfy, in a manner consistent with all Federal laws, the water rights interests of those tribes that were intended to be satisfied with water supplied from the Animas-La Plata Project.●

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 441. A bill to improve health care quality and reduce health care costs by establishing a national fund for health research that would significantly expand the Nation's investment in medical research; to the Committee on Finance.

THE NATIONAL FUND FOR HEALTH RESEARCH ACT

Mr. HARKIN. Mr. President, I rise today with Senator SPECTER to introduce the National Fund for Health Research Act. This legislation is similar to legislation I introduced with Senator Hatfield during the last Congress which gained broad bipartisan support in both the House and Senate.

Our proposal would establish a national fund for health research to provide additional resources for health research over and above those provided to the National Institutes of Health [NIH] in the annual appropriations process. The fund would greatly enhance the quality of health care by investing more in finding preventive measures, cures, and cost-effective treatments for the major illnesses and conditions that strike Americans.

To finance the fund, health plans would set aside approximately 1 percent of all health premiums and transfer the funds to the Department of the Treasury. The Department of the Treasury would then transfer the money to the national fund for health research.

Each year under our proposal amounts within the national fund for health research would automatically be allocated to each of the NIH Institutes and Centers. Each Institute and Center would receive the same percentage as they received of the total NIH appropriation for that fiscal year. The set aside should generate sufficient funds to provide for a nearly 50-percent increase in funding for the NIH.

In 1994, I argued that any health care reform plan should include additional funding for health research. Health care reform has been taken off the front burner but the need to increase our Nation's commitment to health research has not diminished.

While health care spending devours nearly $1 trillion annually our medical research budget is dying of starvation. The United States devotes less than 2 percent of its total health care budget to health research. The Defense Department spends 15 percent of its budget on research. Does this make sense? The cold war is over but the war against disease and disability continues.

Increased investment in health research is key to reducing health costs in the long run. If we can find the cure for a disease like Alzheimer's the savings would be enormous. Today, federally supported funding for research on Alzheimer's disease totals $300 million yet it is estimated that nearly $100 billion is expended annually on caring for people with Alzheimer's.

Gene therapy and treatments for cystic fibrosis and Parkinson's could eliminate years of chronic care costs, while saving lives and improving patients' quality of life.

Mr. President, Senator SPECTER and I do everything we can to increase funding for NIH through the appropriations process. But, given the current budget situation and freeze in discretionary spending what we can do is limited. Without action, our investment in medical research through the NIH is likely to continue to decline in real terms.

The NIH is not able to fund even 25 percent of competing research projects or grant applications deemed worthy of funding. This is compared to rates of 30 percent or more just a decade ago. Science and cutting edge medical research is being put on hold. We may be giving up possible cures for diabetes, Alzheimer's, Parkinson's, and countless other diseases.

Our lack of investment in research may also be discouraging our young people from pursuing careers in medical research. The number of people under the age of 36 even applying for NIH grants dropped by 54 percent between 1985 and 1993. This is due to a host of factors but I'm afraid that the lower success rates among applicants is making biomedical research less and less attractive to young people. If the perception is that funding for research is impossible to obtain, young people that may have chosen medical research 10 years ago will choose other career paths.

Mr. President, I am pleased that over 130 groups representing patients, hospitals, medical schools, researchers, and millions of Americans have already endorsed our proposal.

Mr. President, health research is an investment in our future—it is an investment in our children and grandchildren. It holds the promise of cure or treatment for millions of Americans.

By Mr. WYDEN (for himself and Mr. KERRY):

S. 442. A bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERNET TAX FREEDOM ACT

● Mr. WYDEN. Mr. President, a few weeks ago, I met with a group of small business folks at an Internet cafe in Portland. We talked about the promise electronic commerce holds for businesses and consumers. The Internet can give a small businessperson in Astoria, OR access to the entire global marketplace. It can give consumers, especially in rural areas, entry to a supernational shopping mall.

For governments, the Internet offers a different type of promise—the chance to be a new cash cow. As Federal funds decrease, States and local governments are looking to the Internet as a new source of revenue. Some have already begun building tollbooths on the information superhighway. For sales taxes alone, there are nearly 6,500 different taxing authorities in this country. One businessman at the Internet cafe told me he is wary of getting into electronic commerce because of the prospect of as many as 30,000 different pairs of hands reaching into his pockets to collect taxes. If current trends continue, State and local levies will transform the Internet from a bright and exciting new frontier for commerce into a dark jungle of foreboding taxes.

Under today's mishmash of State and local Internet taxes, everyone is puzzled. Take a customer at his home computer who purchases an item from a virtual catalogue. With the click of his mouse, the purchase is logged, his account billed and payment made by wire transfer and the order sent. The vendor is in another State, or even another country. His bank is in a third State and the purchase is a gift being sent to a relative in another State. Where did this transaction take place?

Where was there nexus for tax purposes—the vendor State? The customer's State? The bank's location? Or the State where the gift is being sent? Is the answer all of the above, some of the above, or none of the above?

The enormity of the problem is underscored by the fact that the hottest selling software today is software to help entrepreneurs and companies figure out various State tax policies.

When a consumer in Corvallis, OR uses an Internet search engine in California, is that search a taxable service? When a housewife in Houston uses Virginia-based America Online to make a virtual purchase from a furniture company in North Carolina, what gets taxed where? Is an Internet service provider a public utility, as one State has ruled? Even if a State has enacted an online tax law, collection and enforcement are often haphazard. This system rewards ignorance and punishes the boy scout businesses that play by the rules.

The purpose of the bill I am introducing today with Congressman CHRIS COX is to allow everyone to step back and take a deep breath. It says let's suspend this crazy tax quilting bee so that everyone can come together in a rational way to figure out what policy makes the most sense.

The Internet Tax Freedom Act has three parts. First, it would impose an indefinite moratorium on subnational taxes on electronic commerce. Where States and local governments have already imposed taxes on electronic commerce, their taxes would be grand fathered to the extent that they are net income taxes, fairly apportioned business license taxes or where the tax is collected in an identical way for mail or telephone orders. This will assure uniformity and fairness, while targeting inequitable technology taxes. Our intent is that the new tax moratorium apply to all Internet and interactive computer services, regardless of the technology—such as cable systems and wireless networks—being used to deliver those services. It will give us a functionally equivalent and technologically equitable tax policy. It will assure equity and fairness among all business entities and across technologies.

Second, the bill would call upon the administration to bring together State and local governments, businesses and consumers, and any others with a stake in the Internet and online commerce to develop policy recommendations on taxation of the Internet and use of the Internet to deliver products and services. The Executive would have 2 years in which to prepare policy recommendations on taxation of the Internet.

Third, the bill directs the executive branch to seek an international agreement making the Internet a duty-free zone. Just as we seek a rational policy on electronic commerce taxation here in the United States, our businesses cannot be expected to compete overseas if they faced more than 160 different foreign tariff policies covering global electronic commerce. Although about 75 percent of Web users live in North America, most electronic commerce is between companies, rather than companies and consumers. Forrester Research of Massachusetts predicts business-to-business commerce will soon be worth $67 billion a year.

Trying to find out exactly which States and local authorities are imposing taxes on electronic commerce and what types of taxes they are imposing is a daunting—if not outright impossible—task in itself. The Vice President for a good-sized Internet service provider in California said he would need a whole department to untangle the various Internet tax laws around the country, ''It's in my nightmare pile,'' he observed. If this has stumped some of the best accounting firms in the country, how in the world can a small business that wants to sell over the Internet figure out its various tax liabilities? The difference between States in electronic commerce tax policy is mind-numbing.

Twenty States and the District of Columbia impose one or more taxes on electronic commerce. New York levies taxes on gross receipts on the ''furnishing of information,'' but not on personal or individual information. Ohio taxes electronic transmissions and real estate data bases because they provide objective data but exempts news services because they provide analysis. Texas taxes the transmission of electronic information and software in whatever form, but does not tax software sent out of State on a disk. Alabama's Revenue Department ruled last fall that a utility tax applies to Internet service providers, forcing them to pay a 4-percent public utilities tax.

Last year in Florida a small Internet service provider asked the State's Department of Revenue whether he should add a sales tax to his customers' monthly bills. He was certain he wouldn't have to since all net surfers there already pay 10 percent or more in taxes for the telephone service they use to link to the Internet. To his surprise, the Revenue Department said his customers should have been paying a 7-percent service tax under a decade-old telecommunications law. Then, adding shock to surprise, the Department told him his company was subject to an additional 2.5-percent tax on its gross annual receipts. The uproar from users and providers led the Governor to suspend the taxes until a panel could study the implications.

The legislation is constructed in such a way as to set up a dynamic and productive tension. It gives those that seek revenue from electronic commerce—the States and local governments—an incentive to work with the administration in developing policy recommendations on Internet taxation. Indeed, the National Conference of State Legislatures wrote me on February 21 that they have been ''working with a number of other State organizations as well as the impacted private sector industries to find the common ground which will lead to the coordination and uniformity of State tax structures which the draft legislation desires.'' And an official with the Federal of Tax Administrators observed last summer that ''States need to figure out how to tax it [the Internet] and to make it a level playing field with other services.'' I will also continue to work with the Multistate Tax Commission to assure their efforts move forward.

But the question remains: Will the simple imperative for good public policy outweigh the desire of cash-strapped States to tap a new source of revenue? Without a moratorium, as proposed in this legislation, I fear those State and local governments hungry for new sources of revenue have little, if any, incentive to work for a fair and equitable Internet tax policy.

I want to thank a number of groups that have helped us craft this legislation, and which have indicated their support for this bill: the American Electronics Association, the Software Publishers Association, the Association of Online Professionals, the Committee on State Taxation, the Direct Marketing Association, the Business Software Alliance, the Information Technology Association of America, the U.S. Telephone Association, the California State Board of Taxation, the Massachusetts High Tech Council, CommerceNet, the Silicon Valley Software Industry Coalition, IBM, AT&T, and other companies.

I view the legislation being introduced today as the beginning of a process, not the end. It remains a work in progress and will hopefully continue to be refined throughout the congressional hearing process.

There is a great deal to learn in these unchartered waters. All of us—Congress, State and local governments, businesses and consumers—must educate each other about how this new electronic medium works. We must all work together to help it achieve its full potential as a marketplace of ideas, products, and services.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 442

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Freedom Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) As a massive global network spanning not only State but international borders, the Internet is inherently a matter of interstate and foreign commerce within the jurisdiction of the United States Congress under Article I, Section 8 of the United States Constitution.

(2) Even within the United States, the Internet does not respect State lines and operates independently of State boundaries. Addresses on the Internet are designed to be geographically indifferent. Internet transmissions are insensitive to physical distance and can have multiple geographical addresses.

(3) Because transmissions over the Internet are made through packet-switching it is impossible to determine with any degree of certainty the precise geographic route or endpoints of specific Internet transmissions and infeasible to separate intrastate from interstate, and domestic from foreign, Internet transmissions.

(4) Inconsistent and inadministrable taxes imposed on Internet activity by State and local governments threaten not only to subject consumers, businesses, and other users engaged in interstate and foreign commerce to multiply, confusing, and burdensome taxation, but also to restrict the growth and continued technological maturation of the Internet itself, and to call into question the continued viability of this dynamic medium.

(5) Because the tax laws and regulations of so many jurisdictions were established before the Internet or interactive computer services, their application to this new medium in unintended and unpredictable ways threatens every Internet user, access provider, vendor, and interactive computer service provider.

(6) The electronic marketplace of services, products, and ideas available through the Internet or interactive computer services can be especially beneficial to senior citizens, the physically challenged, citizens in rural areas, and small businesses. It also offers a variety of uses and benefits for educational institutions and charitable organizations.

(7) Consumers, businesses, and others engaging in interstate and foreign commerce through the Internet or interactive computer services could become subject to more than 30,000 separate taxing jurisdictions in the United States alone.

(8) The consistent and coherent national policy regarding taxation of Internet activity, and the concomitant uniformity, simplicity, and fairness that is needed to avoid burdening this evolving form of interstate and foreign commerce can best be achieved by the United States exercising its authority under Article I, Section 8, Clause 3 of the United States Constitution.

SEC. 3. MORATORIUM ON IMPOSITION OF TAXES ON INTERNET OR INTERACTIVE COMPUTER SERVICES.

(a) MORATORIUM.—Except as otherwise provided in this section, no State or political subdivision thereof may impose, assess, or attempt to collect a tax directly or indirectly on—

(1) the Internet or interactive computer services; or

(2) the use of the Internet or interactive computer services.

(b) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Subsection (a)—

(1) does not apply to taxes imposed on or measured by net income derived from the Internet or interactive computer services;

(2) does not apply to fairly apportioned business license taxes applied to businesses having a business location in the taxing jurisdiction; and

(3) does not affect a State or political subdivision thereof of authority to impose a sales or use tax on sales or other transactions effected by the use of the Internet or interactive computer services if—

(A) the tax is the same as the tax generally imposed and collected by that State or political subdivision thereof on interstate sales or transactions effected by mail order, telephone, or other remote means within its taxing jurisdiction; and

(B) the obligation to collect the tax from sales or other transactions effected by the use of the Internet or interactive computer services is imposed on the same person or entity as in the case of sales or transactions effected by mail order, telephone, or other remote means.

SEC. 4. ADMINISTRATION POLICY RECOMMENDATIONS TO CONGRESS.

(a) CONSULTATIVE GROUP.—The Secretaries of the Treasury, Commerce, and State, in consultation with appropriate committees of the Congress, consumer and business groups, States and political subdivisions thereof, and other appropriate groups, shall—

(1) undertake an examination of United States and international taxation of the Internet and interactive computer services, as well as commerce conducted thereon; and

(2) jointly submit appropriate policy recommendations concerning United States domestic and foreign policies toward taxation of the Internet and interactive computer services, if any, to the President within 18 months after the date of enactment of this Act.

(b) PRESIDENT.—Not later than 2 years after the date of enactment of this Act, the President shall transmit to the appropriate committees of Congress policy recommendations on the taxation of sales and other transactions affected on the Internet or through interactive computer services.

(c) RECOMMENDATIONS TO BE CONSISTENT WITH TELECOMMUNICATIONS ACT OF 1996 POLICY STATEMENT.—The Secretaries and the President shall take care to ensure that any policy recommendations are fully consistent with the policy set forth in paragraphs (1) and (2) of section 230(b) of the Communications Act of 1934 (47 U.S.C. 230(b)).

SEC. 5. DECLARATION THAT THE INTERNET BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

It is the sense of the Congress that the President should seek bilateral and multilateral agreements through the World Trade Organization, the Organization for Economic Cooperation Council, or other appropriate international fora to establish that activity on the Internet and interactive computer services is free from tariff and taxation.

SEC. 6. DEFINITIONS.

For purposes of this Act—

(1) INTERNET; INTERACTIVE COMPUTER SERVICE.—The terms ''Internet'' and ''interactive computer service'' have the meaning given such terms by paragraphs (1) and (2), respectively, of section 230(e) of the Communications Act of 1934 (47 U.S.C. 230(e)).

(2) TAX.—The term ''tax'' includes any tax, license, or fee that is imposed by any governmental entity, and includes the imposition of the seller of an obligation to collect and remit a tax imposed on the buyer.

THE INTERNET TAX FREEDOM ACT—SECTION-BY-SECTION ANALYSIS

Section 1: Short title: ''The Internet Tax Freedom Act''

Section 2: Findings. Sets forth a series of findings, including that the Internet is inherently a matter of interstate commerce; that the Internet operates independently of State lines; that inconsistent and unadministrable taxes imposed on Internet activity by State and local governments subject consumers and businesses to multiple, confusing and burdensome taxation and are creating compliance problems for Internet access providers, vendors and interactive computer service providers; that consumers, businesses and others engaging in interstate commerce through the Internet or interactive computer services could become subject to some 30,000 separate taxing jurisdictions in the United States; and that uniformity, simplicity and fairness are needed regarding taxation of Internet activity to avoid burdening this evolving form of interstate commerce.

Section 3: Moratorium on Imposition of Taxes on Internet or Interactive Computer Services—

Subsection (a), establishes a moratorium on direct and indirect state or local taxes on the Internet or interactive computer services or the use of those services.

Subsection (b), preserves state and local authority for taxes for the following types of taxes:

(1) taxes on or measured by net income derived from these services,

(2) fairly apportioned business license taxes, and

(3) sales and use taxes on interstate electronic transactions that are consistent with taxes on mail order and telephone transactions.

Section 4: Administration Policy Recommendations to Congress.

Subsection (a), Establishes a consultative group of the Secretaries of the Treasury, Commerce and State that will work with State and local governments, consumer and business groups and others to examine U.S. and international taxation of Internet and interactive computer services and submit policy recommendations to the President within 18 months of enactment.

Subsection (b), directs the President to transmit to Congress any policy recommendations within two years of enactment.

Subsection (c), seeks to ensure that any policy recommendations are consistent with the 1996 Telecommunications Act policy statement regarding promotion of the Internet and interactive computer services.

Section 5: Declaration that the Internet Be Free of Foreign Tariffs, Trade Barriers, and Other Restrictions

Sets forth the sense of the Congress that the President should seek bilateral and multinational agreements through various international trade organizations to keep the Internet and interactive computer services free from tariffs and taxation.

Section 6: Definitions

(1) Internet and interactive computer service terms are defined as they are in the Communications Act of 1934, as amended by the 1996 Telecommunications Act.

(2) Defines tax to include any tax, license or fee imposed by any governmental entity and includes the imposition on the seller of an obligation to collect and remit a tax imposed on the buyer.●

ADDITIONAL COSPONSORS

S. 72

At the request of Mr. KYL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 72, a bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers, and for other purposes.

S. 73

At the request of Mr. KYL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 73, a bill to amend the Internal Revenue Code of 1986 to repeal the corporate alternative minimum tax.

S. 74

At the request of Mr. KYL, the name of the Senator from Indiana [Mr.

COATS] was added as a cosponsor of S. 74, a bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes.

S. 75

At the request of Mr. KYL, the names of the Senator from Colorado [Mr. ALLARD] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 76

At the request of Mr. KYL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 76, a bill to amend the Internal Revenue Code of 1986 to increase the expensing limitation to $250,000.

S. 102

At the request of Mr. BREAUX, the names of the Senator from Maine [Ms. COLLINS], the Senator from Kentucky [Mr. FORD], the Senator from Nevada [Mr. BRYAN], the Senator from Oklahoma [Mr. INHOFE], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 102, a bill to amend title XVIII of the Social Security Act to improve medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes.

S. 181

At the request of Mr. DORGAN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 181, a bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax.

S. 191

At the request of Mr. HELMS, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 191, a bill to throttle criminal use of guns.

S. 252

At the request of Mr. GREGG, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 252, a bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains tax for assets held more than 2 years, to impose a surcharge on short-term capital gains, and for other purposes.

S. 261

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 261, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 278

At the request of Mr. GRAMM, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 278, a bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

S. 357

At the request of Mr. BENNETT, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 357, a bill to authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument, and for other purposes.

S. 373

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 373, a bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for protection of consumers in managed care plans and other health plans.

S. 389

At the request of Mr. ABRAHAM, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Arizona [Mr. MCCAIN], the Senator from Colorado [Mr. ALLARD], and the Senator from Kansas [Mr. BROWNBACK] were added as cosponsors of S. 389, a bill to improve congressional deliberation on proposed Federal/private sector mandates, and for other purposes.

S. 419

At the request of Mr. BOND, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 419, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

SENATE RESOLUTION 57

At the request of Mr. DORGAN, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of Senate Resolution 57, a resolution to support the commemoration of the bicentennial of the Lewis and Clark Expedition.

SENATE CONCURRENT RESOLUTION 7—RELATIVE TO COST-OF-LIVING ADJUSTMENTS

Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER and Mr. AKAKA) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 7

Whereas over the years, Federal employees and retirees have regularly been forced to bear a disproportionate share in connection with deficit reduction: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that cost-of-living adjustments for Federal retirees should be paid beginning in January of each year, as current law prescribes, and should not be delayed, whether as part of a budget agreement or otherwise.

Mr. SARBANES. Mr. President, I am pleased to submit along with Senators MIKULSKI, WARNER, and AKAKA, this sense-of-the-Congress resolution. It is a simple resolution which clearly states that it is the sense of the Congress that Federal retiree COLA's should not be delayed.

After 3 years of having their cost-of-living adjustments delayed, Federal retirees finally saw equity restored this year when their COLA adjustment became effective in January instead of April. Federal retirees should continue to receive their COLA on time, in line with all other Federal cost-of-living adjustments.

According to the Congressional Budget Office, the average Federal retiree would lose an estimated $915 over the next 5 years if a three-month COLA delay is reinstated. To many of our Nation's more than 2 million Federal retirees, this can mean a significant difference in the calculation of their yearly living expenses.

Further delaying Federal retiree COLA's would, in my view, set a dangerous, unfounded precedent where cutting or altering Federal retiree and employee benefits to effect cost savings becomes an all too regular and accepted practice.

Mr. President, Federal retirees have served this Nation with the expectation that the benefits they have earned will be excluded from the pressures of achieving arbitrary budgetary targets. Disparate treatment of COLA recipients goes against longstanding congressional policy that for more than 25 years has ensured COLA equity for all retirees, and I urge my colleagues to join me in support of this important resolution.

● Ms. MIKULSKI. Mr. President, today I am joining with my colleagues, Senator SARBANES, Senator WARNER, and Senator AKAKA to submit a very important resolution. Our resolution states a simple fact—federal retirees should not be singled out for delays in their cost of living adjustments.

As my colleagues know, 1997 was the first year since 1993 that Federal retirees received a timely COLA. Their COLA's were delayed until April for the last 3 years as part of the 1993 deficit reduction plan. They were willing

to accept this delay because they knew that they would have to do their fair share to help us control the budget deficit. Many of them said to me, ''Senator, I'm willing to tighten my belt another notch to help this country, as long as everyone else is asked to do the same.''

Now we have a situation where retirees are being asked to tighten the belt again. Except this time they are being singled out for special treatment. We have proposals to delay Federal retiree COLA's for another 4 years. I don't think that's right —it's not fair and its not equitable. I think all COLA's—Federal, military, and Social Security should be paid on time. They should be reliable and they should be accurate. We owe our seniors, our Government retirees, and our military retirees nothing less.

I am very disturbed by the recent trend of promises broken to Federal employees, and retirees. I believe that promises made should be promises kept. When Federal employees signed up for service, they agreed to defer some compensation until retirement. They knew that they would make less salary than in the private sector, but they also knew that they would have a stable benefits package of health insurance, life insurance, and retirement. If we delay their COLA's again we are telling them—sorry, we did not exactly tell you the truth when you signed up for service. We are telling them that they cannot rely on the benefits that they planned their retirements around.

I do not think this is the way we should run our Government, and it's not the way we should treat our Government retirees. I am working to make sure we honor our commitments, and I urge all my colleagues to do the same and support this resolution.●

Mr. WARNER. Mr. President, I rise today as a cosponsor of legislation expressing the sense of Congress that Federal retirement cost-of-living adjustments [COLA's] should not be delayed.

I join with my colleagues Senator SARBANES and Senator MIKULSKI of Maryland, and Senator AKAKA of Hawaii in opposing President Clinton's fiscal year 1998 budget proposal to delay Federal retiree cost-of-living adjustments [COLA's].

It was a matter of great satisfaction to me that the balanced budget proposal approved by the Congress in 1995 provided for full CPI-based COLA's for Federal retirees each January through the year 2002. That legislation was vetoed by President Bill Clinton on December 6, 1995.

The President has once again indicated his lack of support for COLA equity by submitting his fiscal year 1998 budget proposal including delayed Federal retiree COLA's. It is my intention to strenuously oppose the President's inequitable COLA policy whenever possible. I will be looking to the Federal retiree community for support in this effort as the fiscal year 1998 budget process continues.

Federal retirees must be treated equitably in terms of cost-of-living adjustments [COLA's] and income security. You may recall that in 1986, I was an original cosponsor of the COLA equity amendment, landmark legislation which guaranteed equal COLA treatment for all participants in Government retirement programs—Social Security, civil service, and military. From that point until President Clinton's Deficit Reduction Act of 1993, full CPI-based COLA's were provided for all retirees each January 1.

Regrettably, President Clinton's 1993 budget departed from the policy of COLA equity in that a series of COLA deferrals were put in place for civil service, and military retirees. As you know, Social Security recipients were not affected. What you may not know is that last year, I sponsored legislation which was enacted into law to at least retain COLA equity for the military and civil service. A damaging proposal had surfaced to further delay civil service COLA's to help fund military COLA's, an unworkable and unfair proposition. I vigorously opposed it and fought for its defeat.

It is time once again to stand and oppose this COLA inequity for Federal retirees. I urge my colleagues to support this resolution to restore equity for all retirees.

SENATE CONCURRENT RESOLUTION 8—RELATIVE TO COST-OF-LIVING ADJUSTMENTS

Mr. ROBB submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 8

Whereas over the years Federal retirees have been asked to share in efforts to reduce the deficit by delaying their annual cost-of-living adjustment while retirees under other Federal programs who also receive cost-of-living adjustments were not delayed:

Whereas it would be inequitable to continue delaying cost-of-living adjustments for Federal retirees when like delays for similarly situated retirees under other systems are not under consideration: Now, therefore, be it

Resolved by the United States Senate (the House concurring), That it is the sense of the Congress that cost-of-living adjustments for Federal retirees should be paid at the same time as other retirees receiving federal cost-of-living adjustments.

Mr. ROBB. Madam President, I submit a concurrent resolution expressing the sense of the Congress that all Federal annuitants should receive their cost-of-living adjustments at the same time.

This resolution is very similar to one submitted by my colleague from Maryland, and cosponsored by the other distinguished Senator from Maryland and my own esteemed colleague, the senior Senator from Virginia. And while I agree with them in spirit, I could not support the wording of their resolution so I am here to offer my own.

As we are all aware by now, the President's budget proposal would delay Federal retiree cost-of-living adjustments from their statutory date of January 1 to April 1 until the year 2002. This same budget proposal, however, would leave the effective date for COLA's for other Federal COLA recipients at January 1, thus singling out Federal civilian retirees as the only Federal beneficiaries with their COLA's delayed. This seems blatantly unfair and violates the principle of COLA equity that so many of us have espoused over the years. If the budget justification is there to delay one group, then why isn't it there for the others? Conversely, if there is a policy justification for not delaying certain retirees, then why are Federal retirees any different?

I could not join my colleagues in cosponsoring their resolution because I can see a point where a policy decision to treat everyone equitably could result in delaying COLA's across all of these programs. That is not what I believe we need to do this year, and I'll continue to support efforts to equalize COLA's in January. I could not, however, in good conscience cosponsor a resolution which I might contradict at a later point in time.

As an alternative, I am offering a concurrent resolution which expresses the sense of the Congress that COLA's for all of these Federal annuitants and beneficiaries should be paid at the same time. The resolution deliberately does not state a date certain, simply that the principle of equity between them should prevail.

SENATE CONCURRENT RESOLUTION 9—RELATIVE TO COUNTER-DRUG ACTIVITIES

Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. DODD, Mr. MCCAIN, Mr. BIDEN, and Mr. LUGAR) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 9

Whereas the international drug trade poses a direct threat to the United States and to international efforts to promote democracy, economic stability, human rights, and the rule of law;

Whereas approximately 12,800,000 Americans use illegal drugs, including 1,500,000 cocaine users, 600,000 heroin addicts, and 9,800,000 smokers of marijuana;

Whereas illegal drug use occurs among members of every ethnic and socioeconomic group in the United States;

Whereas 10.9 percent of all children between 12 years and 17 years of age use illegal drugs, and one child in four claims to have been offered illegal drugs in the last year;

Whereas drug-related illness, death, and crime cost the United States approximately $66,900,000,000 in 1996, including costs for lost productivity, premature death, and incarceration;

Whereas effective treatment and prevention is required to break the cycle that links illegal drugs to violent crime in the United States and to reduce the social and economic costs to the United States of illegal drug use;

Whereas such treatment and prevention depend on our ability to prevent the flow of illegal drugs through our orders through effective cooperation with other nations;

Whereas according to the Department of State, Mexico is the source of between 20 and 30 percent of the heroin and 70 percent of the marijuana shipped into the United States and is a transit point for between 50 and 70 percent of the cocaine shipped into the United States;

Whereas drug traffickers along the United States border with Mexico smuggle approximately $10,000,000,000 worth of narcotics into the United States annually, and the drug trade generates approximately $30,000,000,000 annually for the Mexican economy;

Whereas there has been a failure to take effective action against drug cartels and other significant narcotics traffickers in Mexico, including the Juarez and Tijuana drug cartels;

Whereas Mexico has failed to honor requests by the United States for extradition of Mexican nationals indicted in our courts on drug-related charges;

Whereas the number of drug seizures in Mexico in 1996 was only half the number of seizures in 1993, and the number of drug-related arrests in Mexico in 1996 was only half the number of such arrests in 1992;

Whereas there is evidence of official corruption in the counter-drug forces of Mexico, including the recent arrest of General Jesus Gutierrez Rebollo, the highest-ranking counter-drug official of the Government of Mexico;

Whereas the Government of Mexico has refused to permit United States agents to carry their weapons on the Mexican side of the United States border with Mexico;

Whereas the banking and financial sectors in Mexico lack mechanisms to prevent money laundering; and

Whereas the Department of Treasury estimates the amount of drug-related money-laundering in Mexico in 1996 at nearly $10,000,000,000: Now, therefore, be it

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

(1) to express concern about ineffective and insufficient progress by Mexico in halting the production in and transit through Mexico of illegal drugs; and

(2) to urge the President of the United States and the President of Mexico to expand and strengthen their cooperative relationship in order to make additional progress in halting the production in and transit through Mexico of illegal drugs, including meaningful progress in—

(A) the dismantlement of major drug cartels in Mexico and the arrest of their leaders;

(B) the implementation by Mexico of effective money-laundering legislation;

(C) the compliance of Mexico with outstanding extradition requests by the United States, particularly those requested for extradition of Mexican nationals indicted in our courts on drug-related charges;

(D) the interdiction of the flow of narcotics and other controlled substances across the land and sea border between the United States and Mexico;

(E) the cooperation of Mexico with United States law enforcement officials engaged in counter-drug activities, including permission for United States agents to carry weapons on the Mexico side of the United States border; and

(F) the implementation by Mexico of a wide-ranging program to identify, eliminate, and prosecute officials in Mexico, including government, police, and military officials, who are engaged in or corrupted by drug-related activities.

SENATE CONCURRENT RESOLUTION 10—RELATIVE TO MEXICO

Mr. GRASSLEY submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 10

Whereas Mexico is one of the major source countries for narcotic and psychotropic drugs and other controlled substances entering the United States;

Whereas Mexico is a major transit country for cocaine;

Whereas 70 percent to 80 percent of all foreign-grown marijuana in the United States originates in Mexico;

Whereas criminal organizations in Mexico are involved in smuggling across the United States border;

Whereas criminal organizations in Mexico are engaged in the routine corruption of Mexican officials;

Whereas Mexico has not taken adequate steps to prevent or punish bribery and other forms of corruption;

Whereas Mexican President Ernesto Zedillo has stated his commitment to ''create a nation of law,'' combat drug trafficking, investigate assassinations, and punish official corruption at all levels;

Whereas Mexico has not taken adequate steps to arrest or extradite major drug cartel leaders;

Whereas the continued, large-scale transportation of narcotic and psychotropic drugs and other controlled substances from Mexico to the United States is detrimental to the vital national interests of the United States;

Whereas the Government of Mexico has not taken sufficient steps to control its borders against airborne and seaborne smuggling or to implement a promise by President Ernesto Zedillo to develop a radar network along Mexico's border and to take adequate steps to arrest or extradite major drug cartel leaders; and

Whereas the President determined and reported to Congress pursuant to section 490(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(b)) that Mexico had taken sufficient steps to combat international narcotics trafficking: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should not certify Mexico pursuant to section 490(b)(1) of the Foreign Assistance Act (22 U.S.C. 2291j(b)(1)) on March 1, 1998, unless the Government of Mexico demonstrates clear progress in the following matters:

(1) Taking steps to develop and deploy a southern tier of radars to monitor aircraft flying into Mexico and to deploy interception capability to close the air bridge into Mexico.

(2) Arresting or extraditing major drug trafficking kingpins and taking adequate steps to disrupt the operations of major criminal organizations operating in and through Mexico.

(3) Taking adequate steps to stop the corruption of Mexican officials at all levels of government and investigating accusations against State governors and public officials.

(4) Taking swift action to implement recent money-laundering and anti-crime legislation.

(5) Permitting United States law enforcement officials on the United States-Mexico border to cross the border with their weapons and reaching agreement to allow United States law enforcement personnel to continue into Mexico while in ''hot pursuit'' of suspects.

(7) Reaching an agreement to allow refueling for maritime and air interdiction assets.

(8) Reaching an agreement to permit adequate cooperation with United States law enforcement personnel for intercepting maritime smugglers.

(9) Developing and implementing measures to control and monitor maritime smuggling through major ports and container facilities.

(10) Deploying and using vetted units of specially selected and trained law enforcement personnel to disrupt drug trafficking organizations.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. GRASSLEY. Mr. President, there is no dispute that a lot of drugs reach this country through Mexico. Not we, not the administration, not Mexico challenge this fact. Just as clearly, we must be concerned about this traffic in illegal drugs. We must be concerned for what this poisonous trade is doing to our country and to our kids. We must be concerned for what the drug money that results from this trade is doing to build criminal empires able to challenge and corrupt whole countries. For these reasons, the United States and Mexico have a shared interest in stopping an illegal trade that is so damaging to both our peoples and our institutions.

Mexico acknowledges its responsibility to help in combating the production and transit of illegal drugs. The production and transit of these drugs are illegal under Mexican law. Mexico is a party to a variety of international agreements to stop these practices. It also has bilateral agreements with the United States to the same effect. Thus, by solemn agreement, Mexico, along with most others countries, is committed in principle and practice to taking effective action to stop illegal drug production and transit.

The United States has a long and deeply intertwined relationship with Mexico, a relationship that is very important to both countries. Whether for good or ill, we are linked to Mexico and Mexico to us. Thus, we must be particularly thoughtful in how we treat that relationship.

The resolution I am offering today does not amend the certification process. It does not change the President's decision to certify Mexico—today. What it does do is send a clear, strong message from Congress that, while we have heard many promises, we have seen little action. And actions—appropriate actions—are paramount. While a change in the certification process may be necessary, doing so without taking the time to hold hearings or look at the possible solutions is hasty. We need to consider our next steps carefully.

There has been a lot of discussion in the last few days on what to do about Mexico. The discussion has tended to go from conditions that proposed to go too far, in my judgment, to approaches that do not go far enough. Clearly, striking the right balance on this important issue is not easy. In my view, however, we must lay down benchmarks with a clear time frame for deciding what Congress regards as the minimum we expect. After all that has been said and done in the last several days, to do less falls shy of doing anything.

My resolution affords the Congress the time to make a reasoned determination about what to do. It requires

the Administration to base its decision next March 1 on a specific set of measurable benchmarks. In brief, my proposal requires progress on nine specific issues. These include progress on establishing an interdiction network of radars, progress on extradition, progress on dealing with corruption, steps to resolve carry weapons, steps to reach a maritime agreement, and steps to resolve refueling rights.

I believe that this approach and these measures give us the reasonable terms of reference for how to proceed. This approach gives us the opportunity and time to develop the cooperation on the drug issue that I believe we all want.

This resolution outlines both the concerns that have been expressed by Congress and what we expect Mexico to accomplish before March 1, 1998. Not rhetoric, but actions. We ought to proceed with care before we take steps to fundamentally alter the United States-Mexican relationship. But we must keep faith with our responsibilities to the public.

SENATE CONCURRENT RESOLUTION 11—RELATIVE TO A NUTRITION PROGRAM

Mr. GREGG (for himself, Ms. MIKULSKI, Mr. JEFFORDS, and Mr. KENNEDY) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 11

Whereas older individuals who receive proper nutrition tend to live longer, healthier lives;

Whereas older individuals who receive meals through the nutrition programs carried out under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) have better nutrition than older individuals who do not participate in the programs;

Whereas through the programs 123,000,000 meals were served to approximately 2,500,000 older individuals in congregate settings, and 119,000,000 meals were served to approximately 989,000 homebound older individuals in 1995;

Whereas older individuals who participate in congregate nutrition programs carried out under the Act benefit not only from meals, but also from social interaction with their peers, which has a positive influence on their mental health;

Whereas every dollar provided for nutrition services under the Older Americans Act of 1965 is supplemented by $1.70 from State, local, tribal, and other Federal funds;

Whereas home-delivered meals provided under the Act are an important part of every community's home and community based long-term care program to assist older individuals to remain independent in their homes;

Whereas the home-delivered meals represent a lifeline to many vulnerable older individuals who are not able to shop and prepare meals for themselves;

Whereas the nutrition programs carried out under the Act successfully target the older individuals who are in greatest need and most vulnerable in the community; and

Whereas the nutrition programs have assisted millions of older individuals beginning with the enactment of Public Law 92–258, which established the first Federal nutrition program for older individuals, and continuing throughout the 25-year history of the programs: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) celebrates the 25th anniversary of the first amendment to the Older Americans Act of 1965 to establish a nutrition program for older individuals, and

(2) recognizes that nutrition programs carried out under the Older Americans Act of 1965 continuously have made an invaluable contribution to the well-being of older individuals.

SENATE RESOLUTION 63—PROCLAIMING "NATIONAL CHARACTER COUNTS WEEK"

Mr. DOMENICI (for himself, Mr. DODD, Mr. COCHRAN, Ms. MIKULSKI, Mr. BENNETT, Mr. LIEBERMAN, Mr. KEMPTHORNE, Mr. DORGAN, Mr. FRIST, Mr. CLELAND, Mr. ROBERTS, and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 63

Whereas young people will be the stewards of our communities, Nation, and world in critical times, and the present and future well-being of our society requires an involved, caring citizenry with good character;

Whereas concerns about the character training of children have taken on a new sense of urgency as violence by and against youth threatens the physical and psychological well-being of the Nation;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions, and civic groups;

Whereas the character of a nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character and that character counts in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and, therefore, conscientious efforts must be made by institutions and individuals that influence youth to help young people develop the essential traits and characteristics that comprise good character;

Whereas although character development is, first and foremost, an obligation of families, the efforts of faith communities, schools, and youth, civic, and human service organizations also play a very important role in supporting family efforts by fostering and promoting good character;

Whereas the Senate encourages students, teachers, parents, youth, and community leaders to recognize the valuable role our youth play in the present and future of our Nation and to recognize that character is an important part of that future;

Whereas in July 1992, the Aspen Declaration was written by an eminent group of educators, youth leaders, and ethics scholars for the purpose of articulating a coherent framework for character education appropriate to a diverse and pluralistic society;

Whereas the Aspen Declaration states, "Effective character education is based on core ethical values which form the foundation of democratic society.";

Whereas the core ethical values identified by the Aspen Declaration constitute the 6 core elements of character;

Whereas the 6 core elements of character are trustworthiness, respect, responsibility, fairness, caring, and citizenship;

Whereas the 6 core elements of character transcend cultural, religious, and socioeconomic differences;

Whereas the Aspen Declaration states, "The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.";

Whereas the Senate encourages individuals and organizations, especially those who have an interest in the education and training of our youth, to adopt the 6 core elements of character as intrinsic to the well-being of individuals, communities, and society as a whole; and

Whereas the Senate encourages communities, especially schools and youth organizations, to integrate the 6 core elements of character into programs serving students and children: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of October 19 through October 25, 1997, as "National Character Counts Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to embrace the 6 core elements of character and to observe the week with appropriate ceremonies and activities.

Mr. FRIST. Mr. President, I rise today to join my colleagues, both Republican and Democrat—and especially Senator DOMENICI—in submitting this year's resolution to designate the week of October 19–25 as Character Counts Week.

I believe it is important that we put character back into our vocabulary. The American people are crying out for virtue and values—character does count and it's essential that we focus our efforts in extending this message.

The Character Counts movement, which emphasizes trustworthiness, respect, responsibility, fairness, caring, and citizenship, seeks to teach the core elements of good character to our Nation's young people.

One of the most important things we can ever do for our children is to help them learn and understand the value of virtue and the importance of character.

The Character Counts Coalition is gaining momentum across the country, and I am proud to be a part of that effort.

I think it is clear from the reports every night on the news, that such a movement has never been more timely. I am proud that the citizens of my home State, Tennessee, have joined the call for character renewal.

Last year, I spoke of the city of Greeneville, TN, which put together a character education program featuring 10 community virtues including self-respect, respect for others, perseverance, courtesy, fairness and justice, responsibility, honesty, kindness, self-discipline, and courage. Since then, Greeneville has extended its character education program from the city schools to the county school district, too.

Mr. President, I am proud that Hamblen County schools in Morristown, TN, have adopted the Character

Counts Program with the leadership provided by their school superintendent, Ernest Walker. In addition, they have a local advisory board composed of parents and leaders involved with youth activities in their professional and volunteer capacities.

Gary Chesney, a school board member has said ''It's good for schools to reinforce the job parents do at home with their kids.''

I had the opportunity to attend the kickoff event for the Sullivan County schools' Character Counts Program. Juvenile Court Judge, Steve Jones, helped initiate this effort and is an outstanding example of how one person can make a difference in a community. Judge Jones calls Character Counts ''the ultimate prevention program.''

In a way, the Character Counts movement—I believe—is an act of renewal. By welcoming our children into a world of shared values and ideals, we invite them to continue the task of preserving the principles we hold most dear.

Mr. President, Tennesseans have joined the national effort to save our children from the moral decay we see all around us because they recognize that the only way to preserve this great democracy—this system that requires so much from each of us—and our American way of life, is to instill virtue and moral fortitude in the next generation of Americans.

This will not happen without our effort, and without the incredible leadership of movement like Character Counts. Again, I commend Senator DOMENICI, and all those who are working so hard, to make character count once again in the United States of America.

Mr. DOMENICI. Mr. President, might I first say to my good friend, Senator FRIST, from Tennessee, I compliment you on your remarks and thank you very much for what you are doing. I believe we are on to something. I believe people in your State and in my State and in every State in America are beginning to understand that the time is now—in fact, it might be past—for us to empower our teachers and parents once again to inject a very common, ordinary idea into the classroom where our children spend much of their time. Students, in an attempt to learn how to be grownup, self-sustaining citizens need to be empowered in our classrooms, in various ways, with character education, plain and simple.

Before this movement, many teachers were frightened to talk about trustworthiness, which means you should not lie, which means there is a virtue to honesty, which means that you ought to be loyal. When you make a commitment, you ought to live up to it.

Many of our teachers and principals and superintendents were frightened of the notion that we would talk with our young people about responsibility. They thought that was an infringement some way or another on somebody, somewhere, somehow who ought to be teaching this.

Respect: Our teachers were frightened with the notion that we ought to actually use that word and get our young people to understand the word ''respect'' has meaning and to find ways to instill into our classrooms, and thus into our children, the idea of basic human respect, one person for another.

Or fairness, or caring, or citizenship.

Those six simple words—the six pillars—form the nucleus for what is commonly known as Character Counts that is associated with the Character Counts Coalition of America.

Today, for the fourth year, with the assistance of the original cosponsors, Senators DODD, COCHRAN, MIKULSKI, BENNETT, LIEBERMAN, KEMPTHORNE, DORGAN, FRIST, and CLELAND, and I am sure many others will join us, we are going to adopt soon in this Senate a resolution setting aside a week in our Nation when our communities, our schools, and our businesses will participate in character development programs. These six pillars of character that I have just described will come once again to the forefront and will become commonplace words for the participatory activities of the previous year and with renewed commitments in the future.

I am very proud to say that since the Aspen Declaration was adopted—an event which occurred sometime in 1990 or thereabouts under the auspices of an ethics foundation known as the Josephson Foundation, headed by an ethics professional and lawyer named Michael Josephson—an event attended by about 70 or 80 Americans from all walks of life, after 2 or 3 days of discussions they came forth with these six pillars of character and this notion of Character Counts. These six pillars are words that we should get back into our children's vocabulary and into their daily lives. Since that meeting, the program relies almost exclusively on action at the grassroots. There is a modest national effort directing this program, but the real efforts are at the grassroots to take those six words and put them into our daily lives.

I am proud to say, and perhaps brag, that the State among all the States that is doing the most in this area is the State of New Mexico. I took this notion to my home city of Albuquerque and asked Mayor Chavez to help me, and together we started a Character Counts Program for the city. Believe it or not, it has spread from that community to almost every community in New Mexico. I will soon, just for the record, state the counties, municipalities, and school districts wherein Character Counts is now a vital part of daily life.

Now, fellow Senators, if you want to do something exciting, you get Character Counts started in your States. You go on one of your recesses to visit a grade school, a grade school that has the six pillars of character not only in the vocabulary day by day in that school but in the month-by-month selection of one of those words as the word of the month, whereby all the students practice the word ''responsibility.''

Now, they all do it differently. Nobody has a book on this. Nobody says exactly how it ought to be done. But if you want to do something exciting, start this program and get your school boards committed, the superintendents committed, and then get the teachers committed, and you will see something very dramatic happen. The teachers are excited that for once they have been relieved of the fear of discussing good character, and you will find that with parent groups and others this is becoming a vital and important part of the daily education life.

I frequently go to these schools when they are having their monthly assembly. That is how most of them do it. They have a monthly assembly, they commend people, grant certificates, give awards. I am reminded of one where the grade school was putting on a play with reference to the monthly word which was ''responsibility.'' Something very, very funny happened. They had chosen Little Red Riding Hood as their skit. I had a lot of difficulty understanding how that had to do with the word of the month, ''responsibility.'' As that wonderful skit completed, they recalled how Little Red Riding Hood did not quite follow the instructions that were given to her by her parents and went astray and, as a result, all these things happened, including in the one version where the grandma got eaten up by the wolf. When they finished the play, they all stood up front, and their meaning of ''responsibility'' was that if Little Red Riding Hood had followed the directions given by her parents and been more responsive, and thus responsible, then nothing bad would have happened to grandma. I am not sure everybody takes the story that way, but in a sense it shows you how young people, helped by adults, can get the message across.

I was recently in a community of Clovis, NM. A grade school there has been heavily involved in Character Counts. As my wife and I walked in to visit, they had just recently composed, under the direction of their wonderful music teacher, a song with its own melody and its words about the six pillars of character, and everyone in the school would soon know it. Part of the participation in the Character Counts program is this kind of activity.

This resolution endorses character education for children. It clearly states that children need, first and foremost, strong and constructive guidance from their families. In addition, children's communities—including schools, youth organizations, religious institutions, and civic groups—play an important supportive role in fostering and promoting good character. The resolution identifies six core elements of character that transcend cultural, religious, and socioeconomic differences that are intrinsic to the well-being of

individuals, communities, and society as a whole: Trustworthiness, Respect, Responsibility, Fairness, Caring, and Citizenship.

These six simple elements are commonly referred to as the six pillars of character. They represent the values that define us at our best—the common ground we can build upon—individual by individual, family by family, community by community. Arguably, there can be many additions to this list. These six, however, are ones that can serve as the core elements of good character.

Since introduction of the first ''National Character Counts Week'' resolution, we are witnessing an enormous groundswell of interest in the issue of character education. Secretary of Education Riley speaks to this issue often in his public addresses, and countless other educators have programs and training sessions to promote character development activities. More important, however, is the extraordinary support of character education at the local level. This is where character development programs are the best because they involve the children and the community at large. And, character education is not just for children, it is for everyone who cares deeply about the social and cultural pulse of this country.

As the resolution quotes from the Aspen Declaration: ''The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.''

From everything I have seen in the State of New Mexico, children and adults alike are embracing the six pillars of character. They are finding ways to spread the message—from plays, to musical groups, to school lessons, to printing the messages on billboards. Let me just briefly outline a few of the community initiatives and related activities that support the character-building idea:

The Albuquerque Public School (APS) system has endorsed the incorporation of character education programs in all of its 119 schools. It estimates that between 80–90 percent of its 89,000 students have been introduced to the Character Counts program.

The Archdiocese of Santa Fe Catholic Schools system has incorporated Character Counts programs in all of its 21 schools—from preschool through seniors in high school—and has interwoven the six pillars of character in all of its classes.

The New Mexico television and radio media have jointly cooperated to promote Character Counts through news coverage, public service announcements, and incorporating Character Counts in most of their other public affairs projects. For example, there is now an annual Character Counts Care Fair each December. All of the television stations take part, illustrating their Christmas charitable projects; they used the Character Counts theme in all of their air promotions for their holiday collection drives. Additionally, the KOB–TV/Hubbard Foundation made Character Counts one of the foundation's major grantees in 1996, with the award of $5,000 to be used by the Albuquerque Character Counts Coalition to help promote the character education initiative.

In Farmington, the San Juan County Character Counts group has translated each of the six pillars into the Navajo language and produces posters for the children.

In Gallup, the McKinley County School District incorporates Character Counts into its schools, and the local Character Counts organization is developing a business community program to help support school and civic activities.

The Las Cruces Character Counts Partnership Taskforce selected three students for special recognition for their Character Counts achievements. The elementary and secondary student winners received a day with the mayor and the Governor of New Mexico, and the high school winner received a 3-day visit to Washington, DC, including attendance at the inauguration of President Clinton.

The New Mexico State Department of Education has initiated plans to commence an overall assessment program to provide basic data to determine future needs, changes, additions, and modifications of the program throughout the State.

The Lea County Coalition for Character Counts planned an entire week of activities for last year's Character Counts Week. It included an art show of children's works at the city library depicting people in situations showing respect and responsibility. It also included a chamber of commerce-sponsored hotline that ran public service announcements for Character Counts Week.

The Character Counts student council from Gadsden High School formed committees for cleaning up the school and school grounds, developed door contests in the school and public announcements at football games on the six pillar words, and participated in the school talent show with Character Counts lessons.

The Roswell Character Counts Partnership Taskforce has initiated training programs for all youth league program coaches and volunteers to include character programs in summer youth activities.

T–VI—Technical Vocational Institute—in Albuquerque now offers two 5-week sessions on Character Counts.

I have given but just a fraction of the exciting programs and initiatives under way in the State of New Mexico to promote the six pillars of good character. Literally thousands and thousands of children and families, schools, youth organizations and businesses are involved in these endeavors. Simply put, the people of the State have said it is OK to talk about and practice the traits of trustworthiness, respect, responsibility, fairness, caring, and citizenship.

Practicing the principles of character goes beyond the schools too. In Albuquerque, and now other communities are picking up the idea, an entirely new program is being launched: Character Counts in the Workplace, sponsored by regional chambers of commerce. The stated goal of this program is to put the six pillars of character into the workplace ''so we can count on one another to make principle-based decisions rather than merely expedient ones throughout the New Mexico business community.'' As one New Mexican said, ''People may not believe what you say, but they do believe what you do.''

Practicing the principles of good character is for everyone. I am immensely proud of what the people of New Mexico have done in 4 short years to awaken one another to the benefits of practicing good character traits. It is an effort that has brought all ages of people together, in all professions, to work a little harder to bring civility in our relationships with one another.

I would like to close with some words from His Excellency, Michael J. Sheehan, Archbishop of Santa Fe, in his letter endorsing the Character Counts program in the 21 Catholic schools in the Santa Fe Archdiocese:

> Our Catholic schools assist parents in their efforts to help their children understand that God commands us to be honest, just, truthful, faithful, kind, generous, and forgiving. Character Counts provides the common language for citizens of all ages and all walks of life. Every educator knows the key to an effective education is consistency and repetition—from the pulpit to the boardroom to the playground. Let us be consistent with our brothers and sisters in our Nation's community by integrating this common language into our everyday encounters with our children, our families, our colleagues.

Mr. President, National Character Counts Week represents an important time to set aside and observe the thousands of local programs and individuals who believe we can endorse and practice six pillars of good character. It is families, schools, civic and social organizations, local and State governments, businesses, and ordinary citizens who are participating in this movement. We, too, can be a part of this movement by supporting this resolution.

So, I could not be more pleased, even thrilled at what is happening in my State. I am hopeful within a couple of years we will be able to measure the positive consequences that we think are going to flow from building these six words into the everyday vocabulary of our children, incorporating them just in the ordinary teaching every day so that trustworthiness, respect, responsibility, fairness, caring and citizenship might become a way of life. If

ever we needed change in that direction and help in promulgating character, it is now. In fact, it is long past due.

I am very hopeful that we are giving parents, children, teachers and the entire community a vehicle to promote better character and build character around these six very, very acceptable words that I have repeated at least once or twice—three times here on the floor. That is the essence of the Character Counts Program. Get these six pillars into the classroom, into the daily vocabulary, into the teaching—those ways that are used to teach our young people. And then use innovation and creativity to instill them.

I urge my colleagues to join us again this year in cosponsoring and adopting ''National Character Counts Week.'' Thank you.

I know other Senators are waiting to be heard, so I will yield especially to my friend who is a cosponsor and one of the early founders of this coalition in the Senate, the distinguished Senator BENNETT from the State of Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I want to thank my friend from New Mexico not only for his statement here today but for his leadership on this issue. I remember, when he first called me several Congresses ago and said he was getting involved in this and would I be interested in helping him, I was delighted to do what I could to help him because when the Senator from New Mexico leads out, helping is always pretty easy. With him as the leader, things always move well and strongly and in the right direction.

I can report that in the State of Utah we have not been as focused on the six pillars of character as they have been in the State of New Mexico, but we have not been lax in this particular area.

1996 was Utah's centennial year, 100 years since we had achieved statehood, and the Governor of Utah, in the spirit of the Character Counts initiative, called for a discussion of values. He created the Governors Commission on Centennial Values. As a result of that creation and the discussion that occurred, we now have in Utah 12 values in common that we talk about. I will read them and get them into the RECORD so we can understand how this effort to get character into the school curriculum and into the lives of our young people is going forward all across the country.

In Utah we value families. We value a commitment to our community and country. We value integrity. We value honesty. We value respect for self and others. We value lifelong learning. We value caring service. We value work. We value personal responsibility. We value respect for the rule of law. We value justice, fairness and freedoms, and we value respect for the environment.

Those are the 12 values that came out of the Governor's Centennial Commission, and I believe they are certainly compatible with the six pillars of character that are supported by the Character Counts coalition. Perhaps now that our centennial is past and we are into 1997, we can meld these two efforts and get the Character Counts curriculum into the schools in the manner that the Senator from New Mexico has done so well in his own State.

Mr. President, I am honored to be one of the cosponsors of this effort, to join with my friend from New Mexico and to recognize, once again, his leadership and service in this because this has been, for him, not just something to make a speech about on the Senate floor and then forget; it has been something that he has pursued with vigor in his own State and kept alive on the part of the rest of us, who joined with him in the initial effort.

I hope that all Senators will recognize that this is not just motherhood and apple pie, a quick thing to talk about and then move on. ''Our Nation is indeed at risk,'' to use the phrase that came out of the educational effort done during the Presidency of President Reagan, and headed by an educator from Utah, Terence Bell. It is at risk not only because our young people have deficiencies in their education in technical skills, it is at risk because there are deficiencies of the moral education of our young people. We have to have something like Character Counts to help us move in the direction of reducing that risk. I am honored to be a part of the effort and pledge that I will do what I can to see to it that the Senator from New Mexico and the others in this program are given the support they need.

Mr. SPECTER. Mr. President, I thank the Chair and my colleague from New Mexico. I congratulate him for this resolution focusing on character. He has been a leader since his election in 1972. Again, he has demonstrated that today with this resolution on character. I am pleased to join as a cosponsor of the resolution. It is an effort to focus national attention on values and morality, and to try to instill in our young people and our older people, as well, a sense that character does count.

This is in line with legislation that Senator SANTORUM and I have introduced on abstinence. I have found that the issue of abortion, the pro-life/pro-choice controversy, is the most divisive issue facing this country since slavery, and that one way to try to pull the country together is to focus on issues where we all agree. When you talk about premarital sex among teenagers, leading to unintended pregnancies, and therefore ultimately abortions, we can all agree that such behavior must be discouraged. That is an effort in a specific, targeted way to try to develop and promote character. So I am pleased to join with my distinguished colleague on that important subject.

● Mr. LIEBERMAN. Mr. President, today I join my friend and colleague, Senator DOMENICI in cosponsoring a resolution to designate a week in October as ''National Character Counts Week.''

This will mark the fourth consecutive year that we have considered such a resolution to honor the Character Counts movement. It is small gesture, but a meaningful one all the same. By recognizing this program, Congress is making an important statement about both the value of character education and the state of our values. We are saying affirmatively that our public schools can and must play a central role in shaping the character and values of our children. And we are saying that this kind of commitment, a commitment to the principles undergirding the Character Counts Program, is needed now more than ever.

The reality, Mr. President, is that the state of our values is not well. The American people are deeply concerned about the abundant evidence they see of a real moral breakdown in our society—so much so that polls taken over the last few years routinely show that the public is more worried about the country's moral decline than its economic decline.

What's driving this concern, which many of us in this Chamber share, is an understanding that our growing inability to make moral distinctions, to draw lines about right and wrong and set boundaries about what is acceptable behavior, is having real consequences. We are recognizing that this moral breakdown is contributing to and exacerbating some of our society's most profound social ills, such as the rising tide of ever more random and vicious violence committed by ever more younger killers, the disintegration of the family, the crisis of teenage illegitimacy, the coarsening of our culture, and the loss of civility in our polity and our everyday lives.

More and more these days there is a sense that our country is spiraling out of control, and at the root of that feeling is what might be called a values vacuum. The traditional transmitters of values that we have depended on for generations to build character and bind our moral safety net have lost much of their power. One of those transmitters is the family, which is under enormous economic pressure these days and is prey to divorce and other forms of breakdown. Another transmitter is the community and the loose connection of local civic institutions we refer to as civil society, which has weakened to the point that an entire movement has sprung up to renew it.

Then there are our public schools. For generations the public school system was the backbone of our democracy, where children were not just taught what is good grammar but what it means to be a good citizen, and where children of all backgrounds were versed in a common set of core values. But in recent years public schools have increasingly lost that mission, and too often shied away from questions of values and the formation of character. In

the eyes of many families, some schools might as well had signs out front declaring them value-neutral zones.

What is perhaps most disturbing about this trend is that the values vacuum the schools have helped create is being filled more and more these days by the electronic media and the frequently destructive messages it is bombarding our children with. The collective force of television, movies, music, and video games is so influential that many parents I talk to feel as if they are in a competition with the culture to raise their children and give them strong values. The character traits they are trying to instill in their children are being openly contradicted by the bulk of the messages kids are receiving about the acceptability and the inconsequentiality of casual sex, the contempt for all forms of authority, and the appropriateness of settling a dispute by putting a bullet through the other person's temple. The result is the prevalence of what one leading expert on child development calls the culture of disrespect.

The media's inability to make moral distinctions and draw lines about right and wrong makes it all the more important for us to strengthen our traditional values transmitters. And that is why the Character Counts movement deserves all the support we can provide. Rebuilding our families and our communities will be a long, painstaking process. But reviving the role of schools in helping our children learn about the fundamentals of character is a challenge we can meet easily and quickly.

In fact, the Character Counts program has already done the hard part, identifying the core values and principles that we can all agree that we want our schools to instill and reinforce in our children. The question of whose values? that is often asked has been answered, with a consensus behind our values—trustworthiness, respect, responsibility, fairness, caring for others, and citizenship.

I am heartened to know that the Character Counts program is rapidly spreading through communities across the country, and I am particularly proud that my State of Connecticut has made a long-term commitment to bring character education into every school district in the State. With the aid of a $250,000 grant from the U.S. Department of Education last year, the State took the first major step toward that goal by selecting four communities for funding to introduce the Character Counts Program on a districtwide basis.

Some Connecticut schools have already embraced this program on their own, and I can report to my colleagues that it is bearing fruit. Let me offer one compelling example. Last year a nine-year-old from the town of Torrington named Joshua Dy found an envelope on the ground that contained three $100 bills. Joshua said he initially thought of keeping the money for himself, but he then thought of what he learned in Character Counts at the Southwest School and from his father about honesty and integrity, and decided the right thing would be to turn the money over to the police. Joshua was rewarded for his honesty when the police returned the money to him after no one claimed it and when President Clinton saluted his good character with a letter of congratulations.

Mr. President, I would encourage my colleagues to find their own ways to reward and recognize the good deeds that are germinating from the seeds of Character Counts. A good place to start is with this resolution, which will help raise public awareness of this valuable values program and make Character Counts really count. Let me close by praising Senator DOMENICI for his leadership on this issue, and by asking that my remarks be placed in the appropriate place in the RECORD to accompany the Character Counts resolution.●

Mr. DODD. Mr. President, I am pleased to join with the distinguished Senator from New Mexico and a bipartisan group of my colleagues in cosponsoring this Senate resolution designating October 19–25 as ''National Character Counts Week.''

This morning, like every morning before it and every morning to come, young Americans are headed off to learn their three ''R's''—reading, writing, and arithmetic—in our Nation's schools. But as we all know, the school day involves more than just the transmission of facts or the relaying of concepts. It's also about character. In the best classrooms in America our children are given the opportunity to learn and practice basic character traits such as sharing, cooperation, and respect.

The Character Counts initiative calls on all Americans to embrace the development of six attributes—trustworthiness, respect, responsibility, fairness, caring, citizenship—as a fundamental aspect of our children's education and as a critically important means of strengthening our Nation. The lessons our young people learn as children are the ones that will stay with them the rest of their lives. As Eleanor Roosevelt once said: ''Character building begins in our infancy, and continues until death.''

We live in a time when teenage pregnancy and juvenile crime are spiraling out of control. A recent poll suggests that two-thirds of Americans believe most people can't be trusted, half say most people would cheat others if they could and in the end are only looking out for themselves. These statistics and the seeming erosion in the basic norms of civility, even among our Nation's children, are ample evidence of the need for programs that promote character development.

No one would argue that Character Counts is a panacea for these complex problems. First and foremost, we need better education, stronger families, and healthy doses of individual responsibility.

Clearly the primary obligation for the building of our children's values and belief systems lies with our Nation's families. There is only so much government can and should do. But, with parents being forced to spend more and more time out of the house, our Nation's schools can and should do everything they can to work with parents in helping to build character among America's children.

There is nothing inappropriate or heavyhanded about teaching character in our schools. These programs don't impose morality or any one group's world view. These programs teach honesty, courage, respect, responsibility, fairness, caring, citizenship, and loyalty, attributes that I believe all Americans agree upon.

These principles transcend religion, race, philosophy, and even political affiliation. For those Americans who share the goal of energizing our democracy and strengthening our Nation's character these initiatives are simply common sense.

What's more, these programs garner tangible benefits. In Connecticut, the Southwest Elementary School in Torrington implemented a character education program in September of last year and has witnessed positive effects as a result of its efforts. Attendance is up, students are more respectful toward their teachers, and school administrators are convinced that Character Counts is responsible. The school engages parents in the effort, who along with educators and the students themselves, love the program.

Additionally, this year in Connecticut, the Leadership Committee of Character Counts will undertake a comprehensive training program to qualify 35 instructors to educate students about the importance of strength of character. These instructors will bring the ideals stressed by Character Counts directly to the students of Connecticut, reaching 100,000 students by year's end. While character education may not be a magical solution to all of America's problems, it represents a positive effort to make a real difference in our children's lives. Character development programs for our children strengthen our lives, our communities, and our Nation as a whole.

I commend my friend and colleague from New Mexico for all of his work in this area. And I invite all my colleagues from both sides of the aisle to join us in supporting character education as a vital means of molding better individuals, strengthening families, and creating a responsible American citizenry.

Mr. KEMPTHORNE. Mr. President, I rise today to express my strong support for the National Character Counts Week resolution submitted by my esteemed colleague, Senator DOMENICI. I have cosponsored similar resolutions for the past 3 years, and am honored to

have the opportunity to do so again this year.

At a time when we are exposed to a constant stream of violence, profanity, and immorality—both through the media and in every day life—the issue of character is of vital importance. Those of us in this Chamber spend a great deal of time trying to develop ways to improve the Nation. I can think of few things we could do to better achieve this goal than to emphasize the importance of character to younger generations.

Those of us in positions of leadership, especially in the Government, have a special duty when it comes to character. Whether we realize it or not, we are role models and we have a duty to demonstrate those same attributes of character—trustworthiness, respect, re-sponsibility, justice and fairness, caring, and civic virtue and citizenship—which National Character Counts Week highlights. Unfortunately, far too many Americans have come to believe, wrongly in most cases, that these qualities no longer exist in the Government. I urge all of my colleagues to begin today to make that extra effort to show the people we serve that the faith they demonstrated when they voted for us has not been misplaced. In the words of President George Washington, ''Let us raise a standard to which the wise and honest can repair.''

Mr. President, I recently chaired an Armed Services Personnel Subcommittee hearing in which the issue of character was prominent. During the hearing I was deeply disturbed to hear that the lack of character, values, and discipline is making it harder and harder for the Armed Forces to recruit the high quality people we need to serve in our military. Testimony supplied at the hearing indicated that an ever-increasing number of potential recruits are unacceptable, in terms of ethics, education, and values, for the armed services. I am not talking about difficult kids who simply lack discipline, the military has always done a fine job handling those recruits. I am talking about young people who have no respect for authority, no respect for their peers, no respect for our society, and often, no respect for themselves. As a result, they lack basic values such as compassion, honesty, and integrity. Our military commanders cannot be expected to instill those kind of values in individuals who have lacked them throughout their entire lives. That process must begin at birth and in the home.

Mr. President, with this resolution, we are taking a step forward in trying to teach younger generations about the importance of character. I am pleased to note that schools, churches, and civic organizations around the Nation are also seizing the initiative on this important issue. But our efforts, whether on the national or local level, must not end here. Actually, to be more precise, our efforts must not begin here. While there are certainly things we can do as a government, or as a community, to teach character to young people, these lessons must begin at home. We cannot hope to improve the overall character of the Nation unless the fundamental values described in National Character Counts Week are instilled in the home. No amount of moral instruction from outside the home can replace the guidance of a loving and supportive family.

Recognizing a national week to stress the importance of character is but a small step in addressing the crisis of ethics the Nation faces. At the same time, it is an important step which I believe all of us should support. I would like to thank Senator DOMENICI for his continued leadership on National Character Counts Week, and urge my colleagues to cosponsor the resolution.

NOTICE OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, March 20, 1997, at 9:30 a.m. to hold an oversight hearing on the operations and budget of the Congressional Research Service and the Library of Congress.

For further information concerning this hearing, please contact Ed Edens of the Rules Committee staff at 224–6678.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, March 13, 1997, at 9 a.m. in SR–328A to receive testimony regarding agriculture research reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 p.m. on Thursday, March 13, 1997, to receive testimony from the unified commanders on their military strategies and operational requirements in review of the defense authorization request for fiscal year 1998 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 13, for purposes of conducting a Full Committee Business Meeting which is scheduled to begin at 9:30 a.m. The purpose of this Business Meeting is to consider S. 104, to amend the Nuclear Waste Policy Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 13, for purposes of conducting a Subcommittee on National Parks, Historic Preservation, and Recreation hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to address the future of the National Park System and to identify and discuss needs, requirements and innovative programs that will ensure the Park Service will continue to meet its many responsibilities well into the next century.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MCCONNELL. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, March 13, 1997, beginning at 9:30 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MCCONNELL. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, March 13, 1997, beginning at 2 p.m. in room SD–215.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. The Committee on the Judiciary requests unanimous consent to hold an executive business meeting on Thursday, March 13, 1997, at 10 a.m., in room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent on behalf of the Government Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, March 13, at 9:30 a.m. for a hearing on ''National Missile Defense and Prospects of United States—Russia ABM Treaty Accommodation''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Thursday, March 13, 1997, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 13, 1997 at 2:30 p.m. to hold a closed hearing on the nomination of Anthony Lake to be Director of Central Intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT COMMITTEE ON PRINTING

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Joint Committee on Printing be authorized to meet during the session of the Senate on Thursday, March 13, 1997, beginning at 2 p.m. until business is completed, to hold an organizational meeting of the Joint Committee on Printing and an oversight hearing on the Government Printing Office.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Thursday, March 13, at 9:20 a.m., hearing room SD–406, on the Intermodal Surface Transportation Efficiency Act [ISTEA] and program eligibility.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 13, 1997, at 10:30 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine be authorized to meet on March 13, 1997, at 2 p.m. on the future of intercity passenger rail service.

The PRESIDING OFFICER. Without objection, it so ordered.

ADDITIONAL STATEMENTS

COMMITMENT TO INVEST IN LOW-INCOME COMMUNITIES

● Mr. SARBANES. Mr. President, as a nation we have a deep commitment to a decent home and suitable living environment for every American family. Housing is the cornerstone for healthy communities, a vibrant economy, and a competitive nation. Although we have significantly improved housing conditions in the last 60 years, we still have a long way to go. The latest figures in HUD's Report to Congress on the worst case housing needs estimate that 5.3 million very low-income renter households pay more than half of their income in rent or live in poor-quality housing. They receive no help. Many of those people are elderly or people with disabilities.

Today, four of the leading non-profit affordable housing producers—The Enterprise Foundation, LISC—the Local Initiatives Support Corp.— Habitat for Humanity International, and the National Neighborworks Network—are committing to a $13 billion investment in low-income communities across the country over the next 4 years. Each have built successful partnerships, leveraging both public and private resources. These partnerships have been critical in supporting local nonprofits to not only build affordable housing but also provide services and encourage economic development to revitalize these neighborhoods. The success of these organizations reverberates in low- and moderate-income communities across the country as they address our widespread affordable housing needs. Their work is supported by Federal programs such as HOME, the Community Development Block Grant, and the Low-Income Housing Tax Credit.

The Enterprise Foundation, based in Columbia, MD, is a true success story in the affordable housing industry. Founded by Jim Rouse in 1982, Enterprise has raised and committed more than $1.8 billion in grants, loans, and equity to finance the development of 61,000 affordable homes. They have a number of initiatives including the Enterprise Social Investment Corp. [EISC] which works with 176 major American corporations to help them find new ways to invest in affordable housing. Much of this activity has been made possible by the low-income housing tax credit. In addition, Enterprise, along with Fannie Mae, has created the Cornerstone Housing Corp., a nonprofit that buys and preserves large blocks of multifamily rental housing for low-income families. Enterprise also runs an intensive training program to assist nonprofit organizations in increasing their technical and management abilities.

Habitat for Humanity International, since 1976, has provided approximately 55,000 homes through 1,336 local affiliates across the country. Using volunteer labor and tax-deductible donations, Habitat builds new homes and rehabilitates existing homes. An average three-bedroom Habitat home costs approximately $38,300, making homeownership for many low-income families a reality.

The Local Initiatives Support Corporation, established in 1979, supports 1,400 community development corporations throughout the country. This partnership has created over 64,000 homes and 9.6 million square feet of commercial and industrial space.

Neighborworks is a network of local resident-led partnerships supported by the Neighborhood Reinvestment Corporation, a public nonprofit chartered by Congress in 1978. The Neighborworks Network has produced 38,831 units of affordable housing since its inception and in the last 5 years has leveraged $1.5 billion in investment within communities.

In Maryland, I have seen these partnerships work. The Enterprise Foundation, along with its subsidiaries, have developed more than 3,700 units of affordable housing and have committed more than $12.3 million in loans and $90.3 million in equity. In Sandtown-Winchester, Enterprise's Neighborhood Transformation Program has rebuilt more than 700 abandoned homes through a comprehensive community revitalization effort that works in partnership with local residents and the city of Baltimore. Neighborworks has three neighborhood housing services affiliates in Maryland—in Baltimore, Salisbury, and Cumberland. Between 1994 and 1996 alone these three Neighborworks affiliates produced over 600 units of affordable housing and leveraged over $24 million in investments within these Maryland communities. Habitat for Humanity has 16 affiliates in Maryland which have built 89 new homes and rehabilitated another 227 homes.

Today these four organizations are challenging themselves and challenging us to continue our successful partnerships through the Community Development Block Grant, HOME, and the Low-Income Housing Tax Credit. These are programs I have supported and programs which have been critical in the production of affordable housing. The HOME Investment Partnership, for example, is an initiative I championed. HOME provides flexible grants to States and units of general government to implement local housing strategies designed to increase homeownership for low-income people. By requiring a 25 percent match, HOME encourages the public-private partnerships that have proven so successful in the production of affordable housing.

Mr. President, I commend the work of these organizations and applaud Enterprise, LISC, Habitat, and Neighborworks for their commitment to invest $13 billion in our low-income communities. I fully support our continued role in this effective and successful partnership through Federal programs like HOME, the Low-Income Housing Tax Credit, and the Community Development Block Grant and urge my colleagues to do the same. This is an excellent step in the right direction, and I am pleased to have the opportunity to highlight the work of these organizations and the Federal programs that support them.●

A PROMISING DAY FOR AFFORDABLE HOUSING AND OUR NATION'S COMMUNITIES

● Mr. KERRY. Mr. President, today four of this Nation's most remarkable nonprofit organizations are announcing the largest private sector investment in our Nation's affordable housing of all time. The Local Initiatives Support Corporation, Habitat for Humanity, the Enterprise Foundation and the National NeighborWorks Network have joined together and pledged to create 13 billion dollars' worth of housing over the next 4 years. This investment in

our Nation's most economically challenged areas is testament to the dedication and commitment of these organizations to our inner cities and impoverished rural areas. Theirs is a visionary and comprehensive plan to leverage renewal—this unprecedented investment not only will create nearly 200,000 affordable homes but also rebuild entire communities once left to waste.

As the ranking Democrat on the Housing Subcommittee, I am often privy to some of the most distressing cases of deprivation experienced by some of our fellow citizens. Joblessness, homelessness, lack of medical care, crumbling schools, rising cases of AIDS and other infectious diseases, and crime-riddled streets—those are too often the touchstones in the mosaic of urban America. However, today, the news is quite different as this pledge will stimulate tens of billions of dollars in additional private investment which in turn will create tens of thousands of jobs and new businesses in nearly 2,500 communities across the Nation.

And, Mr. President, some of those communities are located in the Commonwealth of Massachusetts. This investment will further strengthen the efforts of the Urban Edge Community Development Corp. in Jamaica Plain and the Codman Square Community Development Corp., to name just two of the many renewal success stories in Massachusetts. Mr. President, my home State enjoys a well-deserved reputation as the incubator of the Nation's most sophisticated, mature and comprehensive approaches to development in which housing is the cornerstone but the provision of goods and services and jobs forms the foundation. For many years, local community-based development groups and affordable housing advocates have worked with corporations and philanthropies like Bank Boston, Polaroid, the Boston Foundation, and the Hyams Foundation to generate and dedicate millions of dollars to urban renewal.

Mr. President, I salute the commitment embodied in this pledge and I recognize that the challenge to match this dedication is ours. In these tough budgetary times, we must not allow important programs which stimulate economic and community renewal to wither in the sometimes blinding devotional light of the year 2002. I have stood in this Chamber on many occasions and discussed the importance of YouthBuild, CDBG's, the Low Income Housing Tax Credit, the Housing Preservation Program, and the Community Reinvestment Act. And today I stand resolute to bolster the Federal role in community-based development. Clearly, our national democracy is strengthened through this type of public-private partnership and I will redouble my efforts to assist community and local organizations which are making a vital and needed difference in towns and cities throughout our Nation.

This is a day of good news, hope, and promise, Mr. President. Let us respond to the challenge with commensurate dedication to our Nation's communities.●

THE MEDICARE CANCER CLINICAL TRIAL ACT

● Mr. ABRAHAM. Mr. President, I rise today to express my support for the Medicare Cancer Clinical Trial Act of 1997. This bill will provide important assistance to the national battle against cancer.

In so many ways, this disease brutally impacts the lives of millions of Americans and their families. In my State of Michigan, for example, over 50,000 residents were diagnosed with cancer last year alone. Half of all those diagnosed with cancer are Medicare beneficiaries, who also account for 60 percent of all cancer deaths.

One of the most effective weapons available in this war on cancer is research. Each year, scientists and medical clinicians provide valuable insights about the causes of various cancers as well as new therapies to treat them. The legislation I endorse today will provide cancer patients with greater access to clinical trials. One of the most important benefits of these particular trials is determining the effects of treatments on persons over the age of 65. Should these experimental therapies prove successful, this legislation will offer Federal agencies information to help them determine whether or not these treatments should be expanded to include all Medicare beneficiaries.

In my opinion, Michigan and the rest of the Nation can wait no longer to determine the applicability of these potentially groundbreaking treatments. I believe that America's elderly population should be given every means available to wage a war on cancer in which they can be the victors. In addition, this Nation should have the opportunity to utilize those treatments that are cost-effective and successful in treating the millions of Americans affected by cancer every year.

For these reasons, I am very proud to cosponsor this legislation and urge my colleagues to do the same.●

TRIBUTE TO CRUZ OLAGUE

● Mr. REID. Mr. President, I rise today to pay tribute to one of Nevada's leaders and activists, Cruz Olague. On March 15, 1997, the Los Amigos de Cruz Olague will honor former Mayor Cruz Olague—a fine Arizonan and Nevadan—at their first testimonial dinner. I have known Cruz for many years, and he is truly deserving of this honor.

Born February 26, 1934, in Winslow, AZ, Cruz later moved to Henderson, NV after serving 4 years in the U.S. Navy. Afterward, he worked as an office manager in a supermarket while completing his accounting studies at the University of Nevada-Las Vegas.

In 1971, Cruz was persuaded to run for the Henderson City Council. After receiving 53 percent of the popular vote in the primary, a general election was deemed unnecessary and Cruz was declared the winner. This was the first and only time such an event has occurred in the history of Nevada local politics. Moreover, Cruz won this seat on the City Council with a campaign budget of a mere $3,000. Following this tremendous feat, Mr. Olague went on to become a popular mayor of Henderson, and served in this capacity until 1975.

Cruz is a man with deep religious convictions and a remarkably calm demeanor. Even when driving home a contentious point, he always maintains a gentleman's dignity and an even temperament. With his kindness, Cruz easily won people over. Consequently, it came as no surprise when he was selected Mayor of the Year in 1974.

This prominent member of the Hispanic community has long believed that our racial and ethnic diversity is our Nation's greatest strength. Cruz Olague has spent his life tirelessly fighting on behalf of minorities, the elderly, and the poor. He has used his abilities for those who often lack a voice in our society. The work of this outstanding citizen has left a lasting impact on the lives of many Nevadans.

Across southern Nevada, Cruz Olague will always be known as an individual of great integrity and conviction with a passion for good government. For 27 years, it has been a privilege to call Cruz Olague a friend. It is my pleasure to speak today in tribute to Cruz, and congratulate him on this special honor.●

SECRETARY PEÑA'S NOMINATION

● Mr. McCONNELL. Mr. President, I want to take a moment to express my concern with the Department of Energy's handling of the appliance energy efficiency standards regulations. My concerns regarding this matter are well known. In the last Congress, I authored an amendment to impose a 1-year moratorium on new DOE appliance standards rulemaking activities. That action became necessary because it was clear that DOE's energy efficiency standards program was placing jobs and investment in the manufacturing industry at risk, not just in Kentucky, but in other States around the Nation.

DOE's response to the moratorium was an interpretive rule that was designed to institutionalize a variety of reforms. While I commend DOE for identifying and correcting their own shortcomings, DOE's first test is before us now in the form of new energy efficiency standards for refrigerators. In my estimation, DOE deserves a failing grade.

I have raised the refrigerator standards issue with Secretary Peña during his confirmation hearing before the Senate Energy Committee, but I have not received a satisfactory answer to my questions. While I realize Secretary Peña did not create this controversy,

Congress will hold Secretary Peña responsible for the outcome and the consequences of this rulemaking.

Mr. President, I am disturbed by the fact that DOE has changed its position outlined in the August 1996, notice of proposed rulemaking, which established a 2003 standard as its preferred option. This option was supported by manufacturers. DOE has since changed its position and now supports implementing the new standards for refrigerators in the year 2000. As a result of this flip-flop, manufacturers will be required to make costly investments twice—once to comply with the DOE energy standards in 2000, and again when regulations mandate the elimination of HCFC insulation as required in the year 2003.

Mr. President, it is important to note that these burdensome and duplicative regulations are not necessary. Once it was determined that DOE was not going to abide by its preferred option, manufacturers offered a good-faith compromise that would set a more stringent level of energy savings than proposed by DOE to be implemented in 2003. This proposal would save more energy while minimizing the reengineering and regulatory burden, which will add unnecessary costs to manufacturers and consumers.

What is more disturbing is that DOE has ignored its own contractor's analysis in setting these standards. I am informed that the analysis by Lawrence Berkeley Laboratories confirms that the energy savings attributable to the 2003 standard would exceed the benefits of the 2000 standards. Unfortunately, DOE has chosen to ignore this analysis and not include it in establishing these standards.

Mr. President, this is not the only procedural defect in DOE's proposed rule. The Department has failed to comply with the requirements of law regarding the Department of Justice's role in this rulemaking. DOE has failed to obtain an updated competitive impact determination from the Department of Justice that takes into account new evidence of the potential impact of the proposed rule. I believe such analysis is essential to maintaining a competitive marketplace.

Mr. President, considering the latest analysis by DOE's own contractor, it has become apparent to me that this battle is no longer about securing the greatest energy savings. Rather, it seems this is about punishing manufacturers more than a legitimate or responsible basis for regulation. The only regulation that makes sense is one that takes effect in 2003.

This controversy raises fundamental questions about whether DOE will faithfully administer the appliance standards program as currently authorized. I will continue to follow this matter very closely and keep my legislative option open.

I urge Secretary Peña to assume responsibility for assuring that the law is properly applied and the correct decision reached.●

CONFIRMATION OF FEDERICO PEÑA TO BE SECRETARY OF ENERGY

● Mr. GORTON. Mr. President, yesterday the Senate voted to confirm Federico Peña to be Secretary of Energy. As a member of the Senate Committee on Energy and Natural Resources, I have met with Secretary Peña and discussed issues of importance to Washington State, the Northwest, and the Nation. I understand that some Senators had reservations about Secretary Peña because he does not have a great deal of experience on energy related issues. I do not hold this same reservation. I do not necessarily view Secretary Peña's lack of expertise on energy issues as a liability, but rather as an opportunity to educate the new Secretary on issues important to the people of Washington State and the region.

Two issues immediately come to mind—Hanford and electricity deregulation.

I look forward to working with Secretary Peña on the many challenges facing the Hanford Nuclear Reservation in the southeastern part of my State. While there are many difficult issues facing Hanford, there are also many exciting opportunities.

One of these opportunities is the Fast Flux Test Facility [FFTF]. FFTF is a valuable asset for our national security interests and a potential cure for diseases and other medical conditions. Scientists believe FFTF can begin producing tritium—an essential part of our nuclear deterrent—within 5 years. Moreover, nearly 70 of our Nation's leading medical researchers have validated claims that FFTF is essential to the production of medical isotopes which could one day be a valuable weapon in the fight against cancer.

FFTF is by no means the only important issue that Secretary Peña will face at Hanford in his new position. In addition, I look forward to working with him on maintaining an adequate budget to meet the site's cleanup mission.

It's no secret that Hanford has been one of the most contaminated sites owned by the Federal Government. Despite the enormity of the cleanup, I believe we are making real progress due in large part to the extraordinary efforts and talents of the people who work at the site and make up the surrounding Hanford communities.

The DOE, in coordination with Congress, is also playing an important role prioritizing, streamlining, and increasing efficiency at Hanford, I look foward to continuing my already strong working relationship with Secretary Peña in his new role to preserve continuity in funding at Hanford and other DOE sites.

On the subject of electricity deregulation, it is critical that Secretary Peña listen and work closely with the Northwest congressional delegation on electricity issues unique to the Northwest. The Northwest has its own peculiar set of challenges—namely the ability of the Bonneville Power Administration to market its power while paying nearly $500 million in annual fish and wildlife costs. Secretary Peña and I have discussed these issues and he has committed to work with the Northwest members of the Senate Energy Committee on these difficult Northwest issues. I intend to take Secretary Peña up on his offer, and hope that together with my Northwest colleagues that we can work on these issues critical to Northwest ratepayers, an the environment.●

UNANIMOUS CONSENT AGREEMENT—SENATE JOINT RESOLUTION 22

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 24, Senate Joint Resolution 22, at 10 a.m., on Friday, March 14, and no amendments or motions be in order during the pendency of the joint resolution on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I ask unanimous consent that the Senate resume debate on that joint resolution at 1 p.m., on Monday, March 17, and that amendments may be offered beginning at 3 p.m., on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I further ask that immediately following the vote on Senate Joint Resolution 18, which is the constitutional amendment, being debated on Tuesday—and that occurs at 2:45—the Senate resume Calendar No. 24.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, this agreement would allow the Senate to begin debate on this very important joint resolution regarding the appointment of an independent counsel at 10 a.m., on Friday. It is my understanding that the Democratic leader is discussing what amendments would be offered to this resolution. Perhaps he is meeting on that at this time. When the Senate resumes its consideration, then, on Monday, we would begin to take up the amendments, if any. In addition, it is my hope that, prior to the close of business on Friday, I will be able to inform the Senate as to not only the number of amendments we can expect, again, if any, on the other side of the aisle, but also I will be able to set a consent time for final passage, potentially as early as Wednesday of next week. It is our hope that we can get a vote on the independent counsel issue by Wednesday of next week. Then we will be able, on Wednesday afternoon or Thursday, to deal with the Mexico certification issue, assuming we have

that worked out in a way we would want to bring it to the floor at that time.

Again, I am still discussing that with the Democratic leader, and there is communication from both sides of the aisle with the administration. So we don't know yet if that will happen, or what form it will be in. I look forward to further discussions with the minority leader on this issue. I hope it will not be necessary to file a cloture motion on this resolution in order to bring it to conclusion by mid-week. I haven't had an indication that that will be the case. I am thankful for the cooperation we have had in getting this agreement worked out.

In light of this agreement, and the agreement reached earlier calling for a vote on the constitutional amendment for campaign expenditures at 2:45 Tuesday, I am pleased to announce there will be no votes during Friday's or Monday's session of the Senate. The next vote will occur 2:45 Tuesday, March 18.

ORDERS FOR FRIDAY, MARCH 14, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Friday, March 14. I further ask consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted, and that the Senate then proceed immediately to the consideration of Senate Joint Resolution 22, the independent counsel resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, again, for the information of all Senators, the Senate will begin consideration of Senate Joint Resolution 22 on Friday, and further, no amendments would be in order during consideration of the resolution on Friday. I think it is important that we begin to express our feelings as strong as we can—hopefully in a bipartisan way—that there is a need for independent counsel. I will note that a letter has gone forward now from the majority members of the Judiciary Committee indicating the need for this independent counsel and their indication that the necessary requirements have been met under the law, so that the process should begin, and will begin as a result of this letter, of looking into the appointment of independent counsel.

It is my hope that we will continue debate on the resolution on Monday. And amendments then would be in order during Monday's session.

I will continue discussions with the minority leader, and hope that we will be able to reach an agreement on this very important resolution so we can complete consideration next week by Wednesday, I hope.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:39 p.m., adjourned until Friday, March 14, 1997, at 10 a.m.