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Senate

The Senate met at 1 p.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

*Commit your way to the Lord, trust also in Him and He shall bring it to pass. * * * Rest in the Lord, wait patiently for him * * *.*—Psalm 37:5, 7.

Let us pray.

Lord, as we begin this new week, we take these four vital verbs of the psalmist as our strategy for living in the pressure of the busy days ahead. Before the problems pile up and the demands of the day hit us, we deliberately stop to commit our way to You, to trust in You, to rest in You, and wait patiently for You. Nothing is more important than being in an honest, open, receptive relationship with You. Everything we need to be competent leaders comes in fellowship with You. We are stunned by the fact that You know and care about us. We are amazed and humbled that You have chosen us to bless this Nation through our leadership. In response we want to be spiritually fit for the rigorous responsibilities. So, we turn over to Your control our personal lives, our relationships, and all the duties that You have entrusted to us. We trust You to guide us. We seek the source of our security and strength in You. We will not run ahead of You or lag behind but will walk with You in Your timing and pacing toward Your goals. You always are on time and in time for our needs. May the serenity and peace that we feel in this time of prayer sustain us throughout this day. We thank You in advance for a great day filled with incredible surprises of sheer joy. In Your all-powerful name. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. LOTT. Good morning, Mr. President.

SCHEDULE

Mr. LOTT. Today there will be a period of morning business until the hour of 2 p.m. with Senators permitted to speak for up to 5 minutes each. At the hour of 2, the Senate will begin consideration of S. 1219, the campaign finance reform bill. There will be no rollcall votes during today's session of the Senate, and under the consent agreement reached last week, a vote on the motion to invoke cloture on the bill, S. 1219, will occur at 2:15 tomorrow.

Senators are reminded that in accordance with rule XXII, first-degree amendments may be filed until 2 p.m. today and second-degree amendments may be filed until 12:30 on Tuesday.

This week the Senate will also resume consideration of the Department of Defense authorization bill. I hope the Senate will complete action on this bill as early as possible this week.

Also, we are continuing our efforts to reach some agreement with regard to the consideration of the small-business tax measure and the minimum wage legislation. I wish to emphasize that we hope to get an agreement on that and complete action on the DOD authorization bill and move to the DOD appropriations bill.

In order to achieve that, it is going to take a lot of cooperation from all the Members, all the Senators, between the two leaders, and those who have amendments to offer. So I emphasize once again that we have to move forward on the DOD authorization bill. The chairman will be working on that. Senator THURMOND, from South Carolina, and Senator NUNN, the ranking member, are intent on moving this legislation forward.

I have tried to be considerate of the Senate and the Members' desires to have an opportunity to have supper with their families, have reasonable hours, but from what I saw last week and what I experienced, I do not know if we can continue that. We are going to make progress on DOD authorization on Tuesday and Wednesday. If it means staying late, we are going to do that.

Again, I want to be sympathetic and cooperative with Members on their schedule demands and their desire to be with their families, but if they do not respond in kind, then I, like previous leaders, have no option but to force the Senate to stay late to do its work.

Senators should expect a busy week this week with votes throughout the day every day, including Friday, and there will be, as I said, rollcall votes maybe into the evening in order to get the work done as necessary.

I am pleased that we have been able to reach the unanimous-consent agreement with regard to the consideration of campaign finance reform legislation. I think it is legislation that deserves an opportunity to be debated. We will have that opportunity this afternoon and in the morning, and then we will go to a cloture vote at 2:15.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ASHCROFT). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with the time equally divided between the two leaders.

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

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is time allotted for speeches this morning?

The PRESIDING OFFICER. We are in morning business until 2 o'clock, the time to be equally divided between the leaders.

PRIVILEGE OF THE FLOOR

Mr. DOMENICI. Mr. President, first I ask unanimous consent that Dr. Randy Hyer, a fellow in my office, have floor privileges for the purpose of the introduction of a bill this morning.

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

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1898 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to take such time as I will require for a statement. It should not last more than 10 minutes.

The PRESIDING OFFICER. The Senator has that right. We are operating under an order that will carry us to other matters at 2 o'clock.

THE SENATE'S UNFINISHED BUSINESS

Mr. ROCKEFELLER. Mr. President, I thought this would be a good time to remind my colleagues of the unfinished business that is still waiting to get done.

As we head toward the Fourth of July and another recess, we also need to remember that the days to take action in Congress are running out. It is not only late June, we also have very few days of legislative session left.

Will this be the Congress remembered only for what it did not get done? Will this be the Congress that spent all of its time and millions of taxpayers' dollars only on camera-filled hearing rooms to learn about the White House Travel Office and to turn every pebble over on Whitewater?

Instead, this should be a Congress capable of doing something about the day-to-day struggles of hard-working Americans. But to produce, we need some basic steps taken. The calendar needs to be pulled out, votes scheduled, final agreements reached, and work completed.

I think of three actions that will help millions of Americans, including West Virginians.

No. 1, it is time to wrap up the Kennedy-Kassebaum health insurance bill. Members from the other side of the aisle are determined to include something called medical savings accounts. I might add that I hear absolutely no clamor for MSA's from constituents, beyond employers that are thinking about using this device as a substitute for the health insurance they now subsidize for employees.

But the key point is that the heart of Kennedy-Kassebaum involves changes that will make sure insurance is there for people when they really need it. When they need coverage for the very illness or condition that is now labeled a pre-existing condition. When they need coverage, but have to change jobs and now find their insurance canceled.

These are the changes that affect millions of Americans, and many, many West Virginians. This is the work we need to get done before this session of Congress runs out.

No. 2, this Congress still has the time to enact welfare reform. This is an area begging for reason and common sense. No one is going to get exactly their way on something as complicated and contentious as changing the welfare system. But it is not hard to figure out what Americans expect from us. They want to know that welfare is not a haven for avoiding work, responsibility, and the rules that most hard-working citizens play by.

The Democratic leader has just laid out another detailed plan, known as Work First Two, that reflects exactly what we need to do on welfare reform. It is a tough, no-nonsense plan to require adults to work or prepare for work. It does not make a point of punishing innocent children, who have done nothing wrong.

It is time to move away from politics, rigid positions, and posturing on welfare reform. The President has proven he will not sign a bill just because of its label. We should not waste any more time on legislation that belongs to one faction or simply rubberstamps what some Governors have asked for. We need to work out our differences, and produce the bill that will turn welfare into a last-resort—for the sake of poor families and the hard-working taxpayers who want reform.

Finally, I find it shameful that this Congress has still not been able to enact an increase in the minimum wage. And I want to elaborate some on this subject, because it is so important to the people of my State.

A few weeks ago, the Washington Post ran an article telling us that the CEOs of major companies got a 23-percent raise in their compensation in 1995. According to the consulting firm of Pearl Myers & Partners, the average salary of a CEO was $991,300 with the remaining in stock options and bonuses. Twenty years ago, the top CEO earned about 40 times as much as the typical worker. Today, that same CEO earns 190 times as much.

We know from study after study, town meeting after town meeting back home, that wages for most other Americans are stagnant and that most workers have every reason to feel insecure about their income, their jobs, and their health insurance. The people who work 8 hours every day, making products and providing needed services, deserve a living wage. They should not be left behind. The gap between the rich and the poor continues to polarize the country into the haves and have-nots, and that is downright un-American.

As others have already said, whatever economic tide that is rising seems to be lifting a lot of yachts, and not much that carries the rest of Americans. Working families today are making less than they did 20 years ago. Look at what has happened to a single worker over those 20 years. He or she has watched the collapse of communism, voted in four Presidential elections, seen computers become a part of every day life, and watched the stock market rise over 5,000 points. For the worker relying on the minimum wage, his or her most recent paycheck is worth less than the first one in purchasing power.

And some wonder why hard-working American families feel left out of the American dream? The stagnation of wages over the past 20 years is obvious to parents struggling to pay their bills.

Mr. President, I ask my colleagues who still do not support a minimum wage increase to listen to this: When adjusted for inflation, the current Federal minimum wage of $4.25 an hour is worth 27 percent less to workers and their families than that amount in 1979. Measured in 1979 dollars, the minimum wage is only worth $3.10 an hour. A minimum wage worker earns $8,840 a year. This is not a living wage, in fact, it is barely a sustainable wage. Even with an expanded earned income tax credit, earning $4.25 an hour does not lift a family out of poverty.

No matter what the opponents say, minimum wage earners are not a collection of teen-age burger-flippers. Sixty-nine percent of all minimum wage earners are adults over the age of 21. Women make up 60 percent of all minimum wage workers and are usually a single parent trying to keep their families together. These workers are playing by the rules, paying rent, utility bills, health care premiums, food and clothing for their families. They are working long and hard hours, and they do not want to slip into welfare and dependency.

They deserve our admiration, our respect, and they deserve a raise.

In my home State of West Virginia, over 100,000 workers would get a raise if we pass the Democratic amendment to raise minimum wage to $5.15. Almost 24 percent of West Virginia's work force would benefit from an increase in the minimum wage—about one out of four workers.

Let me share the story of just one woman in West Virginia. When her husband was injured in the mines and denied disability coverage, she went to

work to support her family. The only job she could find was a minimum wage job at a lumber yard located miles away from her home. The work was hard, and after 9 months she broke her ankle on the job. Her family income last year was only $8,500. While on workers compensation, the section where she worked at the lumber yard closed and her job was eliminated. Now, both of her teenage sons are working to help support the family. Imagine trying to support a family of four on such a small income. But this woman just wants another job as soon as her physician allows her to go back to work.

This West Virginian deserves a raise—and if we raise the minimum wage to $5.15, and her family gets their full earned income tax credit, they will be lifted out of poverty.

It is a sad day in America when we do not help a West Virginia family that works hard to raise their children above the poverty line.

We in Congress have the ability to bring badly needed relief to this family and about 12 million workers in America. We should come together in a spirit of decency and common sense, restore some glimmer of hope for these families, and raise the Federal minimum wage.

The minimum wage has not been raised for 4 years, but the prices of everything else, from rent to food has gone up each and every year. Raising the minimum wage is essential to help families and reinforce the fundamental American values of hard work and self-sufficiency.

And we all know that solely raising the minimum wage is not the silver bullet that will erase the gross inequity between the haves and have nots. Nor, will this act alone restore the economic vitality of working Americans that deserve so much more from the society they contribute to. But it is a simple, important, obvious step in the right direction to reward and encourage work. It tells hard-working American families that we value their right to a decent life.

Mr. President, it is long past the time when the U.S. Senate should get the chance to vote for an increase that is shamefully overdue.

I conclude by reminding everyone listening how little time there is left to get anything done that is relevant, meaningful, and helpful to hard-working Americans. But there is still the time to take three basic, important steps that deal directly with what weighs on the minds and shoulders of families in West Virginia, in Mississippi, from California to North Carolina.

The bipartisan Kennedy-Kassebaum bill—a bill with the most basic health insurance reforms should get settled and enacted, now, this week, immediately.

Welfare reform, drawing on plans from both sides of the aisle, should get worked out, put into final legislative form, and sent to the President in a form that he can sign in good conscience—in a form that will make welfare dependency something to avoid and work something expected.

An increase in the minimum wage, the most basic and decent step we can take for millions of Americans who are doing everything possible to work, avoid welfare, and be productive citizens.

If my colleagues want to continue endless hearings on what fascinates them about 1600 Pennsylvania Avenue, so be it. But just a little time, some modest leadership, and some amount of attention to the calendar must go into producing something for the people who are waiting for action that makes a difference in their lives.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

A TRIBUTE TO BOB DOLE

Mr. LEAHY. Mr. President, in my 22 years here in the Senate, I have had a chance to witness many historic events in this Chamber. When I leave the Senate, I hope to write a book about some of these.

One of the truly historic events was a speech given by our former majority leader, the senior Senator from Kansas, Senator Dole. I think, Mr. President, that there will be historians who read the RECORD of that event; but in reading the RECORD they will read only the words. They will not really see the event. I would like to add, for those historians who may read that, that at the time Senator Dole gave his speech, most of the Republicans and most of the Democrats were on the floor.

As the Presiding Officer knows, when Senators speak, even though we may all be on the floor, ofttimes we do not listen. This was an exception. Every single Senator on the floor listened, and listened carefully. They heard a speech that was vintage Bob Dole—plain, to the point, with flashes of the humor that we know so well. Even when he was corrected by the then distinguished Presiding Officer, the President pro tempore, when the President pro tempore spoke of his around-the-clock filibuster, Senator Dole ad libbed, ''And that is why you are not often invited to be an after dinner speaker.''

There is far more than just humor in that there is real affection from Senators of both parties—affection for a man who earned it. He earned it as one of the finest Senators I have had a chance to serve with. I have been here with great majority leaders, such as Senator Mansfield, Senator BYRD, Senator Baker, Senator Mitchell and, of course, Senator Dole. I was thinking how good it was to be in a Senate led by Senator Dole on the Republican side and Senator DASCHLE on the Democratic side. It is not just his leadership, but his role as a U.S. Senator that earned him respect and affection from both sides of the aisle.

I began serving on the same committee with Bob Dole when I came here as a junior member of the Agriculture Committee. I watched how he worked with Hubert Humphrey and George McGovern, as well as key members on the Republican side, on nutrition matters—school lunch, school breakfast, and food stamps. After Senator McGovern and Senator Humphrey were gone, it fell on me to pick up our side of the aisle on that.

Throughout the years, there were a number of Dole-Leahy and Leahy-Dole amendments on nutrition that passed. I have worked with him on major farm bills. This last one was the Dole-Leahy-Lugar farm bill in the Senate.

When Senator Dole was ready to leave the Senate, I went to see him, and I spoke to him and told him that it had been a privilege to work with him and that there were an awful lot of people who were fed—hungry Americans—because of legislation we were able to work on together.

It certainly was not just me, by any means. I think of another giant in the Senate, PAT MOYNIHAN, who stood in the well of the Senate, with Senators milling around, and had a conversation with Senator Dole. It was in the early 1980's when we thought the reform of Social Security was dead. Senator MOYNIHAN said to Senator Dole, ''Let us try one more time.'' And because the two of them worked first on what was best for the country—not necessarily what was best for each other's political future or the future of the parties—and they worked in a nonpartisan fashion, they saved Social Security. It required two Senators of that stature, with respect on both sides of the aisle, to do it, and Senators who were willing to put everything else aside.

So much will be written during this year, and each of our parties will support our nominee for President. No matter which way the Presidential election comes out, the country should understand that it benefited by Senator Dole being in the Senate. I say this as a Member of the other party. I hope that all Senators, Republicans and Democrats, will realize that the Senate itself is bigger than any one of us. We owe a duty not just to our political fortunes, but to the U.S. Senate and to help be the conscience of this great Nation. We have to work together, first and foremost, for what is best for the Nation, not each other.

I salute the good Senator, my good friend, Senator Bob Dole, and I will miss him here in the Senate.

I yield the floor.

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

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

CAMPAIGN FINANCE REFORM

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1219, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1219) to reform the financing of Federal elections, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, the subject of today's debate is ostensibly campaign finance reform. It is currently fashionable to say that all of our ills as a nation are caused by incompetent officeholders—or worse, politicians who have been bought by special interests through the process of campaign contributions. So we are gathering to debate a bill that is supposed to fix that.

Who can possibly be in favor of a system like that? To some, this should be an easy vote. Destroy the status quo. Anything would be better. So I am in favor of destroying the status quo, Mr. President, but I reject the idea that anything will be better, and particularly the bill that is before us.

I believe there is at stake here an issue that is far more fundamental than campaign finance reform. Perhaps without realizing it, we are dealing with the most crucial political questions that any society can confront, issues that were confronted and resolved by those that we now refer to as the Founding Fathers.

Accordingly, Mr. President, I wish to deviate from the direct bill in front of us long enough to move this debate into a context that goes back to the Founding Fathers.

I begin with the writings of James Madison, commonly called ''the father of the Constitution.'' His work, along with that of his fellow Virginian, Thomas Jefferson, is now on display in the National Archives, America's most hallowed document, our political scriptures, if you will: the Constitution, the Declaration of Independence, and the Bill of Rights.

However, today I am not going to be quoting either from the Constitution or the Bill of Rights, both of which were products of Madison's genius, but rather from what has come to be known as the Federalist Papers, a series of political tracts written during the time that the Nation was debating the ratification of the Constitution. At that time, there were many people who were afraid of the impact the Constitution would have on their existing Government, and to allay those fears, James Madison, along with John Jay and Alexander Hamilton, set forth the clear statement of the intellectual and philosophical underpinnings of American Government.

It has added relevance to the debate on campaign finance reform because in the 10th of this series of publications, that which has come to be known as the 10th Federalist, Madison addressed the fundamental question of what to do about what we now call special interests.

The 18th century word for ''special interest'' was ''faction,'' so I will use the terms ''faction'' and ''special interest'' interchangeably.

Quoting now from the 10th Federalist, I give you Madison's definition of what a faction is. Faction:

. . . a number of citizens . . . who are united and actuated by . . . common impulse of passion or . . . interest, adverse to the rights of other citizens.

I can think of no better description of a special interest than that one.

Madison then tells us, ''There are two methods of curing the mischiefs of faction: * * * removing its causes'' or ''removing its effects.''

He then tells us, ''There are again two methods of removing the causes of faction: * * * by destroying * * * liberty'' or ''by giving to every citizen the same opinions, the same passions and the same interests.''

Appropriately, Madison then describes the first remedy, that is, the destruction of liberty, as ''* * * worse than the disease.'' I think all Americans would agree with this. Controlling the mischiefs that come from special interests by destroying the basic liberty that guarantees each American his or her own right of opinion would destroy the very basis of the Nation in which we live.

Now, referring to the second way of dealing with factions, that is, ''* * * giving to every citizen the same opinions * * * passions * * * and interests,'' Madison says, ''The second * * * is as impractical as the first would be unwise. As long as the reason of man continues fallible * * * different opinions will be formed.'' He summarizes, ''The latent causes of faction are thus sown in the nature of man.''

Again, Mr. President, no contemporary writer could place the situation more precisely than Madison has. Special interests arise among us because we are free, and, as long as we are free we will disagree to one extent or another.

Madison continues. He says, ''The inference to which we are brought is, that the causes of faction cannot be removed * * * and that relief is only to be sought in the means of controlling its effects.'' He then tells us, ''* * * relief is supplied by the republican principle.''

Now, by using the word ''republican,'' Madison is clearly not referring to the modern Republican Party. He is differentiating between a democracy and a republic as a governmental form. He says, ''The two great points of difference between a democracy and a republic are, first, the delegation of the government in the latter, to a small group of citizens elected by the rest. Secondly, the greater number of citizens * * * over which the latter may be extended.''

Referring to the greater number of citizens that are governed by a republic, he tells us why this will defeat the pressures of special interests. Quoting, ''The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration throughout the other States.''

I will say more about this in a moment, but for now it is his point of the difference between the democracy and a republic which I wish to stress. In a pure democracy, every decision is made by the vote of every citizen; in a republic, as Madison says, ''The delegation (goes) to a small number of citizens elected by the rest.'' It is this republican form of government that the Constitution gives us and under which we have lived for well over two centuries.

Now, since the representatives in our Republic are freely elected, as contrasted to those who were chosen by the Communists to serve in the Republics of the old Soviet Union of Republics, modern commentators use the term ''democracy'' to describe us, and if we interpret the word ''democracy'' to mean a system where everybody gets to vote, I have no objection to that term. However, as a description of governmental structure, applying the term ''democracy'' to the United States is a misstatement.

What does all this have to do with campaign finance reform? In my view, it has a great deal to do with it. Campaign finance reform is about the power of special interest groups—factions—and how to control that power, the very subject of the 10th Federalist paper.

Let us take modern tools of communication and insert them into the model that Madison gave us. For instance, is it now possible for a modern special interest or faction to create a conflagration simultaneously in several States? Given the wide reach of television, national publications, the Internet, the answer is clearly yes. A special interest group, be it a labor union, an environmentalist group, a business alliance or a religious association, now possesses the means, if it can raise the money, to reach every citizen in the country virtually simultaneously without regard to any political boundaries or geographical boundaries that might exist. Examples of this are all around us.

First, various religious organizations calling themselves the Christian Coalition have banded together, and by using the outlets of communication available to them in both churches and the media, in 1994 put out a common message to all of those who are adherents to those particular denominations. They greatly influenced the outcome of the election that year, and

they have promised to repeat the process in 1996.

Second, the National Rifle Association sent broad mailings and purchased advertising time on the electronic media to make sure that everyone who agreed with their views with respect to gun legislation would be stimulated to go to the polls and support candidates of the same mind.

Third, the AFL–CIO has publicly announced that by increasing the compulsory dues levied on their members, they are going to raise at least $35 million, which will be spent in an effort to guarantee that candidates who support their political agenda will be elected to the House of Representatives in 1996.

And finally, on an issue perhaps closer to home for me as a Senator from Utah, recently groups of environmental supporters concerned about a bill relating to land use in Utah, which was introduced by members of the Utah delegation, purchased full-page ads in the major newspapers in major cities all across the country urging an outpouring of communication to Congress seeking defeat of this particular legislation. They were successful in creating a filibuster in the Senate that saw the bill go down.

Madison's statement that ''the influence of factious leaders may kindle the flame within their particular States but will be unable to spread a general conflagration throughout the other States'' is clearly no longer true. That means we must return to the other ''great point of difference between a democracy and a republic'' of which Madison speaks, namely, ''the delegation of the government to a small number of citizens elected by the rest.''

It is through this device primarily that we must now find hope for protection against the tyranny of a pure democracy where a faction able to temporarily gain a majority position can then ride roughshod over the interests and opinions of all the other citizens in society.

I realize that when he talks about the republican principle, Madison is talking about officials after they take office, but the same principle applies to campaigns. We do not vote in campaigns as a pure democracy, deciding every issue. Instead, we choose among Madison's phrase a ''small number of citizens'' who have offered themselves to serve in public office. Through a process of conventions or primaries or both we winnow this number down to the final choice. It is done through a democratic process, but it is an example of the republican representative principle nonetheless.

The rhetoric we are hearing about campaign reform flies in the face of this preference for a republican principle. The more we limit the amount of money that is available to candidates—those who will be representative once they are in office—the more we weaken the republican principle and strengthen the hand of special interests. This is particularly ironic in view of the calls for this kind of reform in the name of weakening the power of special interests.

Envision the following: Assume a congressional district with candidate A and candidate B, under strict spending limitations. This means that each has a limit on the amount he or she can tell the voters about his or her position on particular issues. The special interests, on the other hand—the labor unions, the environmentalists, the Christian Coalition or the NRA—have no such limits, which means that the voters can and presumably will be bombarded with information coming exclusively from those groups and aimed at influencing their vote.

Exercising their first amendment right of free speech, the special interests will never have limitations placed upon them, nor should they. The first amendment is too precious. But in the name of campaign finance reform, we will create a situation where the voters will receive proportionately less and less information from the candidates and more and more information from the special interests, so the voters will ultimately make their choices on the basis of which special interest message is the most persuasive. The candidate's intellect, training, character, and talent will all become secondary if not, in the end, lost altogether in the elective process. The Republican principle of representative government will be weakened and washed away. Officeholders will become more and more insignificant.

We have a clear example of how this can happen in the current workings of the electoral college. That is an institution that is so arcane that very few of our citizens even know that it exists. But the Founding Fathers intended to have the electoral college work this way: Voters in the individual States would pick outstanding citizens in their States to represent them in the process of choosing a President. If the electors were unable to produce a majority for any one individual, the choice would then move to the House of Representatives. It was anticipated in the time of the ratification of the Constitution that the election of a President by Members of the House of Representatives would be a frequent occurrence if not, indeed, the norm.

Today, even the names of the electors let alone their opinions or qualifications, are virtually unknown to the voters, most of whom think they are casting a vote directly for one Presidential candidate or the other. The power of the Presidential candidate to reach over the heads of the electors and appeal directly to the voters is so strong that the electoral college has become virtually a dead letter. Indeed, there are now laws on the books in a number of States that prohibit the electors from exercising their own judgment as the Founding Fathers had intended that they would. I am not here to call for reform of the electoral college. But I give this as an example of what can happen when the qualifications of the individuals become overwhelmed with advertising dollars that go to the point on which the individual is supposed to vote.

If, in the name of campaign reform, we set up a circumstance that limits the ability of a candidate to raise and spend his or her own money, therefore limiting that candidate's ability to put forth his or her own positions, we weaken the ability of the candidate to stand up to a special interest. When we say to a candidate, ''If you disagree with the position taken by the AFL–CIO, or the Sierra Club, or the Christian Coalition, or the trial lawyers, or the NRA, or whatever, you have only a limited number of dollars available to make your case; while they, on the other hand, can say whatever they want, without limitation, about you and your position.'' That is not a fair fight. That puts the candidate who would be the constitutional representative at a serious disadvantage as opposed to the special interest. That is not the position that Madison laid out for the American people as he described the Constitution, and it is not the kind of fundamental change in our political life that we should be pursuing here.

I can hear the question now. ''All right, Senator BENNETT, thanks for the civics lesson, the political science lecture. If you do not like this bill, what proposals do you have to try to clean up the influence of special interest money in America?''

I have a proposal. It is not in the form of legislation, but can be reduced to legislation as soon as I feel I have stirred up enough support for it. I believe in the power of full disclosure. I would support measures that would eliminate all limitations on candidates to raise and spend money, as long as those candidates were open and candid in disclosing to the voters where that money came from. I would extend those disclosure requirements to the special interests. At least with the AFL–CIO, we know where the money comes from. It comes from their increasing the levy on their members. That very fact has produced an issue in itself, as people have complained that their money is going to support candidates that they themselves do not support. That kind of debate is healthy.

The more people know where the money comes from, the better off we are going to be in our political discourse. We do not know where all of the money that supports Common Cause comes from. They are immune from the kind of disclosure that candidates have to meet. We do not know the exact nature of the contributions that keep open the doors of the Christian Coalition. They, too, are immune from the kind of disclosure requirements that candidates have to meet. We do not know the extent to which

people on the payrolls of these organizations show up in campaigns to perform services on behalf of the campaign, either for or against the candidate involved. I do not condemn any of these activities. They are free, proper expressions of one's rights under the Constitution. But I say the way to limit the power of special interests in our political process is to open the door of disclosure upon those special interests, to maintain and increase, if necessary, the full disclosure requirements on candidates, but leave the candidates free to raise and spend whatever money they need to defend themselves against the money that is raised and spent against them, directly, by the special interests.

If we are to preserve the principles laid down by Madison and his contemporaries, we have the right to know more about the inner workings of factions than we do now. As long as modern communications have made them major players in the political game, they should be treated as such and brought under the appropriate kinds of sunshine requirements that we have decided as a Nation that we want our candidates to live under. They should not be given a free ride while the candidates, who need to protect themselves against the pressures from these special interests, are held back with artificial and, in my view, tremendously unwise limitations.

For these reasons, then, I would support an elimination of all limitations on candidates' fundraising and candidates' spending, with full and solid disclosure requirements, making sure that voters knew where that money came from, and then applying the same principle, no limitation on spending but full disclosure on those special interests that seek now to gain unfair advantage by virtue of the passage of this legislation.

I am sure in the course of this debate I will have plenty of opportunity to expound further on this theme, so I will leave it at that and yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I paid close attention to Senator BENNETT's remarks. I must say I agree with him on several of the issues that he raised concerning campaign finance reform. Really, what this issue is going to be all about, to start with, Mr. President, is not about whether we can improve and make better proposals for campaign finance reform; the question is, are we going to have it? That is going to be embodied in the cloture vote tomorrow. If we cannot cut off debate, we know that this issue will be shelved for the near term.

If we do invoke cloture, then Senator BENNETT will propose his amendment, which he said he could quickly transform into legislation. I will be glad to consider it; I will be glad to debate it, and I hope that Senator BENNETT, and others who think that this proposal is less than perfect, which indeed it is less than perfect, will seize the opportunity to vote in favor of cloture, and then we would have unlimited amendments to the bill.

If we do not invoke cloture, then clearly the Senate has to move on to other business.

Mr. President, I am not despondent, but I am not optimistic about our chances of getting 60 votes. I am not sure whether we will or will not. I continue to hope so. I hope Members and, more important, the American public will pay attention to this debate. I talked to several of my colleagues on this side of the aisle who are very aware of the political ramifications of filibustering campaign finance reform. But I also understand that the odds may be against it.

Let me point out that if the challengers were voting today instead of the incumbents, I think the outcome might be very different. Let me show you one of the reasons why. In 1995, this is what the FEC reported, and I am sure the numbers are the same for 1996: $59.2 million contributed by political action committees to incumbents; $3.9 million to challengers.

We can talk about the Federalist Papers, we can talk about Monroe and Madison, and, by the way, we will be talking about constitutional scholars, including the Congressional Research Service, who have stated unequivocally that this proposal is constitutional.

But, Mr. President, no one—no one, no one, no one—can allege that we have a level playing field today when these kind of contributions have been made in favor of incumbents. By the way, that is not for Democrat incumbents, it is not for Republican incumbents; it is for incumbents, and it is wrong and we know it is wrong. It needs to be fixed, and the American people want it fixed, and it should be fixed.

After being in a 10-year battle on the line-item veto, I know it is going to be fixed. It may not be this year, it may not be next year, it may not be the year after, but it is going to be fixed, because you have to believe the American people will be heard.

Mr. President, according to two pollsters, most widely respected pollsters in America:

When asked: ''Which of the following do you think really controls the Federal Government in Washington?'' registered voters responded:

The lobbyists and special interests, 49 percent; the Republicans in Congress, 25 percent; haven't thought much about this, 14 percent; the President, 6 percent; the Democrats in Congress, 6 percent.

When asked: ''Those who make large campaign contributions get special favors from politicians * * *'' respondents said that this is:

One of the things that worries you most, 34 percent; worries you a great deal, 34 percent; worries you some, 20 percent; worries you not too much, 5 percent; worries you not at all, 3 percent.

Sixty-eight percent of the American people, according to this poll, said in response to the question, ''Those who make large campaign contributions get special favors from politicians * * *.'' Sixty-eight percent of the American people said that it is one of the things that worries them most or worries them a great deal.

When asked: ''We need campaign finance reform to make politicians accountable to average voters rather than special interests . . .,'' voters stated this was:

Very convincing, 59 percent; somewhat convincing, 31 percent; not very convincing, 5 percent; not at all convincing, 4 percent; and don't know, 2 percent.

Later in this debate, I am going to show other polling data which shows that the approval rating of Congress is at a very impressive 19 percent approval, 71 percent disapproval, and I will show other polling data that show, despite what some of my colleagues may feel, that this is an important issue with the American people, it is something they believe needs to be changed, and they do believe that it is a corrupting influence in the Congress.

I am not alleging that it is, Mr. President, but I am alleging that the belief is out there and the lack of confidence in our political system over time can be devastating to democracy.

There are a lot of editorials that we will be submitting for the RECORD, 261 editorials from 161 newspapers and publications, urging support for campaign finance reform. These editorials have been published since January 1, 1995. Some of these are very good, and some of them not so good. Some of them, I think, are very illustrative.

Let me quote one from the East Oregonian. I do not want to talk too long in this particular round, because Senator FEINGOLD, Senator WELLSTONE, and others want to talk. This is from the East Oregonian, September 31, 1995:

They're still out there, these folks the press keeps calling the Perot voters. This even though most PV's don't have much use anymore for the eccentric, unpredictable zillionaire who stabbed his followers in the back when he withdrew from the 1992 Presidential campaign and goofily reentered the race. Let's not call them Perot voters anymore, let's call them disgusted voters, DV's.

Like some of the things Perot addressed, they are still waiting for another politician to pick up the ball, and if that means a third party movement, so be it. DV's are Democrats, Republicans, liberals, conservatives, all religious and ethnic groups. What is unique to them is not their views on Federal spending, foreign policy or social and environmental issues. What they all hate is the legal corruption corroding American politics, the corruption that comes from special interest money falling from corporations, unions, associations and coalitions into political action committees and then funneled into campaign coffers. The final results are committee and floor votes that don't have much to do with conscience or constituents' needs. That linkage of votes with money is what disgusts voters more than any single issue.

Mr. President, I intend to quote from a number of these editorials as this discussion and debate goes on this evening and tomorrow.

I first want to take a moment to thank my colleague from Wisconsin, which I should have done at the beginning of my remarks. My colleague from Wisconsin has been dedicated, he has been zealous, and he has been totally cooperative. I am proud to not only work with him on a professional basis but, as we have worked on other reform issues, I consider him a good and dear friend. More important, I am pleased that we have in the Senator from Wisconsin a person who is dedicated to true reform and one whose entire career has been hallmarked by a forthcoming and very honest attitude toward the people of his State and this country. I am pleased to be able to work with him on this and other issues as I have.

I repeat, Mr. President, if we had voting challengers today, if leading challengers who have won the primary would vote today, I know what the vote would be, because I hear too many of them, when they run for Congress, say, ''As soon as I get there, we're going to clean this up, we're going to give the challengers a chance.''

I know of no objective observer of the political process today who believes that there is a level playing field between incumbent and challenger, and this is ample evidence of it. As we go through the debate I will provide much more evidence.

As I said, we can quote from the Federalist Papers. We can quote from different ones of our Founding Fathers. I could quote from different amendments of the Constitution. There is one part of all these important documents that I would cite to my friend from Utah; and that is ''We hold these truths to be self-evident, that all men are created equal,'' equal, equal. There is no equality in the political system today for people who are challenging.

Everybody talks about the great turnover in 1994, how so many incumbents were thrown out, and there were so many new faces. Do you know, Mr. President, 91 percent of the incumbents who sought reelection were elected in 1994? There is a wonderful editorial here from the Philadelphia Inquirer that talks about a tale of two incumbents and shows why the campaign finance system must be fixed and how it could be. Mr. President, I will go into that later on.

I am going to go into details of our proposal also later on. We will talk about the constitutionality of it. But I do not want us to lose focus in this debate about what this debate is all about. It is not whether several of the compromises that Senator FEINGOLD and I made in order to make this a bipartisan issue are the best or not. It is not about whether, frankly, we should limit the contributions to 60 percent of contributions or 60 percent of contributors in-State.

What this debate is all about—and we cannot lose the focus on it—is that a lot is at stake here, Mr. President. And what is at stake is the credibility, the credibility of the Congress of the United States that, one, the best qualified people are elected to office, and, two, once they are there, that they act in the interest of the American people. If you accept this polling number and polls I have heard all over the country, that is not the case, and we have a significant problem.

I will repeat again, when asked if those who make large campaign contributions get special favors from politicians, 34 percent of the respondents thinks it worries them most, 34 percent thinks it worries them a great deal. And 59 percent of the American people find it convincing that we need campaign finance reform to make politicians accountable to average voters rather than special interests.

Mr. President, the average voter in America thinks they are not listened to here in Washington, DC. I have to tell you, from my 14 years experience here, in some cases they are right.

So, Mr. President, I will yield the floor. I know my friend from Wisconsin, and others, including Senator WELLSTONE from Minnesota, want to talk. I appreciate the opportunity. I hope the American people will call upon their elected representatives to bring about this much-needed and fundamental change so we can restore confidence in our most important institutions and perhaps remove the cloud of cynicism that pervades America today. Mr. President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you very much, Mr. President.

It is very good to be here on the floor with the Senator from Arizona and to finally have a chance to debate S. 1219, the campaign finance reform bill.

I first want to return the compliments from the Senator from Arizona. I appreciate the kind words. I think everyone in the Senate and everyone in the country knows this would not be happening today, whether we win or not, this would not be happening today if there were not an independent-minded Senator from Arizona who feels so passionately about campaign and other reforms in this country that he is willing to take both the compliments and the lumps that go with leading a bipartisan effort, which he has done.

It has been a pleasure and will continue to be a pleasure because we intend to win this, hopefully tomorrow, but if not, as the Senator from Arizona said, the American people will win this issue when some control is finally exerted over the obscene amount of money that is now dominating the political process.

I also want to mention, Mr. President, the new Senator from Tennessee, one of our main coauthors, Senator THOMPSON, whose perspective and help has been very helpful and very useful throughout this process, and especially, of course, the Senator from Minnesota, Senator WELLSTONE, who, in my mind, is the most focused reformer in this entire body. You name the issue, I think he is most likely to be the first person in line to say, let us reconnect the political process between elected representatives and the people back home, rather than the special interests.

We also have had wonderful help from the Senator from Kansas, Senator KASSEBAUM, and Senator GRAHAM from Florida, Senator MURRAY from Washington, Senator KERRY from Massachusetts, and others.

We cannot talk about this bipartisan effort without reminding everybody it has been a bicameral effort. Even more uncommon in the Congress than a bipartisan effort is having the two Houses have cooperation. And there the Representative from Washington, LINDA SMITH, and others, have been very helpful in making this an effort that the American public has recognized. It did not hurt either that the President of the United States took the care in his State of the Union address to specifically endorse this effort, this bipartisan effort, as the way to go. And all of this has helped us move forward.

Mr. President, I also want to thank the new majority leader for letting this bill come up. It is not the way I wanted it to come up. We did not want to have to start off by having 60 votes just to get the ball rolling. But it is sure better than not having the chance to discuss it at all. I do appreciate that and look forward to the process of hopefully ending up with a successful vote tomorrow at about 2 o'clock.

But let us set the record straight, Mr. President, about what this bill is about. The first statement by the Senator from Utah certainly laid out one view of what this is about. But let us clear one thing up now. And I know we are going to have to clear it up over and over again. This bill has no mandatory spending limits that requires every candidate to only spend a certain amount. It has a voluntary incentive system.

You will hear this red herring over and over again because the opponents of this bill want you to think that this bill creates mandatory spending limits even though we all know that such limits would be unconstitutional under the decision in Buckley versus Valeo. So let us remember that. The bill does not have a mandatory limit on how much a candidate can spend. No matter how many times you are led to believe that is what it does, it is just not true. It is not in the bill. It is not the McCain-Feingold bill that we have before us.

Rather, Mr. President, what we are offering today in hopes of restoring the lost faith and confidence of the American people is something very different.

We are hopeful the Democrats and Republicans can come together and demonstrate to the American people our willingness to restore some element of integrity to the political process. So the proposal we have has different goals than that suggested by the Senator from Utah.

Our goals are as follows. We try to reduce the flow of money in the electoral process that has become dominated by dollars and cents rather than issues and ideas. We try to end the perpetual money chase on Capitol Hill by somehow allowing current office holders to spend less time raising the requisite campaign funds and more time fulfilling their legislative duties and obligations.

Mr. President, those are important things but they are not the core of our proposal. The core of our proposal, the very heart of this legislation, is, for the first time, to provide qualified candidates who are not millionaires, and who are not able to amass colossal war chests and do not have access to the extensive net worth of well-heeled contributors with an opportunity to run a fair and competitive campaign for the U.S. Senate. That is what this bill tries to do. It tries to give most Americans, which includes those who are not multimillionaires, most Americans, a fighting chance to be a part of this process, that they were born and taught to believe was their right. That is what this effort is about.

Our current campaign system is heavily tilted in favor of a privileged few. If you have access to large amounts of campaign funds, then our current system is great for you, it accommodates you. If you are a millionaire and are able to contribute your own personal wealth to your campaign without having to participate in the endless cycle of attending fund raisers and soliciting contributions, then our current system is good for you, too.

But, Mr. President, if you are not an incumbent and you are not worth several millions of dollars, and even if you have a wealth of experience and ideas, and even a large base of grassroots support, the sad truth is that such candidates are automatically labeled long shots under the standards set forth under the current election system.

Why is this, Mr. President? Why is someone who may have served as a city council member, who may have been a police officer or a schoolteacher, who believes in public service and holds an ambition to represent their particular community, why is such a person in America automatically labeled a ''long shot,'' making it so very difficult to get credibility?

The answer is very simple, Mr. President. The answer, Mr. President, is money. Money has become the defining attribute of congressional candidates in this Nation. If you have money, you are considered a serious contender; if you do not have money, you get stamped on your head the phrase ''automatic long shot.''

I tell you what happens when someone declares their candidacy for the Senate in this country. They are not asked about the issues very much. They are not asked that much about what level of support they have in their home States. Maybe at some point they will be asked that. Those are not the questions that first greets either a real candidacy or a planned candidacy. The question that they are greeted with has become the determining question in American politics. The determining question in American politics, Mr. President, is, ''Hey, where are you going to get the money? How are you going to raise all the money? How much time will it take? How much do you have to raise every week in order to be a viable candidate?'' Most of us have had these questions thrown at us when we first ran.

If you have the money, you are welcomed into our system with open arms. You are considered a credible candidate, and your pursuit of elected office is considered, right away, to be a tenable goal. But if you do not have the money, it is an entirely different reaction. Such candidates are usually shunned by the political establishment, labeled long shots, and entered into an electoral arena where chances of upsetting high finance candidates parallel their odds maybe of being struck by a lightning bolt or winning the Powerball lottery.

Our campaign should be a discourse between candidates of differing perspectives. Instead, we have a system that is the equivalent of a high-stakes poker game, where only those players with the ability to ante up are truly invited to sit at the table and join the game. It does not matter what sort of experience you have or what your positions are or what ideas you can bring with you. It is all about your ability to put up big money on the table and ante up. That is really what this bill is about, Mr. President. It is not an effort to prevent people from participating in the process. It is just the opposite. There are no mandatory spending limits, as is suggested by the opponents of the bill.

But we have another problem. That is, Mr. President, that a lot of people think it just cannot happen. I had this experience in talking to editorial writers and constituents. They think this can never happen. We have seen this before, whether it is partisan or bipartisan. It does not matter whether it is after major electoral changes. It does not matter that people think they have heard this song before and it just cannot happen, that Washington can never clean itself up in this regard. I admit this issue has been very difficult to alter. What is different this time is that we have a bipartisan effort. Maybe the polls in the past have shown the people do not rank this real high on their list. However, as the Senator from Arizona says, that is changing.

Maybe the reason it was not so high on the list before was this sense that it could not happen. I remember the same attitude about the deficit issue. When I first started talking about the deficit in 1990 and 1991, the consultants would say nobody cares about that. The public gets bored, they get glassy eyed on that issue. After a while, people realized that was a central issue. The same thing happens here. Maybe it has been tough to get this issue going because it is not easy to understand. It is not as easy as the effort that Senator MCCAIN, Senator WELLSTONE, and I all made on the gift ban. That was so easy. All you had to show was that people could get free golf trips all over the country and there was not much more to explain. It is awful hard to vote for that. But this is worse. This is even worse than the gift-giving system that we finally cracked down. I think there is reason to believe that we can win tomorrow and reason to believe that we will win, whether tomorrow or in the near future.

There are many reasons, but I thought the vote we had in 1995 on the floor of the Senate was a little clue. That was when the former majority leader, Senator Dole, came to the floor to move to table an amendment I had brought up to simply say that campaign finance reform ought to be considered. I would have thought we would have lost that vote. The majority leader usually won, almost always won on those kind of votes. We had 13 or 14 Members from the other side who came over and joined us to make sure it got on the agenda. Unfortunately, of course, it took us almost a year to actually get out here and have a bill come up, but it has finally happened.

How do I know this issue is stronger than it was in the past? When I go to my counties around the State to town meetings for listening sessions, I usually make an introductory statement—keep it short, because people have been told I will listen to them; I only give myself 5 minutes like I give everyone else. I found this year when I merely said the words to my constituents, I have signed on to a bipartisan bill concerning campaign finance reform, even before people knew who I signed on with or what the bill did, there was tremendous applause in the room. Many times I just get blank stares after I speak. This got major applause and response every time, because people are fed up. We have reached the time when this bill and this issue will come to fruition.

I want to say—all of us have this same feeling who have cosponsored this bill—this is not our perfect bill. It is not the perfect bill for the Senator from Arizona or the Senator from Minnesota. I introduced S. 46 in the first day of the 104th Congress. That was a lot closer to what I would prefer, the Feingold bill. It included public financing, which I think is the best way to go. That is my preference. I think it is the preference of the Senator from Minnesota, who has long been an advocate of this issue.

One of our responsibilities here in this body is to know when it is time to work with the other side and to give up some of the things we really want so we can move forward. I remember that is exactly what the former majority leader said in his farewell talk. If you cannot get 100 percent, get 90 percent today and get 10 percent later. I was delighted when the Senator from Arizona came to me and initiated this process. The bill included some ideas the Democrats had proposed before, some the Republicans proposed before. What struck me overall, it was a genuine attempt to reach an accord between the parties. You have to do that on an issue like this. This is an issue where if either side feels the other side has somehow rigged the bill, it is all over. That is why I am so proud of the support we have received for this bill.

One of the problems with reaching a compromise is that you worry some how those who have been real strong advocates, especially out among the public, will say, ''Wait a minute. This is not good enough.'' That could have happened. As the Senator from Arizona knows, just the opposite happened. We have received enormous support. We have 60 sponsors of the two bills in the House and the Senate. It is almost evenly divided on bipartisan lines in the House. The lead author of this in the Senate is a Republican, although we do have more on the Democratic side who have cosponsored it. It has been supported vigorously by Common Cause and Public Citizen, AARP, and the United We Stand group that has helped on this issue all across the country. These are not necessarily political bedfellows, but on this issue they came together.

As the Senator from Arizona indicated, we have had enormous editorial support all across the country—east, west, north, south—from major newspapers to minor newspapers. As I indicated, we have the support of both the President of the United States and Mr. Ross Perot. What I have been impressed by with regard to this support, Mr. President, is that even though it came out about a year ago, and this bill has been delayed and delayed, nonetheless, the support remains, and the people who have advocated this bill have kept the heat up.

Mr. President, why does the public sense we absolutely have to move on campaign finance reform at this point? I think it is because people have finally realized that the No. 1 issue that we have to deal with in this country is getting the big money out of policymaking that goes on in Washington.

For me, the No. 1 substantive issue is we have to balance the budget. If I had to pick the one reform issue, the one issue that is underlying all of this, it is the issue of campaign finance reform. Mr. President, why is it that people are finally sensing what is going on? Just a few of the statistics that are very troubling: In a U.S. Senate race now, the average winner spent in 1994, $4.5 million. That is what the average winner needs. It is not good enough anymore just to be a millionaire. You better have a lot more than that. You better have about $10 million if you want to finance it yourself.

What about personal wealth contributions? They have gone up dramatically in the last few elections. In 1990, only 4 percent of the money that was spent on elections was from personal wealth, from individuals putting in their own money. The same in 1992. Suddenly, in 1994, 18 percent of all the money spent on U.S. Senate elections came from a dramatic increase in personal spending.

Mr. President, what about overall spending? In 1990, it was a lot of money—$494 million. In 1992, the spending in House and Senate races grew to $702 million. Just 2 years later, it jumped again to $784 million. The same thing goes with the trend on out-of-State contributions. After staying at 16 percent in 1990, in 1992, the percentage of money in Senate elections that comes from out of the State for a Senator is now 23 percent, and growing. So these are not static concerns. These are not trends that have always been there or practices that have always been there. These are rapidly increasing trends in overall spending, out-of-State spending, and the huge infusion of personal money into campaigns.

I know this from my own campaign. Everyone of us has our own story. For me, all three of my opponents—both of the primary candidates and the final election candidate, the incumbent—had all spent over what this bill suggests as a limit by the time of the primary. That is about a $14 million or $15 million Senate race in Wisconsin, which is certainly not a small State, but it is not a real large State either. It was a staggering sight for the people in my State. Fortunately, for me, my primary opponents felt so confident that I was not a factor in the race, they decided to turn all that money on each other, causing the people to look for an alternative. But we know that type of thing is an exception to the rule. That was just in a primary, not the general election.

Mr. President, perhaps most disturbing, though, is not the issue of how can somebody finance their campaign, or even the issue of what happens when somebody is outgunned in a race, even though one person may be more qualified than the other. I think what the American public realizes more than anything else, and what really bothers them the most, is they know that this story does not end when the votes are counted. It is not just a question of who wins and who becomes a Senator. They know that the very policies enacted in this Congress are altered in some way or another by the presence of all of this money in the process.

How does this happen? Well, one way it happens is that in this town there are, apparently, 13,500 people who are lobbyists. They help with this process. They are not inactive in connecting the campaign process to the policy process. Let me give you one example of what happens around here. I will omit the names of those involved, but it is just a sample so that nobody is confused or puzzled about how sometimes what we decide to do out here is somehow connected to what happens during the campaigns.

Here is an invitation:

> During this year's congressional debate on dairy policy, representative ''blank'' has led the charge for dairy farmers and cooperatives by supporting efforts to maintain the milk marketing order program and expand export markets abroad.
>
> To honor his leadership, we are hosting a fundraising breakfast for ''blank'' on Wednesday, December 6, 1995. To show your appreciation to ''blank,'' please join us at Le Mistral Restaurant for an enjoyable breakfast with your dairy colleagues.
>
> PAC's throughout the industry are asked to contribute $1,000. ''Blank'' would prefer that the checks be made to his leadership fund. If your PAC is unable to comply with this request, please make your PAC check to '''blank' for Congress.''
>
> Thank you for your support of our industry's legislative campaign this year and your recognition of ''blank's'' important role toward achieving our objective.

Now, this is legal. I am not suggesting anyone here has done anything legally wrong. It is just what goes on in this town. A vote is taken, and a fundraiser is held. I am not suggesting the opposite, which would be wrong. But, boy, it is a tight connection. That is what is going on in this town, and that is what the American people have come to realize.

Earlier this year, a report was issued by the Center for Responsive Politics. It does show a relationship—at least an arguable relationship—between campaign contributions and the congressional agenda. The list includes cattle and sheep interests contributing over $600,000 during the last election cycle, while fighting to protect Federal grazing policies to give them access to Federal lands at below-market prices. Mining interests spent over $1 million in 1993 and 1994 on campaign contributions to Members of Congress while trying to prevent reform of the 1872 mining law. Oil and gas interests contributed over $6.1 million in the last election cycle pushing for the alternative minimum tax. That is a change that would cost the U.S. Treasury $15 billion.

So this problem affects everything, including our deficit problem. If special interest money can encourage us to spend more money, or create more tax loopholes, then it is part of the reason we cannot balance our budget.

Mr. President, there are many other issues that I wish to discuss, just as the Senator from Arizona does, and there will be time to do that. At some point, we will lay out some of the specific provisions of the bill. We will discuss in detail the constitutional issues that I know the Senator from Kentucky will tenaciously raise, and we will certainly

point out that, although they are interesting arguments, they are not the arguments that the U.S. Supreme Court would ultimately follow. But I think it will be a spirited debate.

Finally, I hope to get a chance to stand again and talk about what this means. Let me conclude by saying what it means to me from the point of view of someone who grew up believing that everybody had a chance to run for Congress or the Senate if they really wanted to.

This summer, I will go to my 25th high school class reunion at Janesville Craig High School in Janesville. I am looking forward to it, and I am eager to see my former Democratic and Republican friends—there were more Republicans than Democrats in that town, which taught me the value of bipartisan cooperation. Recently, I had a chance, here in the Halls of the Capitol, to meet with the political science students from the another high school, our crosstown rival, Janesville Parker. They asked me what I was working on. As I looked at them, I realized something had changed from 1971 when I told people that maybe I would go into politics someday. You know, in 1971, nobody said, ''First, Russ, you have to go out and raise about $5 million, or you better become so connected to the political structure in Washington, or you are never going to be a Senator or a Congressman.'' Nobody said that to me, and I have had the good fortune to be an exception to the rule here. But I could not tell those kids 25 years later that anyone of them had any reasonable expectation to ever be elected to this body, unless they become very, very wealthy, or very, very well connected.

To me, that is a little bit of a denial of the American dream. It is not the same thing as being able to buy a house. It is not the same thing as not having health care. I realize it has to be down the list as compared to basic necessities. But I still believe that the right of every American to fairly participate in this process is part of the American dream. That is all our bill is about, making sure, on a voluntary basis, that every qualified American has a fair chance to participate in the process. That is what we are trying to do.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I will not speak at length, having introduced the debate. I want to provide a counterpoint to the arguments that we have had now with two speakers in favor of the bill. I would like to make several comments, one with respect to the chart offered by my friend from Arizona.

I was in this town when Richard Nixon was President of the United States and the loud outcry went up that money was destroying politics; that we had to reform politics; that we had to find a way to take the corrosive support of money away from politics in the wake of the Watergate scandal. The solution that was crafted and debated on this floor and ultimately passed was the creation of the political action committees [PAC's]. PAC's were touted as the ultimate purifying process. What could be better than a PAC?

I remember the debate very well. It went this way. Instead of one individual being able to give Richard Nixon $250,000—or, as Clement Stone did at the time, $2.5 million—now you have a circumstance where ordinary citizens can get together and pool their money in a political action committee, and for efficiency purposes, the managers of that committee will issue individual single checks of no more than $5,000.

What could be better in cleaning up politics than the creation of the political action committees? Indeed, Mr. President, I once worked for the man who probably created the first political action committee. His name was Howard Hughes.

At the Hughes organizations in California, where people were constantly coming to Mr. Hughes for political contributions, he said, ''Let's get all of the employees together, let them contribute $5, $10, whatever is their choice, into a single fund, and then let them determine how that money will be spent.''

The original Hughes political action committee had every politician in California coming before it to speak to the employees because the candidate who did a great job in front of that PAC meeting would walk away with a check for $50,000, $60,000, or $100,000, depending upon how the employees voted that their PAC money was to be spent. I believe that was the model for the creation of the political action committee.

Now we see charts being given to us telling us of the corrosive damaging influence of PAC's.

It all comes down to a statement that was made in an editorial in the Wall Street Journal on the 4th of April. I quote:

> The bigger point here is that money and politics is like water running downhill. Dam up one avenue, and it will pool and meander until it finds another way to break through. Trying to regulate it is a fool's errand, as even some good government reformers are beginning to understand.

If I could go back to the theme of my opening statement, we are not talking about, in the words of the Senator from Wisconsin, reducing the flow of political action money. We are talking about redirecting the flow of political action money with the kind of legislation that is being offered here.

Back to the Wall Street Journal, another editorial. This one that appeared on the 2d of February 1996, which gives an example of the kind of thing I was talking about in my opening statement.

> What the reformers will not advertise is that there is nothing much they can do about the special interests who decide to spend money on their own, as they did to great effect in Oregon. The AFL–CIO says it devoted 35 full-time professionals and sent out 350,000 pieces of partisan mail for the cause. The Sierra Club and the League of Conservation Voters spent $200,000 on 30,000 postcards, 100,000 telephone calls, and very tough TV and radio spots accusing Republican Gordon Smith of voting against ground-water protection, clean air, pesticide limits, and recycling.

The editorial goes on:

> The toughest was a Teamster radio spot run on seven stations in five cities that in effect accused Mr. Smith of being an accomplice to murder because a 14-year-old boy died in an accident at one of his companies.

Quoting the spot:

> Gordon Smith owns companies where workers get hurt and killed. He has repeatedly violated the law. Those are the facts.

The Journal goes on:

> In fact, the young worker had died after a fall in a grain elevator while being supervised by his father, who still works for Mr. Smith and does not blame him. An analysis of the ad in the liberal Oregonian newspaper essentially concluded that the whole thing was false. The ad was the work of consultant Henry Sheinkopf, who is part of Bill Clinton's reelection team this year and likes to say he believes in the politics of terror.

The editorial goes on:

> Even Mr. Wyden felt compelled to criticize the rhetoric of the ad, but since it was not run by his campaign he couldn't be blamed for it even as it cut up his opponent. That is the beauty of these independent expenditures. They work for a candidate without showing his fingerprints. Mr. Wyden took the high road earlier this month and announced that both candidates should stop negative campaigning, while his allies kept dumping garbage on Mr. Smith through the mail and on the airwaves.

Mr. President, that is the point I made in my opening remark, and that is the point I will keep coming back to again and again until we recognize that special interest money is more damaging in the hands of special interests going directly to the voter than it is in the hands of a candidate who must be accountable to the voter. We will be missing the point in this whole debate. Setting limitations? Oh, we are told they are not mandatory, that they are only driven by a voluntary incentive system.

Ask Bob Dole about the voluntary incentive system he is laboring under. He cannot spend any more money now under this voluntary incentive system, and President Clinton has $27 million to spend because Bob Dole had to run against Steve Forbes and Pat Buchanan to win his nomination, and Bill Clinton did not have to run against anybody. So Bill Clinton has his $27 million raised for the primary that he can spend in any way he wants, and Bob Dole is forbidden by law. But, no, that is not mandatory. That is a voluntary incentive system.

Mr. MCCAIN. Mr. President, will the Senator yield for a question?

Mr. BENNETT. Yes.

Mr. MCCAIN. The Senator surely knows that has nothing to do with the legislation we are considering. That

has to do campaign financing within campaigns, which is not in this legislation.

I sympathize with the frustration of the Senator from Utah. I was going to talk about it later on. I understand, according to some folks, that now you can sleep in the Lincoln bedroom for $130,000, but that has nothing to do with the legislation that is being proposed here, which those limitations impose because of candidates taking taxpayers' money.

Mr. BENNETT. I agree completely that the Senator from Arizona is correct, that this bill does not include public financing. But may I get clarification? The voluntary incentive system does, in fact, if entered into by a candidate for local office, produce a limitation.

Mr. MCCAIN. Mr. President, I ask unanimous consent to engage in a colloquy with the Senator from Utah.

The PRESIDING OFFICER (Mr. STEVENS). Is there objection? Without objection, it is so ordered.

Mr. BENNETT. Is there, in fact, a limitation if someone enters into the voluntary incentive system?

Mr. MCCAIN. There is no limitation. What happens is that then the challenger who is running, who is not in violation of the voluntary spending limits, then receives extra incentives.

That is all there is to it. There is no prohibition for anyone, and it allows them to spend however much money they want to spend. In the case of a millionaire or a multimillionaire, say from a small State, who wanted to spend millions of dollars of his or her own money, we would not allow that person, as is the habit of these millionaires, to raise all that money back. We only allow them to raise $250,000 back, and the rest of it he or she would have to write off.

But there is no limit on the spending that a person can make. They just lose the incentives that are in the bill, and the opponent who may not be nearly as well funded has some extra incentive to go along with it, the details of which I will be glad to explain to the Senator from Utah.

Mr. MCCONNELL. Will the Senator yield?

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senator from Kentucky be allowed to enter the colloquy.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Mr. President, I do not believe that that is according to the rules of the Senate. I do not believe that three—I do not believe that more than two can engage in a colloquy. I ask the Parliamentarian.

The PRESIDING OFFICER. By unanimous consent, the Senate can engage in such colloquy, Senators may engage in such colloquy as they seek.

Mr. MCCAIN. Then I ask unanimous consent that the Senator from Wisconsin be included in this colloquy.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. I ask unanimous consent that the Senator from Minnesota be in this colloquy.

The PRESIDING OFFICER. Is there objection? Very well, gentlemen. The Chair will still ask that Senators seek recognition through the Chair if there is a dispute.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I understand that my friend and colleague from Minnesota is supposed to be at an event. I will try to keep this short. But I would say to my friend from Utah, I think the answer to the question that was raised, the whole issue of whether there is spending in this bill, of course, there is. It is referred to, Mr. President, as ''voluntary'' when, in fact, it is voluntary such as the following situation: You are being held up and a fellow puts a gun to your temple, and he says, ''You don't have to give me your billfold, but if you don't, I am going to shoot you.''

So what happens to you in this situation, I say to my friend from Utah, is that if you do not agree to the Government-imposed speech limit on the campaign, the following things happen to you: You lose free broadcast time, 30 minutes; you lose the 50 percent broadcast discount; you lose a discounted postage rate; your opponent gets a higher contribution, individual contribution limit.

As you can see, this is not terribly voluntary. In fact, it is the part of the bill that makes it unconstitutional.

Now, I did not stand up here to make my major comments on this, but I did want to just follow up on this PAC discussion because I know my friend from Arizona had the PAC chart up. I used to advocate, as a part of an overall compromise back years ago when our side was trying to put together an alternative, going along with the PAC ban even though I knew it was unconstitutional. I think that it was a bad decision then and it would be a bad decision now to eliminate political action committees, because, in fact, the vast majority of them are organized just as my friend from Utah has suggested.

An awful lot of American citizens, Mr. President, are really offended by the likelihood that they would be pushed out of the political process altogether. Having been involved in this debate for some 10 years now and having watched the flow of this issue, I would say what is different about the debate this year is that an awful lot of people who are aggrieved by it are willing to say something.

For example, the National Education Association, with which I am very seldom allied, just wrote me a letter indicating they are opposed to this bill. I know that EMILY's List is opposed to this bill. I know that the National Taxpayers Union, the National Right to Life Committee, the National Rifle Association, the Christian Coalition, the National Association of Broadcasters, the National Association of Business PAC's are all against this bill.

Now, in the case of the broadcasters and the direct marketing people, you could argue that one of the reasons they do not like this bill is because they are going to be called upon to pay for it. I guess you could argue technically that there is not taxpayer funding in here, but spending limits are not free. So the question is, who picks up the tab? Under this proposal, the broadcasting industry and the direct marketing industry have the opportunity to pass these costs along to their customers. And that is, in effect, how it is paid for.

The NEA——

Mr. FEINGOLD addressed the Chair.

Mr. MCCONNELL. Let me just say, Mr. President, I am going to yield the floor because I know my friend from Minnesota is anxious to get his remarks in and go to something else. But I mentioned the NEA in connection with the PAC discussion because I would say to my friend from Utah, in the letter they sent just today indicating their opposition to this bill, they said that the average contribution to the NEA PAC is $6.

Now, Republicans know they are a very big PAC because we rarely get any contribution from it, but I would say that it is a step forward for democracy to have that many people involved participating together on behalf of a cause in which they believe. So we should not be banning PAC's. I do not think the courts would let us do it, but we should not be doing it. Something as unconstitutional, as the ACLU candidly says, should not pass in the Senate.

But specifically in connection with the PAC discussion, most PAC's include an awful lot of Americans banding together to support the candidates of their choice. It is very, very hard for me to see how that is a bad thing for democracy.

Finally, before yielding the floor, let me say there is always a lot of discussion anytime we bring this issue up about leveling the playing field. Well, in order to level the playing field in Kentucky, you would have to get about half the Democrats to change their registration. You would have to sell about half the newspapers to different owners so they would occasionally support Republicans. And you would have to rewrite the political history of the State.

So if we are really going to be serious about leveling the playing field here, money is not the only factor in these elections—voting behavior, registration, newspaper endorsements, what kind of year it is. If the Government is really going to try to create a level playing field, let us really get into this thing now and figure out how to really do it.

In short, Mr. President, you cannot create a level playing field; it is impossible. It is impossible because every political year is different, every State is different, the strength of the parties is different. All you can do through this

kind of proposal is, as my friend from Utah pointed out, redirect money in a different direction. Spending limits are, in short, like putting a rock on Jello. It sort of oozes out to the side in a different direction.

Several Senators addressed the Chair.

Mr. MCCONNELL. I will be happy to yield the floor, and we will continue the debate later.

The PRESIDING OFFICER. Under the past unanimous consent, the Members who sought recognition as part of a colloquy may yield to one another until this colloquy is over.

Mr. MCCAIN. Will the Senator from Kentucky yield?

Mr. MCCONNELL. I yield the floor.

Mr. FEINGOLD and Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator yielded. The Chair will recognize the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, the Senator from Arizona and the Senator from Wisconsin want to respond.

Mr. MCCAIN. I would like a very brief response.

Mr. WELLSTONE. Very well. And I would like to get the floor. Could I ask unanimous consent that after they respond I might have the floor?

The PRESIDING OFFICER. The Senator is part of the colloquy by unanimous consent.

Mr. WELLSTONE. I will defer to my two colleagues, and then I would like to follow.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Chair is just going to issue an edict that when the three speakers have spoken, there be no action under this colloquy; it is too hard to maintain.

The Senator has yielded. The Senator from Arizona.

Mr. MCCAIN. Mr. President, that was the reason why I raised the concern to start with.

Mr. President, as far as PAC's are concerned, I just make two responses. I have heard the comment that a lot of people have felt that if political action committees were not allowed, they would somehow be deprived of their part in the political process. In fact, most constituents of mine feel that making campaign contributions directly to the candidate is the most effective and beneficial way. In fact, I do not know many of my constituents who come here to Washington to give me that PAC check. In fact, the person that gives out those $5,000 PAC checks is the lobbyist here in Washington. So that is a strange description of the political process.

Mr. President, I do not want to get too harsh, but let us talk what this is really all about. Let me give two examples of the Palm Beach Post editorial of last October:

In his diaries, Mr. Packwood describes his relationship with a lobbyist. Shell Oil and many other clients hired him because they knew he had access to Senator Packwood. In return, this lobbyist raised money for the Senator so the lobbyist collected fees, the Senator collected campaign contributions and the company got legislative favors. As Senator Packwood told his diary: ''That's a happy relationship for all of us.''

I do not think that is exactly along the lines of the process that the Senator from Kentucky just described.

Let me just quote again from this editorial.

The lawmaker's claim to be above board has collapsed lately. Wyche Fowler, a former Senator and Representative from Georgia, said, ''On many occasions—I am not proud of it—I made the choice I needed this big corporate client, and therefore I voted for or sponsored this provision even though I did not think it was in the best interests of the country or the economy.''

Mr. President, there are two examples from both sides of the aisle of what the problem is here. The problem is that this money exerts undue influence on the process.

Mr. President, there will be more. I yield.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota yielded.

Does the Senator now yield to the Senator from Wisconsin?

Mr. WELLSTONE. I now yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I know the Senator from Minnesota has been waiting for a long time. I will yield in a moment.

Mr. President, I thought this was a colloquy on the issue of whether there were spending limits in this bill. The Senator from Kentucky and the Senator from Utah have come out here today and said, time and again, that there are mandatory spending limits or that there are spending limits that force you to lose something that you have now. We have to clear this up. I am going to stay out here as long as this bill is up to clear it up.

The example the Senator from Kentucky used suggested that if somebody started to spend what they used to spend, they would lose something they used to have. It is not true. Our bill does not cause a person who wants to spend money to lose anything. If they want to go over the limit, they still get the lowest commercial rate. They never had the benefits of the bill in the first place. So let us be very clear about this, there is no gun to anyone's head. That is just false. In a State where the limit is $1 million, a person can spend $10 million, just as they can today, and they lose nothing. There is no gun to anyone's head in this bill. It only provides benefits to those who are willing to comply with it.

I challenge the Senator from Kentucky at any point in this process to suggest where anyone is forced to give up what they have now. People can spend themselves into oblivion on this bill still. But at least those who are opposing them will have a chance.

I think it is very important that the record show what this bill actually provides, not the parade of horribles that have been suggested that do not actually exist in the text of the bill.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, just following up on what my colleague from Wisconsin, Senator FEINGOLD, has had to say, I think what this bill will do, however, is it will set a higher standard. You do not have to comply with it. But once we, as a U.S. Senate, and then hopefully the House of Representatives, respond to what I think people are telling us in the country about what they yearn for in our political process, it sets a higher standard. I think the focus will be on how to make this political process more accountable and more open and more credible and more believable for people.

I want to get to my more formal remarks. But I want first to respond to a little bit of what I have heard said. My colleague from Kentucky—we have debated other issues on the floor of the Senate—talked about how in Kentucky a whole lot of other things would have to be done in order to have a level playing field: You would have to change part of the history, you would have to change who owns some of the newspapers, et cetera.

This is a bit of a strawperson argument. We are not making the argument that this piece of legislation will create a political heaven on Earth. We are just trying to talk about how to make this a little better, to improve people's confidence in it and in elected officials. We are talking about how to try to make this system work better for people.

I suppose the argument can be made that you can never have a 100 percent completely level playing field. But this piece of legislation is a significant step toward dealing with some of the disparity that now exists and toward making this system less wired for people who are incumbents, less wired for people who are wealthy, less wired for people who are connected to the well-connected.

Some of the arguments made by this bill's opponents this afternoon kind of miss the point. I do not want right now to get into a long discussion with my colleague from Utah. Maybe we will later on. I plan on staying on the floor for the duration of this debate, or for a good, long period of time. But if we want to go back to the Federalist Papers, let me also just suggest to my colleague that part of the intention of those who wrote Federalist Paper No. 10 was to figure out how, in fact, you could check majority rule. There was a big concern about the tempestuous masses.

I must say, I think part of what is going on here on the floor is trying to figure out how to check majority rule, because this system right now does not meet the standard of real representative democracy, because the standard of a representative democracy in our country, or any other country, is that

each person counts as one and no more than one. I dare any of my colleagues to, in this debate, come out here on the floor and say, given the system we have right now and the reliance on huge contributions—whether it be soft money, PAC money or individual contributions—that, as a matter of fact, each and every citizen has the same influence over our political process. It is simply not true. And it is certainly not the perception that many have of our system.

This current system does very severe damage to the very essence of what representative democracy is supposed to be all about. I think this vote is going to be the reform vote of the 104th Congress. That is what this is all about. This is going to be the reform vote of the 104th Congress. I want people to understand exactly what is at stake here over the next day or so.

We will have a vote on this, to bring to a close the Senate filibuster. We have been able to bring this bill to the floor but we've been blocked from amending it or otherwise moving forward on it by this filibuster. We will have a vote to try to break the filibuster at 2:15 p.m. tomorrow. In the meantime, we do not have the opportunity to amend the bill. Senators do not have the opportunity to improve the bill. Senators should have that opportunity. And then we should have a chance to vote on it, up or down.

Last Congress we debated campaign finance reform—that is to say, ways in which we could begin to get some of the big money out of politics, ways in which we could bring the spending limits down, and make the system work better for people—for several weeks. What is going on here is an effort to filibuster this bill, motivated by a hope that tomorrow at 2:15 we will not get the required 60 votes to end the filibuster and then it will all go away. Then I suppose the sort of political cover position will be: Let us appoint a commission. But that's not going to fly, either here or with the American people. And if we are unable to break the filibuster tomorrow, we will be back again on this issue until we get it done.

I want to remind my colleagues one more time: this is the reform vote of the 104th Congress, and people will hold us accountable. Our constituents in our States, Democrats, Republicans, and Independents alike, will hold us accountable. Nobody should believe this is going to be an easy vote: Vote against cloture, block this legislation, and then duck for political cover by saying you want to appoint some commission.

I want to talk about this piece of legislation, not in a technical way—though we can have that debate as well—but, rather, just in terms of some simple human realities. First of all, I will start with Senators and Representatives. I do not know, my colleague from Wisconsin talked about this, but I think I am speaking for almost everybody here. I think most of us dislike the current system. Most of the people in Congress, on both sides of the political aisle, with whom I talk in private say it is a rotten system. People spend too much time fundraising and they do not spend enough time legislating. People hate to have to call and ask for money. We all know that what my colleague from Wisconsin said is true, which is that the very definition of why you are a viable candidate, unfortunately, has nothing to do with content of character, with leadership, with vision, with your sense of right or wrong for your country; it has to do with whether or not you are independently wealthy or you have raised or will raise millions of dollars.

I think all of us should want to change this system because I think, when we are involved in the fundraising, the perception—and I do not accuse one colleague here of any individual corruption—but the perception of people is often that we are out there raising money from this person or that person or this PAC or that PAC, and people just simply lose confidence in the political process. All of us who care fiercely about public service, all of us who care fiercely about good politics, all of us who are proud to serve in the U.S. Senate ought to be concerned about the fact that people have lost confidence in this process.

So I argue the human realities are this: We need to pass this reform bill to restore some trust in this political process. That is what this is all about. I would say there is an A and a B part to this. The A part is this. I am wearing a political science hat, I am wearing a U.S.-Senator-from-Minnesota hat, and I am also wearing a citizen hat. People are not going to believe in the outcomes of this process unless they believe in the process itself. And as long as people believe that too few people, with so much wealth, power and say, dominate the political process and the vast majority of people feel left out, ripped off, underrepresented, not listened to, then I would say to everybody here we are not going to do well with the public.

People want to believe in this political process. They do not like the fact that big money dominates too much of politics in America. Regular people do not feel well-represented within the current system.

Mr. President, I have worked with Senator MCCAIN and Senator FEINGOLD, I worked with Senator SIMON on many, many, many issues. If it does not get him in trouble, I will say he is my best friend in the U.S. Senate. You can only have one best friend. I wish he would not leave. I think it is a huge loss for our country. We have worked on other things. We worked on the gift ban, and we worked on lobbying disclosure. Senator LEVIN from Michigan played a major role as a leader on lobbying disclosure.

In some ways, this has a sense of déjà vu to me. For many months, many of our colleagues said they were opposed to the gift ban and opposed to lobbying disclosure legislation. In fact, they were both filibustered and stopped at the end of the last Congress. But we came back in this Congress, and we won.

What were we saying there? We were saying, ''Look, we're not bashing people here, we're proud to serve. But if you want the bashing to stop, if you want the denigration of public service to stop, if you want people in our country to be more engaged in public affairs, if you want citizens to be more active, then, for gosh sake, give up this practice of having this interest or these folks or those folks pay for you to go, take trips, wherever, give it up, let it go. We don't need it.'' And we passed that.

Then we came to the floor and we said, in the spirit of sunshine and full disclosure, if somebody lobbies here, Americans should know what they're up to. People lobby for different interests. That is not the problem, but there are two problems.

One problem is we wanted to deal with an outdated bill passed in the late 1940's and have full disclosure so we would have accountability, as to who was doing the lobbying, who was working for whom and what were the scope of their efforts. And the other problem, by the way, is lobbyists, by and large, those people who march on Washington every day, tend to represent a very narrow segment of the American population. That is the problem. Many other people are not well represented.

Now we come to the ethical issue of politics, I think, of our time, which is the way in which money has come to dominate politics: Who gets to run for office? Who is likely to win the election? Who is the best connected? Who are the heavy hitters? Which people have the most influence? What issues are on the agenda? What issues are off the agenda? How many people are out there in the anteroom, and whom do they represent? How do they secure access? what are their patterns of political giving? Political scientists and reformers have been asking these questions for years, and they've come up with some very telling answers.

And we see it here everyday. We don't need anybody to point out what's going on. When it is a telecommunications bill or it is a health insurance reform bill, that anteroom is packed wall to wall with people. They represent the most powerful in America.

But when it comes to children's issues—Head Start, title I, support for kids with disadvantaged backgrounds—I never see it wall to wall lobbyists.

This is the ethical issue of politics in our time. And, Mr. President, we are talking about a systemic problem, but not about the corruption of an individual officeholder. I do not believe that is the case. We are talking about systemic corruption when what happens is too few people have way too much power and say, and those are the people

who can most affect our tenure in office and, unfortunately, in this system, those are the people who have the financial resources. We are trying to, through this legislation, take a significant step toward beginning to end that.

Mr. President, I want to say to my colleague from Wisconsin, if I can get his attention for one moment, that when he was talking, I was very moved by what he said when he was talking about meeting with students.

He said, ''I just feel like this isn't the American dream. Money is so important in terms of who can run, who can get elected.''

He said, ''Maybe this isn't exactly as important as health care, or maybe it's not as important as whether people have a job, maybe it is not quite up there.'' I think it is; I think it is. As a matter of fact, this is the core issue, the one that's in a way prior to other political issues. The first chapter in one of the many books my colleague, the Senator from Illinois, has written dealt with the whole issue of campaign finance reform. That was not by mistake. This is the core issue, I say to my colleague from Wisconsin and my colleague from Illinois. This is, in many ways, the most fundamental issue, because you know what we are talking about? We are talking about something we all must hold dear that is fundamental: whether we are going to have a functioning democracy.

If you believe that each person should count as one and no more than one, if you believe there should be some political equality, if you believe that citizens should have real input and real say and have the same opportunities to participate and be listened to and to be involved in public affairs and to run for office and to be elected for office, it is simply true—I do not want it to be true—but most of the people in the country know it to be true, that this is not what is happening in our country today, and big money mixed with politics has severely undercut the very ideal of representative democracy.

That is why people are so disenchanted. That is why people are so disengaged. That is why this has become a cafe issue. That is why people are talking about this, I say to my colleague from Wisconsin, in the same way they are talking about a lot of other issues.

This is no longer just Common Cause. I honor Common Cause. They have done marvelous work as fierce advocates of political reform. But this is no longer being pushed just by good government, United We Stand, reform parties. More important, this is an issue people are talking about in their own homes, and people want change.

I will just take a couple of more minutes, Mr. President. I have said that this is a core issue, and that we must deal with it before we try to address other problems. I am going to get some colleagues angry at me when I say that, and we will have a good debate on it. I think many people have decided that we will never do deficit reduction on the basis of some standard of fairness. That is to say, yes, we will target a whole lot of deficit reduction on those citizens on the bottom economically who have the least political clout, but we do not do deficit reduction when it comes to the big military contractors or all those oil companies and coal companies, and tobacco companies and pharmaceutical companies that get all of their tax breaks.

I do not think people believe we will do deficit reduction with any standard of fairness. I do not think people believe that we are going to deal with the fundamental problem of making sure every child has a decent educational opportunity in our country; that we are going to resolve inner-city poverty; that we are going to make sure we have a clean environment, within our current system.

I do not think people believe that we are going to deal with the budget deficit or with the investment deficit, because I think people believe that this political process will not work, and the reason they think it will not work is because they think it is dominated by big money, because the citizens of the United States of America do not believe they exercise real power.

And guess what? In a democracy, the people ought to have the right to dominate their political process. They have the right to believe that the Capitol belongs to them. But it does not.

So we are at a critical juncture. Either we are going to go forward without a truly representative democracy, what some have called checkbook politics, or we are going to have a democratic renewal, and I mean democratic renewal not with a large ''D,'' I mean with a small ''d,'' where people have confidence in this process, where people feel like they are being listened to, where people feel like they can participate. That is what this is all about.

Mr. President, my colleague from Wisconsin already recited the statistics. And he noted the work of the Center for Responsive Politics. I ask unanimous consent that a letter and three short opinion pieces written by the director of the center, Ellen Miller, which have appeared in newspapers throughout the country, be printed in the RECORD following my statement, because they outline succinctly what I have been talking about in terms of the problems with our current system.

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

(See exhibit 1.)

Mr. WELLSTONE. Mr. President, it has only gone from bad to worse during the decade of the 1980's and the 1990's. It is just absolutely out of control, absolutely out of control, with the new twist being soft money. Much of it is just shifting to soft money. I mean, you have the individual contributions. And by the way, the people who make the large individual contributions represent a tiny slice of the American population. You have PAC money.

In addition, you have soft money that is supposed to be for party building or for issue-oriented ads. I know all about those ads in Minnesota. The sky is the limit. The parties are awash in this money. The attack ads do not add one bit of information to one citizen anywhere in the United States of America.

They do not contribute toward representative democracy. I have to smile when I hear the argument made, well, we ought to actually be spending more money. There are some people here that want to do that. On the House side they are talking about actually raising the limits. That is an interesting argument.

The argument goes like this. ''Well, Senators and Representatives wouldn't have to make as many calls and do as much fund raising if you could just raise it to larger chunks.'' That goes in exactly the opposite direction of having a representative democracy where there is some political equality and where citizens really count.

Or I heard my colleague from Utah make the argument about expanding disclosure. I'm all for more disclosure. But that's not enough. Even so, that could be an amendment. Give us the cloture vote and then let us have amendments. That is the way to deal with this. ''If we make no changes, we will do better on disclosure.'' Every 2 years and every 4 years people will see clearly that even more money is being spent by special interests or by people who are wealthy. And people will become more disenchanted. And we will be stuck with all the problems we have right now. I do not see that as the answer.

So I will not summarize our bill. I think everybody here is aware of what we are doing. We are reducing the spending limits. We have some strict disclosure on soft money. We banned bundling. We banned PAC money for Federal candidates. If that is declared unconstitutional, then we have a fallback smaller limit on PAC's which would apply. We ask that people raise the majority of the money from within their States. And we have some incentives which I believe really help when people agree to these spending limits.

We set a standard. We do not have the public financing that I would like to have. But this sets a standard for the country. It is a significant step forward. I believe it is good for each and every one of us here. I certainly think it is good for challengers. I think it deals with some of the disparity. I think it gets us closer to a level playing field. I think that it is probably the most important step we can take in this Congress to pass this legislation.

So to my colleagues, if you want to debate this, let us debate it. But do not block it. Do not think it is going to go away. Give us the cloture vote. Bring out your amendments. Try to improve it. Let us have the debate that people in this country want us to have. And to each and every one of you, this is the

reform vote of this Congress. The people back in our States will hold us accountable. I yield the floor.

EXHIBIT 1

CENTER FOR RESPONSIVE POLITICS,
June 14, 1996.

Senator PAUL WELLSTONE,
U.S. Senate, Washington, DC.

DEAR PAUL: I want to share with you the enclosed series of five op-ed ads that the Center has placed in The New York Times, The Washington Times, and the Atlanta Journal-Constitution. A version of the first ad will also run in the Boston Globe, The Advocate (Stamford, CT), the Seattle Post Intelligencer, the Milwaukee Journal Sentinel, the Arizona Republic, the Louisville Courier-Journal, The Nation, The New Republic, The Weekly Standard, Roll Call, The Washington Monthly, and Talkers Magazine. The op-ed ads will appear during a two-week period starting Monday, June 17, preceding the upcoming debate in Congress on various campaign finance reform bills.

The purpose of these ads is not to support or oppose any particular piece of legislation now before Congress, nor is it to put forward a reform proposal of our own. It is simply to help re-frame the debate. What are the real problems? What must real reform accomplish? We see these ads as providing ''guideposts'' for evaluating what is real reform and what is not. In short, we want to use the ads to push the debate onto higher ground by reminding people that democracy carries with it certain fundamental principles—principles that are now violated by our campaign finance system.

If you would like additional copies of the ads, or would like to talk about the ad series, please give me a call. You are welcome to insert them into the Congressional Record if you so desire.

With warm regards,

ELLEN S. MILLER,
Executive Director.

FINANCING ELECTIONS . . . AS IF DEMOCRACY MATTERED

Remember when democracy was something you believed in, not something for sale?

Those days have come . . . and gone.

Big money from big campaign contributors has put a price tag on our democracy. Our fundamental principles—like a government accountable to the people—are undermined as candidates collect millions of campaign dollars from rich people and organizations with specific and special interests. When the election's over, the donors collect. Fancy dinners. Private briefings. Special favors. Subsidies. Tax breaks.

No wonder average Americans are angry. Democracy is supposed to be about empowering all the people, not just the people with money. Political equality and government accountability are the values that inspire our faith in democracy. America's history is the history of our progress toward making these goals real for every citizen. These same values should inspire efforts to reform campaign financing.

Americans want real reform—not empty promises. But not all the proposed reforms in Congress and in state legislatures across the country will solve the problem.

How will we recognize real campaign finance reform?

In this series of essays, the Center for Responsive Politics presents four essential ''guideposts'' for reform. Keep these in mind when you hear lawmakers talk about campaign finance reform. Real campaign finance reform will:

ENHANCE COMPETITION

Allow qualified Americans of diverse backgrounds and perspectives to seek public office regardless of their personal wealth or their access to wealth.

RESTORE PUBLIC CONFIDENCE

Eliminate the inevitable conflicts of interest created when big money buys elections and the special interest replaces the public interest.

ENSURE EQUAL ACCESS

Provide all Americans access to their government and their elected representatives regardless of their ability to make campaign contributions.

STOP THE MONEY CHASE

Place the people's business first by freeing elected public servants from the money chase that distracts them from the responsibilities of governing.

Campaign finance reform . . . as if democracy mattered. Because it does.

GET ADOPTED BY STEVE FORBES

Get adopted by Steve Forbes or his friends in the multimillionaire club.

In today's ''cash-ocracy'', that's your only chance to get the cash you need to compete in a major election. Unless you're already a member of the club. Either you have deep pockets to fund your own campaign or you reach into someone else's deep pockets. No wonder Congress has the highest concentration of millionaires outside of Wall Street.

Of course, money isn't everything in politics—Steve Forbes proved that. But ask yourself; what kind of attention would Forbes have gotten if he didn't have money?

Consider who isn't running for President: Jack Kemp. Dick Cheney. Dan Quayle. All popular, potentially strong candidates who decided not to run. Money was a major reason. This year, you had to raise $20 million just to be ''viable.'' And consider that in nine out of ten Congressional races, the candidate with the most money wins—even in the ''revolutionary'' elections of 1994.

Good people don't run for office because they can't raise the money they need to be taken seriously. Anyone you know able to quickly raise $5 million? $500,000? These are the average prices of a U.S. Senate or House campaign.

Democracy is cheated and weakened when the first test of a candidate's strength is the size of their bank account or the wealth of their friends. Elections should be decided on the power of ideas openly debated, the strength of character, a record of accomplishments and a vision for the future. Our elected representatives should be skilled listeners and thinkers—not mere fundraisers.

How will we recognize real campaign reform?

In this series of essays, the Center for Responsive Politics presents four essential ''guideposts'' every American should use to evaluate proposals for campaign finance reform.

GUIDEPOST #1: ENHANCE COMPETITION

Real campaign finance reform should enhance fair competition by allowing candidates of diverse backgrounds and perspectives to seek public office regardless of their personal wealth or access to wealth. You shouldn't need to be a millionaire to be a candidate.

Campaign finance reform . . . as if democracy mattered. Because it does.

HE WHO PAYS THE PIPER CALLS THE TUNE

This truism teaches us a lot about how we finance election campaigns and how our government works—a lesson known even to House Speaker Newt Gingrich and President Bill Clinton.

''Congress is increasingly a system of corruption in which money politics is defeating and driving out citizen politics,'' said Gingrich in 1990.

''Many special interests are trying to stop our every move. They try to stop reform, delay change, deny progress, simply because they profit from the status quo,'' said President Clinton in 1993.

It's ironic that two of the biggest fundraisers in American history confirm it—we have a checkbook democracy. He who pays the piper calls the tune.

Most Americans can't afford to ''pay the piper.'' The biggest funders of Congressional campaigns are those who have a direct interest in the business of government. Decisions are skewed in their favor. Those who cannot afford to pay are left out.

Yet, all of us pick up the tab. Pork-barrel federal programs, subsidies, and tax breaks for corporations and industry groups are expensive: Hundreds of billions of dollars every year, according to research by organizations as diverse as the Progressive Policy Institute and the Cato Institute. Then there's the cost to our democracy in increased public cynicism, alienation and lower voter participation. Confidence in government plummets.

How will we recognize real campaign finance reform?

In this series of essays, the Center for Responsive Politics presents four essential ''guideposts'' every American should use to evaluate proposals for campaign finance reform.

GUIDEPOST NO. 2: RESTORE PUBLIC CONFIDENCE

Real campaign finance reform should restore public confidence in government by eliminating the inevitable conflicts of interest and skewed policymaking created when big money buys elections and the special interest replaces the public interest.

Campaign finance reform . . . as if democracy mattered. Because it does.

Mr. GORTON addressed the Chair.

[Disturbance in the gallery.]

The PRESIDING OFFICER. Any more outbreaks and we will empty the galleries.

The Senator from Washington.

Mr. GORTON. Mr. President, the arguments of each of the three sponsors and proponents of this bill who have spoken here this afternoon almost take the form of what we were taught in college was a syllogism.

Proposition No. 1. The people of the United States intensely dislike the present system of financing election campaigns. We see that in polls. We hear that in town meetings. We certainly read that in the editorials in the great majority of our daily newspapers.

Proposition No. 2. The title of this bill is the Senate Campaign Finance Reform Act of 1996.

Conclusion. We should pass this bill. People want campaign finance reform. This is campaign finance reform, therefore, it should become law.

Only, incidentally, to this point in the debate has the actual content of the bill been discussed, and almost not at all have the proponents discussed the similar debate that took place more than 20 years ago that resulted in our present campaign finance law, passed on the basis of precisely the syllogism that is presented to us today. In 1974 people did not like the way in which campaigns were being financed and run. A number of Members in both Houses proposed what they called campaign finance reform, and the Congress passed it.

Mr. President, one might ask Members of Congress to look at a little bit of history. I am convinced that if we were to open up the CONGRESSIONAL RECORD for those debates, somewhat more than 20 years ago, every one of the same propositions you have heard here this afternoon were presented: There is too much money in politics. We do not have enough people involved in it. We have to make a set of reforms in order to restore trust in the process.

Mr. President, is there more trust in the process today than there was in 1974? I think not. Are there fewer complaints about the process today than there were in 1974? I think not. Are there more self-financed millionaire candidates today than there were in 1974? I believe there are. Are there more independent expenditures, attempts to influence voting behavior by those who are not directly connected with the candidates themselves? The answer to that question, Mr. President, is there are infinitely more.

And so what is the proposal of the proponents of this bill? ''Let's do more of what we did in 1974. Let's impose more restrictions on the process than we imposed then. Let's limit more significantly what can take place in an open and disorderly political world than we did in 1974.'' All we need is more of what has failed for more than 20 years.

I have looked through this proposal, and I do not think I am exaggerating to say that I believe that I find the heart of the philosophy of the proponents in section 201. I think I can quote it in its entirety. It is on page 31 of the bill, Mr. President.

Notwithstanding any other provision of this act, no person other than an individual or a political committee may make a contribution to a candidate or candidate's authorized committee.

No person, other than an individual or political committee may make a contribution to the political process. And then, Mr. President, I get out my copy of the Constitution of the United States, and in amendment I, I read, ''Congress shall make no law * * * abridging the freedom of speech.'' And I weigh those two propositions against one another.

I see a group of proponents who really, in the world of politics and the expression of political opinion, do not like the first amendment to the Constitution of the United States. So they say that any political campaign through a candidate, no person other than an individual or an authorized committee—authorized by law, passed by this Congress—can make any contribution to a candidate.

Now, Mr. President, we are all quite correctly frequently quoting or remembering the great French observer of more than a century and a half ago, Alexis de Tocqueville, who found the genius of the United States of America to consist of free association. De Tocqueville talked about this country as being a place in which people got together voluntarily in organizations to build a church or to found an antislavery society or to organize a group of immigrants to the new West or to do any of 1,000 or 10,000 other activities. Our genius was voluntary association. In fact, some of the most thoughtful and cogent criticisms of the Soviet Union in its heyday was that it prohibited voluntary association—prevented voluntary associations of people for charitable purposes, for religious purposes, but above all, Mr. President, for political purposes.

The heart of this bill makes it illegal for a group of persons to get together to make a contribution to a political campaign for the U.S. Senate. If the Senator from Kentucky and I want to get together and form an association to promote the election of a candidate for the U.S. Senate in his State or my State or any other State, we will be violating the law if this bill becomes law. We could do it as individuals, but only with this tiny amount of money that has, effectively, been cut by two-thirds since the 1974 law was passed. Of course, as much as the proponents of this legislation dislike the first amendment, they cannot repeal it. They absolutely cannot prevent the Senator from Kentucky and me from getting together and forming this organization and going out quite independently to educate the people of one of these States about the misdeeds of an incumbent, or the glories of some other candidate. Mr. President, if they could, they would. That is the philosophy of this bill. They think that any organization of individuals is a great evil that should be prevented from engaging in campaigns for the U.S. Senate.

Mr. MCCONNELL. Will the Senator yield?

Mr. GORTON. I yield.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Kentucky.

Mr. MCCONNELL. The Senator from Washington indicated it would be illegal under the bill for citizens to form together and form a political action committee and submit a candidate. But is it not true if an individual does it, they better do it early, because once the speech limit has been achieved, even the individual is shut out of the political process, is he not?

Mr. GORTON. The Senator from Kentucky is correct. He and I, under this hypothetical, would not be able in, say, the last 2 weeks before a general election to make any such contribution if the candidate whom we propose to support had already reached the limits provided in this law and agreed to come under its provisions.

As I say, we could not be prevented from our own independent action in that connection. But even the elaborate superstructure, which might to a certain extent lift the restrictions on the other candidate, would likely come too late if we ourselves were late.

I find it fascinating that this bill is being debated on this floor, considering the way in which we see politics has been practiced in the last 6 or 8 months in the United States. We have had literally tens of millions of dollars spent in the most thinly veiled attack on incumbents, mostly in the House of Representatives, who supported last year's balanced budget—tens of millions of dollars. I am particularly sensitive to those attacks because so many of the victims are freshmen Members of Congress from my own State.

Yet the definitions in this bill do not constitute those labor attacks on these incumbents as either contributions to their opponents or, for that matter, independent action, because they very carefully do not advocate their defeat in so many words or the election of their opponent. These incumbents' hands, should this apply to the House, are absolutely tied with respect to a response to those advertisements which they feel—I think even the newspapers feel—grossly misstate their positions on issues.

This leads me, of course, to the second point. When you have a proposal—and assume for the purposes of this action the proposal is entirely constitutional—that limits the ability of one individual, a candidate, or a group of individuals, the candidate and that candidate's supporters, from effectively communicating their ideas to a large group of potential constituents in a country of more than 250 million people, what is the impact? The impact is, if there is less political communication, the political communication that is still allowed has a greater impact.

Now, what kind of political communication is absolutely allowed and not remotely touched by this bill? Why, of course, the communication that comes from editorial writers of the newspapers who have endorsed the bill. It is a bonanza for the editors of the Los Angeles Times or the New York Times or the Milwaukee Journal or the Portland Oregonian. There are far fewer people to counter whatever it is they tell their readers they ought to do. Nothing is provided to the candidate disfavored by those newspapers in the way of being able to communicate countervailing ideas.

At least at the founding of our Republic we could be fairly sure that a town of 5,000 people had four newspapers to engage in that communication. Do we have that today? How does the disfavored candidate in the State of Kentucky deal with a series of editorials every day of the week, and columns every day of the week, in the Louisville Courier Journal in favor of his opponent, against him under this bill? How can that disfavored candidate possibly communicate under this bill?

Mr. MCCONNELL. Will the Senator yield?

Mr. GORTON. Yes.

Mr. MCCONNELL. The Senator, of course, is entirely correct. It is totally impossible to level the playing field—the argument that we always hear by the proponents of this bill. As the Senator indicated, the expression of newspapers, of course, is not impacted at

all; as a matter of fact, specifically exempted from expenditure. I will just read this from the current law, which has not changed under the bill:

> The term ''expenditure'' does not include any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate.

In other words, that kind of speech, which is enormously significant in the political discourse that surrounds any particular campaign year is completely outside of the speech limits imposed by this bill. The Senator from Washington is entirely correct, to the extent that the speech of candidates is suppressed, the speech of others is enhanced.

Mr. GORTON. That enhancement applies not only to the newspapers, of course. Just to take an example of one of the great proponents of the bill, Common Cause. Its ability to communicate its ideas is not in any way restricted by this bill, nor, of course, could it be. But the ability of a candidate who disagrees with the views of Common Cause, or the Sierra Club, or the National Rifle Association, or the AFL–CIO, is severely restricted and, as a matter of fact, may be rendered totally and entirely ineffective.

Now, the proponents of this bill have said this is a very narrow bill. It only applies to the Senate, for example, and not even to the House of Representatives—as if we will ever end up getting a law of that nature. It does not apply to the Presidency. That was a statement made recently by, I think, the Senator from Arizona, which is entirely correct. It does not. But the philosophy behind the bill, that there is just too much free speech in politics today, is absolutely identical. So I think it not at all unfair, Mr. President, to say that we are faced today, right now, without any change in the present law at all, under present laws that stem exactly from the philosophy behind this bill, with the absolutely absurd situation in which there is only one person in the United States of America who may not raise money to communicate his ideas to the people of the United States, and that person is Robert Dole.

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

Mr. GORTON. Not at this point.

The PRESIDING OFFICER. The Senator will not yield.

Mr. GORTON. Mr. President, under this bill, Robert Dole, at this point, is in exactly the position of one of the volunteer candidates for the U.S. Senate. A year ago, or a year and a half ago, whenever the key time was, he determined that he would operate under certain campaign restrictions in return, in his case, for a direct subsidy from the Federal Treasury. In the case of this bill, oh, no, not a direct subsidy, no taxpayer money here. We just take it away from private enterprise, people who own television stations, or from the public and postal fees. He made that determination. He did not realize at that time that he was going to end up with an opponent who would ignore these limitations and spend $40 million of his own money attacking him so that in order to survive through a group of primaries, he had to spend money he had not intended to spend. So he finds himself in a situation in which the other candidate for President of the United States, with all of the advantages that incumbency has, with $18 million, I think, left to spend directly on his campaign, is spending at least some of it harassing the opposing candidate for overspending on his allotment.

So we have campaign election reform. Boy, we have it coming out of our ears in the field of the Presidency of the United States, the net result of which is that one of the two major candidates cannot campaign effectively between now and August.

This is a triumph of election law reform? This is a triumph for the first amendment of the Constitution of the United States? I do not think so, Mr. President. But this is exactly what they want to do to the U.S. Senate in this bill.

Presumably, the great evil is that there is too much in the way of communication of ideas and the people of America are too stupid to be able to figure out who to vote for if we have a free exercise of our first amendment rights and the ability to communicate those ideas through groups, including the groups we have voluntarily chosen to join. Some of the most severe restrictions in this bill are on what political parties can do, Mr. President, for their own candidates.

Now, I do not think there is a single State in the United States of America in which the political party of a candidate for the U.S. Senate does not appear beside his or her name on the ballot. For the Senator from Wisconsin, it says Democrat, and for the Senator from Kentucky, it says Republican right on the ballot when you go in to vote. Yet, somehow or another, receiving more than a modest degree of financial support or direct expenditures from one's political party is deemed by the sponsors of this bill to be corrupting in nature.

Mr. President, I do not understand that. I absolutely fail to understand the theory behind that limitation.

Mr. MCCONNELL. Will the Senator yield?

Mr. GORTON. Yes.

Mr. MCCONNELL. As the Senator from Washington knows, that very issue is currently before the Supreme Court, as to whether or not it is even constitutional to restrict what parties can do on behalf of their candidates, an absurd restriction on its face.

There has been much discussion out here on the floor about the advantages of incumbency. We know that political parties will support challengers. If we wanted to have the right kind of campaign finance reform, one of the first things we ought to do—and I am sure my friend from Washington would agree—is take the shackles off, if the Court does not do it for us, take the shackles off of the one institution of American politics that will support a challenger every time.

Mr. GORTON. That is the party to which the challenger belongs and which can certainly make the determination, which was so eloquently outlined by the Senator from Wisconsin, as to whether or not that challenger is a serious one and has a real opportunity for victory. So if we have no limits on the amount of money——

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

Mr. GORTON. In a few minutes, I will.

If we have no limits on the amount of money the political party could contribute, we would certainly benefit the challengers. Of course, there might be a degree of loyalty on the part of the elected candidate to his or her own political party, the party with whom he or she identifies, from the beginning of his or her candidacy. No, Mr. President, I think it comes right back down to the way with which I began these remarks.

The heart of this bill—and of the other provisions that move in the same direction—is that no person, other than an individual or political candidate, may make a contribution to a candidate. That is the heart of this bill. You cannot make a contribution to a candidate unless you do it in strict accordance with this bill.

It is against the first amendment of the Constitution of the United States that says ''Congress shall make no law * * * abridging the freedom of speech.''

If that law does not abridge the freedom of speech, it is impossible for me to devise one that does.

If the Senator wishes to ask a question, I would be happy to answer.

Mr. FEINGOLD. This Senator is intrigued by the Senator's discussion of newspapers and the roles of the newspapers today in the context of this bill passing and becoming law. All I hear around the country is that the newspapers have lost their clout and that they do not compare with television, cable TV, and the like.

My question is: If it is the case that newspapers somehow have this power, why do not campaigns spend a lot of money on newspaper advertising to counteract?

I would suggest—and it would be an interesting response—that the influence of newspapers is absolutely minuscule. Regrettably the influence of these editorial writers is minuscule compared to the power of television. I would suggest that is the reason that 75 or 80 percent of almost every Senate campaign spends its money on television.

I would be interested in why suddenly newspapers have reached the

power that they have lost over the years.

Mr. GORTON. I am convinced that the Senator from Wisconsin has made an excellent point, and I suspect that however we may disagree on some elements of campaigning that he probably did not spend an awful lot of money in his campaign on newspaper advertising. And I can assure him that I did not either for exactly the reasons that he outlined.

I guess to take the least important part of my answer first, my answer would be there is a difference between newspaper advertising and newspaper editorial support. All of us, even when we were not spending money in a particular newspaper, sought the editorial support of the newspapers in our States. The next level of my answer to his question is, of course, even though that influence has declined in recent year—I think clearly it has—this bill would clearly restore it.

The fundamental point that I was making is that, if you restrict the amount of information that people have about elections, those elements of information that they get will be proportionately more important. If the candidate is severely limited in the amount of communication that he can effectively engage in through newspapers, or through television, or through any other mass media, the impact of what the media themselves do either in their news columns or in their editorial columns will be increased.

But the most significant point that the Senator from Wisconsin causes me to make is that I really used newspapers as a shorthand for the way in which we communicate today. I suspect that the Senator from Wisconsin might not even have asked me the question if I had substituted for newspapers the NBC television outlet in his city, or for that matter NBC, or ABC, or a number of other television outlets in the country as a whole. While they have certain rules on blatant editorialization, there is not one of them who has not experienced what he or she considers to be an absolutely unfair or distorted news story on television which can have a devastating, or for that matter a tremendously affirmative, impact on the attitudes of people toward a campaign.

And what this bill does is to say that no matter how devastating that television news story is on a particular campaign, the victim, the disfavored candidate, is not going to be able to effectively respond to it. None of the benefits of this bill accrues under those circumstances. And the limitations are such that the attack is almost certain to go unanswered.

Mr. FEINGOLD. Mr. President, if I could ask one more question, is it a fair characterization for the Senator to say that the loss of the last 2 years or decades of relative influence of newspapers vis-a-vis television may be changed by this bill? Is it fairly characterizing his remarks as suggesting that newspapers may gain a greater influence than they have under the current system?

I believe that was the gist of the Senator's remarks.

Mr. GORTON. No. The gist of my remarks was that newspapers would gain vis-a-vis television. It will be that both will gain vis-a-vis the ability of the candidate to project his or her own idea.

Mr. FEINGOLD. Have newspapers regained some of the ground they have lost in terms of influence?

Mr. GORTON. I am not sure television has ever lost ground.

Mr. FEINGOLD. But newspapers will regain some of the ground they have lost in terms of the influence. I believe that was one of the Senator's points.

Mr. GORTON. I believe that is the case simply because there will be less in the way of alternate communication under this bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. GORTON. Mr. President, I will summarize. I know the Senator from Illinois has not had an opportunity to speak yet. He has waited almost as long as I did to get that opportunity. I will once again return to what I began with.

So far the arguments, as I have heard them on the floor here today, are that the polls, the newspapers, and the people do not like the present system, and they want campaign election reform. This proposition 2—this bill is entitled ''Campaign Election Reform.'' Conclusion: We should pass this bill.

Mr. President, I do not believe that to be the case. This bill will not end up restoring confidence in the political system. It will force money into different channels, channels which neither this bill nor any other bill can control, one for which the candidates will be less responsible, and not more I think responsible in any respect whatsoever.

The Senator from Utah in beginning this debate said that the appropriate solution was not limitation but disclosure. I agree with him. That is the thrust of an opinion based by Larry Sabato, a political scientist at the University of Virginia which is frequently quoted on these subjects.

Mr. President, we should be willing to trust the American people, as he puts it, with sorting out their own ideas as long as they know the source of those ideas and the source of the money to communicate those ideas. That is appropriate election reform. The Senator from Arizona said, ''Well, why don't you put it up as an amendment after voting for cloture on this bill?'' Mr. President, I think I can announce to him that it would be a nongermane amendment if cloture were granted on this bill and on this amendment. It goes way beyond the scope of the bill—the bill and the amendment itself—because it goes to the current election as a whole.

Mr. MCCAIN. Will the Senator yield?

Mr. GORTON. He will.

Mr. MCCAIN. I assure the Senator right now that I will agree to a unanimous consent request, a motion, if cloture is invoked, that any amendment that the Senator from Washington wanted to impose I would agree to.

Second of all, if I could just comment, the Senator knows what section 324 means: Notwithstanding any other provisions of this act, no person, other than an individual or political candidate, may make a contribution. The Senator knows that unions cannot contribute directly right now. Corporations cannot contribute directly right now, and all it does is say political action committees cannot contribute right now, and the reason political action committees should not be allowed to contribute is because the system in America is so skewed and so unfair that no challenger has a chance.

As I said in my opening remarks, if the challengers were voting today, I say to the Senator from Washington that this bill would be passed in a New York minute.

So the fact is that what this does is it bans political action committees. It does not ban individuals. We have already placed restrictions on free speech by limiting the amount that an individual can contribute.

So I would say to the Senator from Washington that perhaps it is a great idea just to have total disclosure and complete freedom as far as any contribution is concerned. This bill does require disclosure. This bill does require soft money to become hard money, and it also places some reasonable restraints, and they are voluntary. They are voluntary.

We have the Congressional Research Service and other constitutional opinions stating that this is constitutional. I respect the Senator's opinion, but I certainly cannot allow him to get by with saying we are restricting anyone's freedom of speech when we ban political action committees where the common practice is that the Senator from Washington and I go to a lunch someplace, dinner here someplace in Washington, and are given a $1,000, $2,000, $3,000, $4,000, $5,000 check or groups of checks. That is not exactly what our Founding Fathers had in mind.

I thank the Senator for yielding to me.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, we are at the heart of the matter now. The Senator from Arizona does not like the way in which first amendment rights are conducted or exercised at the present time. He therefore wants to limit them. The genius of America in voluntary associations is to him somehow so repulsive that no voluntary association, no unincorporated, voluntary association in America, none whatsoever, is going to be allowed to contribute to a candidate—none. You cannot get together in America in a

voluntary association and contribute to a candidate because he does not like the distribution of money from political action committees.

Well, thank God for James Madison. Thank God for the prohibition on the part of this Congress or any other Congress to abridge the right of free speech just because this Senator does not like the way in which it is exercised at the present time.

The present law is bad, Mr. President. This law is worse.

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

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. Will the Senator yield?

Mr. GORTON. Yes.

The PRESIDING OFFICER. The Senator from Washington yields.

Mr. MCCONNELL. I know the Senator from Washington is about to complete his remarks, and I missed part of the colloquy, but I gathered at the end, if I could ask the Senator from Washington, I guess his view of the bill is that certain kinds of speech are more worthy than others. For example, would the Senator from Washington share my view that this bill puts a premium on the following kinds of speech: going down to a phone bank and volunteering your time or maybe putting yard signs up or making a speech?

Mr. GORTON. As long as you do not pay for them.

Mr. MCCONNELL. As long as you do not pay for them. So would the Senator from Washington agree that the bill attempts to set up certain kinds of preferred speech that would remain acceptable in the postlegislative environment but other kinds of speech are viewed as somehow nefarious and therefore should fall under Government restriction? Is that essentially the point?

Mr. GORTON. Well, it does, but in that case, in that situation, it does not differ from the general philosophy of the present law either applied to races for Congress or to the Presidency. The thrust of my criticism was that 20 years ago, we went into this restriction of free speech rights with all of the same criticisms of the then system that we have now, that that law was going to restore confidence on the part of the American people in the system, and it is worse now and so their cure is more of the hair of the dog that bit you.

Mr. MCCONNELL. I thank the Senator.

Mr. GORTON. I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. MCCAIN. Will the Senator from Illinois yield to me for 30 seconds to respond?

The PRESIDING OFFICER. Does the Senator from Illinois yield?

Mr. SIMON. I yield 2 minutes to my friend from Arizona.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. Mr. President, the Senator from Washington and the Senator from Kentucky and I can argue about constitutionality of certain actions, and since we are in disagreement, then obviously at that point we have to refer to people who have a dog in this fight, and I would like to submit for the RECORD at this time a Congressional Research Service opinion from the Library of Congress, from Mr. L. Paige Whitaker, legislative attorney of the American Law Division, that declares our proposals, which the Senator from Washington was so roundly critical of and so astute in fashioning himself as a constitutional scholar, are viewed to be constitutional.

Second, Mr. President, we do have also various opinions from people like Archibald Cox, Mr. Daniel Lowenstein, professor of law at the University of California, at Los Angeles, and others, all of which say that the provisions of this bill are, indeed, constitutional. The Senator from Washington can certainly be offended by them if he does not like them, but the view of most constitutional scholars on this issue is that it is constitutional.

The PRESIDING OFFICER. Does the Senator wish to enter those into the RECORD at this time?

Mr. MCCAIN. I ask unanimous consent to enter into the RECORD the opinion from the Congressional Research Service. I will save the others as they are needed. I yield and thank my friend from Illinois.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, April 12, 1996.

To: Senator Russell Feingold; Attention, Andy Kutler.
From: L. Paige Whitaker, Legislative Attorney, American Law Division.
Subject: Constitutionality of Campaign Finance Reform Proposals.

This memorandum is furnished in response to your request for a constitutional analysis of three campaign finance reform proposals:

I. CONSTITUTIONALITY OF A VOLUNTARY SPENDING LIMIT SYSTEM LINKED WITH PUBLIC BENEFITS IN THE FORM OF FREE AND DISCOUNTED TELEVISION TIME AND DISCOUNTED POSTAGE RATES

In the 1976 landmark case of *Buckley* v. *Valeo*,[1] the Supreme Court held that spending limitations violate the First Amendment because they impose direct, substantial restraints on the quantity of political speech. The Court found that expenditure limitations fail to serve any substantial government interest in stemming the reality of corruption or the appearance thereof and that they heavily burden political expression.[2] As a result of *Buckley*, spending limits may only be imposed if they are voluntary.

It appears that the provision in question would pass constitutional muster for the same reasons that the public financing scheme for presidential elections was found to be constitutional in *Buckley*. The Court in *Buckley* concluded that presidential public financing was within the constitutional powers of Congress to reform the electoral process and that public financing provisions did not violate any First Amendment rights by abridging, restricting, or censoring speech, expression, and association, but rather encouraged public discussion and participation in the electoral process.[3] Indeed, the Court succinctly stated:

''Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.''[4]

Because the subject provision does not *require* a Senate candidate to comply with spending limits, the proposal appears to be voluntary. Although the incentives of public benefits are provided, in the form of reduced and free broadcast time and reduced postage rates to those candidates who comply with the spending limits, such incentives do not appear to jeopardize the voluntary nature of the limitation. That is, a candidate could legally choose not to comply with the limits by opting not to accept the public benefits. Therefore, it appears that the proposal would be found to be constitutional under *Buckley*.

II. CONSTITUTIONALITY OF REQUIRING CANDIDATES WHO ARE VOLUNTARILY COMPLYING WITH SPENDING LIMITS TO RAISE AT LEAST 60% OF THEIR INDIVIDUAL CONTRIBUTIONS FROM INDIVIDUALS WITHIN THEIR HOME STATE

A voluntary restriction on Senate candidates to raise at least 60% of their individual contributions from individuals within their home state, with incentives for candidates to comply with the ban, would also appear to be constitutional. In exchange for voluntarily complying with the restriction on instate contributions, a congressional candidate could receive such public benefits as free and reduced television time and reduced postage rates. This type of voluntary restriction would most likely be upheld for the same reasons that the Supreme Court in *Buckley* upheld a voluntary spending limits system linked with public financing.

Here, in the subject proposal, as limitations on out-of-state contributions are linked to public benefits as part of the eligibility requirement, they would seem to be constitutional for the same reasons that similar eligibility requirements of the receipt of public funds were held to be constitutional in *Buckley* v. *Valeo*.[5] In exchange for public benefits, participating Senate candidates would voluntarily choose to limit the sources of their contributions. In addition, an out-of-state contribution limit would not seen to violate the First Amendment rights of out-of-state contributors as they would have other outlets, such as through independent expenditures, to engage in political speech in support of such candidates who voluntarily restrict receipt of out-of-state contributions.

III. CONSTITUTIONALITY OF PROHIBITING ALL POLITICAL ACTION COMMITTEES (PACS) FROM MAKING CONTRIBUTIONS, SOLICITING OR RECEIVING CONTRIBUTIONS, OR MAKING EXPENDITURES FOR THE PURPOSE OF INFLUENCING A FEDERAL ELECTION

Generally, the term political action committee (PAC) is used to refer to two different types of committees: connected and nonconnected. A connected PAC, also known as a separate segregated fund, is established and administered by an organization such as corporation or labor union.[6] A nonconnected PAC, on the other hand, is one which is unaffiliated with any federal office candidate, party committee, labor organization, or corporation, although it can be established and administered by persons who are labor union members or corporate employees. Typically, nonconnected PACs may be established by

individuals, persons, groups, including even labor union members, corporate employees, officers, and stockholders, their families, and by persons who collectively work to promote a certain ideology; provided, however, that they keep their political funds separate and apart from any corporate or labor union funds and accounts. They are required to register with the Federal Election Commission after receiving or expending in excess of $1,000 within a calendar year, they are subject to contribution limitations, and, unlike connected PACs, they are limited to using only those funds they solicit to cover establishment and administration costs.[7]

A complete ban on contributions and expenditures by connected *and nonconnected* PACs would appear to be unconstitutional in violation of the First Amendment. Although the courts have not had occasion to address specifically this issue, in *Buckley* v. *Valeo,* the Supreme Court made it clear that the right to associate is a ''basic constitutional freedom''[8] and that any action which may have the effect of curtailing that freedom to associate would be subject to the strictest judicial scrutiny.[9] The Court further asserted that while the right of political association is not absolute,[10] it can only be limited by substantial governmental interests such as the prevention of corruption or the appearance thereof.[11]

Employing this analysis, the Court in *Buckley* determined that any limitations on expenditures of money in federal elections were generally unconstitutional because they substantially and directly restrict the ability of candidates, individuals, and associations to engage in political speech, expression, and association.[12] ''A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached,'' the Court noted.[13] Therefore, in view of *Buckley,* it appears that completely banning expenditures by nonconnected PACs would be found to be unconstitutional.

In *Buckley* the Court found that limitations on contributions can pass constitutional muster only if they are reasonable and only marginally infringe on First Amendment rights in order to stem actual or apparent corruption resulting from *quid pro quo* relationships between contributors and candidates.[14] The Court noted that a reasonable contribution limitation does ''not undermine to any material degree the potential for robust and effective discussion of candidates and campaign issues by individual citizens, associations, the institutional press, candidates, and political parties.''[15] Hence, *Buckley* seems to indicate that a *complete ban* on contributions by nonconnected PACs would be unconstitutional. Such an outright prohibition would arguably impose direct and substantial restraints on the quantity of political speech and political communication between nonconnected PACs and federal candidates.

In sum, it appears that prohibiting all expenditures by PACs would not pass strict judicial scrutiny as it would significantly restrict most PACs from effectively amplifying the voices of their adherents or members.[16] Moreover, an outright ban on contributions, although they are less protected by the First Amendment, would probably be found to substantially infringe on the First Amendment rights of the members of the PACs and therefore be found to be unconstitutional as well.

L. PAIGE WHITAKER,
Legislative Attorney.

FOOTNOTES

[1] 424 U.S. 1 (1976).
[2] *Id.* at 39.
[3] *Id.* at 90–93.
[4] *Id.* at 57, fn. 65.
[5] *Id.* at 90–92, 94–96.
[6] 2 U.S.C. §441(b)(2)(C).
[7] 2 U.S.C. §431(4) (definition of political committee); 2 U.S.C. §433 (registration of political committees).
[8] Buckley, 424 U.S. at 25 (quoting Kusper v. Pontikes, 414 U.S. 51, 57 (173)).
[9] *Id.* (quoting NAACP v. Alabama, 357 U.S. 449, 460–61 (1958)).
[10] *Id.* (citing CSC v. Letter Carriers, 413 U.S. 548, 567 (1973)).
[11] *Id.* at 27–28.
[12] *Id.* at 39–59.
[13] *Id.* at 19.
[14] *Id.* at 20–38.
[15] *Id.* at 29.
[16] NAACP v. Alabama, 357 U.S. 449, 460–61 (1958). This case was cited in *Buckley* v. *Valeo,* 424 U.S. at 22 to support the conclusion that an expenditure limitation precluded most associations from effectively amplifying the voices of their adherents. *See also Sweezy* v. *New Hampshire,* 354 U.S. 234, 250 (1957).

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. SIMON. Mr. President, I yield 1 minute to my friend from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am just a little puzzled by the round condemnation of the PAC ban provision, especially given the fallback provisions that we have included in the bill, because in 1993, Senator PRESSLER offered an amendment 372, which is virtually identical to our provision, and it was supported and voted for by the Senator from Washington and the Senator from Kentucky. They voted for this PAC ban with the fallback provision. I am a little puzzled as to why this can be such a central problem in this bill when it was worthy enough for their support just 2 years ago.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. SIMON. I think the comments of my friend and esteemed colleague from Washington underscore something I have learned in 22 years here. I am a slow learner. I have not learned much, but one of the things I have learned is every reform ultimately needs a reform. That is one of the laws you can put down and it almost always is the case.

I commend my colleagues from Arizona and Wisconsin, Senator MCCAIN and Senator FEINGOLD, for their foresight and their courage in offering this legislation.

This is not an abridgement of free speech. The reality is we have restrictions. If someone in the gallery right now decides they want to make a speech here, the Presiding Officer, the Senator from Idaho, is going to say, ''No, you cannot.'' That is not unconstitutional. So we have sensible restraints in our society.

The other day I saw a bumper sticker here in Washington that tells something of the public mood. It was a little bumper sticker that says, ''Invest in America. Buy a Congressman.'' Kind of a sad commentary on where some people think we are.

I do not believe you can buy a Congressman, but I think we have a system that warps the results of this body.

I thought Senator WELLSTONE's speech was outstanding. I am sorry I did not hear the others. I hope political science teachers around the country will read it and give it to their classes.

Frequently people who visit here, Mr. President, are astounded at the few numbers of Senators who are on the floor. I think they would be more astounded and more outraged if they knew this fact—and I cannot prove it right now, but I am reasonably sure it is true—right now, this minute, there are more Senators raising money than are on the floor of the Senate. I believe that to be the truth. It is a usurpation of the time that we ought to be devoting to issues, to be going out raising money. It affects all of us. I have never promised anyone a thing for a campaign contribution. But if I end up at midnight in a hotel and there are 20 phone calls waiting for me, 19 of them from names I do not recognize, the 20th is someone who gave me a $1,000 campaign contribution—at midnight I am not going to make 20 phone calls. I might make one. Which one do you think I am going to make? The reality is you feel a sense of gratitude to people who are generous enough, and obviously wise enough, to contribute to your campaign. But it means that the financially articulate have inordinate access to policymakers.

I can remember before I ran for reelection in 1990, just before we formed the new Congress, that two key members of my staff came to me and said, ''You ought to shift over to the Finance Committee.'' Why did they want me to shift over to the Finance Committee from Labor and Human Resources or the Judiciary Committee or the Foreign Relations Committee? So I could raise more money.

That is a practical reality around here. Even beyond that reality, when people come into my office or they are on the phone and they ask me to vote for or against something and they have been generous to me, I sometimes wonder, ''Are they going away thinking I agree with them because of the contribution?'' That distorts things. This whole distortion concerns me.

I can remember when I voted for NAFTA, a group of people who said they had been major contributors to me almost implied I had been bought and how could I possibly vote for NAFTA? The process just distorts everything.

I spoke here about 2 hours ago on the west Capitol steps to the PTA. They are here, interested in getting more money for education. My friends, what if the PTA and the other groups like that had as much money to contribute as the defense industry? Would we have a different budget today? You bet we would have a different budget today. We would have appreciably more spent on education, which is in the national interest.

This bill does not solve every problem. It does not go as far as I would like to see us go. But it certainly is a

step forward. Why is this Nation the only one of the Western industrialized nations not to provide health care protection for all of our citizens? Mr. President, 41 million Americans do not have health care coverage. Those 41 million Americans are not big contributors. The insurance companies, the pharmaceutical companies, the people who profit from the present system are the big contributors, and we are letting this system just roll on.

Mr. President, 24 percent of our children are living in poverty. No other Western industrialized nation is anywhere close to that. This is not an act of God. This is not some divine intervention that says children in America have to live in poverty more than children in Italy or Denmark or France or other countries. It is a result of flawed policy. It is a result of policy that is disproportionately responsive to those who can finance campaigns. The 24 percent of our children who live in poverty, their parents are not contributing to our campaigns. That is the reality. So, we do not pay as much attention to them as we should.

One of the arguments I have heard against this is the least valid of all the arguments against it, and that is if we change this, that would be unfair to nonincumbents. Let me tell you, no system is better for incumbents than the system we have right now. We occasionally have people who win who spend less. I am looking at two of them, Senator FEINGOLD and Senator WELLSTONE. But they are the rare exception. I managed to do that in my first Senate campaign, too. But, generally, incumbents under the present system have a huge advantage, and incumbents tend to think whatever system got us elected has to be a pretty good system.

Let me, finally, say I announced right after the last election I was not going to run for reelection. I felt it was time for me to move on and do other things. Not the major consideration, but a consideration, was that in my last election I had raised $8.4 million. I enjoy policymaking. I even, unlike a lot of my colleagues, enjoy campaigning. I enjoy going down the streets of small towns as well as Chicago and elsewhere, campaigning. I do not enjoy fundraising because I think it is distasteful, and I think many, many people understand it is distorting our system.

So I am pleased to be a cosponsor of this legislation. I think it moves us in a direction we ought to be going. It is a step in the right direction. For my friend from Washington, who said the present bill, the reform adopted in 1974, is not working as it should, I would not like to see the present law repealed, weak as it is. My guess is my friend from Washington would not want to see it repealed either. This is a step forward. It is a step the Nation needs.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I rise today in strong support of S. 1219, the Senate Campaign Finance Reform Act of 1996. Let me first praise both the Senator from Arizona and the Senator from Wisconsin for being able to reconcile what I know are substantial differences and produce a piece of legislation that both of them support. I believe the exercise they went through is an exercise all of us need to go through if we are going to be able to change the law that underlies our campaign system. It seems to me it is very, very important for us to do so.

First, as to why, I know there are very strong feelings. I caught a piece of the debate thus far between the Senator from Kentucky and the Senator from Washington and the Senator from Arizona. I know there are very strong feelings about campaign finance reform. Very often, it is true, the facts do not bear up the conclusion people make about the system being corrupted and being bad and so forth. It is very often true the perceptions are far, far worse than the reality.

But as we all know, perceptions in politics can become reality in a big hurry. We all, I suspect, are aware that last summer, on the 11th of June, the two most powerful political leaders in the country, the President of the United States and the Speaker of the House, stood in Claremont, NH, in the runup to the Presidential primary, took a question from the audience about campaign finance reform, and agreed, shook hands and agreed that they were going to cooperate in the appointment of a commission that would make recommendations. We all know since that time nothing has happened.

Also last summer, I read—and I asked staff, and they dug it out for me—a poll that was presented to me that I had presented asking the American people the following question: Who they thought really controlled the Federal Government in Washington, DC. That was last summer, summer of 1995. Twenty-five percent said they thought the Republicans in Congress, since they are in control of both the House and Senate, the Republicans control the Congress; 6 percent said the Democrats controlled the Congress; interestingly, 6 percent thought the President controlled the Federal Government; and 49 percent, up from 38 percent in 1991, said special interests controlled Washington, DC.

Again, I appreciate that much of this is a perception, but it is a very serious perception for us. People have lost trust and confidence, and they are asking for us to level the playing field, give nonincumbents a greater opportunity to clean up our campaign finance system.

I actually heard very few people come to the floor and say the system does not need to be changed. The problem is that we always find ourselves coming up short, unable to finally reach agreement, which is why, again, I praise the hard work that the Senator from Arizona and the Senator from Wisconsin have done because they sat down and worked out their differences. I suspect they still have some things about the bill they are not wildly enthusiastic about, but they know it is long past the time that we are going to be excused by the American people for giving them some excuses.

Mr. President, Nebraska has a connection between campaign finance reform and the history of campaign finance reform. We are connected because we had a son of the State, William Jennings Bryan, running for President in 1896. He was leading his opponent, William McKinley, until a man by the name of Mark Hanna, the Cleveland industrialist who was the top adviser to Republican nominee William McKinley and who also chaired the Republican National Committee, raised and spent money, at that time, in unprecedented amounts.

He spent $100,000 of his own money, which would be well over a million dollars today, on preconvention expenses for McKinley.

He organized and funded the distribution of 100 million campaign documents to what was then a nation of 71 million Americans and 14 million voters.

He established for the first time a line of clear national authority over the State party committees, which carried out his orders.

More important, he augmented the old party fundraising system. The old system was to send your political appointees a note saying, ''Two percent of your salary is the amount. Please remit promptly.''

But Hanna also went to the wealthy industrialists who most feared the free-silver policy of William Jennings Bryan. In August 1896, he met with New York's financial barons and assessed them according to their capital.

J.P. Morgan gave $250,000; Standard Oil $250,000; Chicago's giant meatpackers gave $400,000.

In the end, Hanna raised almost $3.5 million for McKinley, although he never did say how much he raised, but it was enough for him to crush Bryan in the general election, outspending him nearly 20 to 1 and resulting in McKinley's victory.

Until the 1970's, Mr. President, our campaign finance laws were mostly futile efforts to stem the flood of money into politics.

Lest I be completely unbalanced and reference only Republicans doing it, it was a progressive Republican who followed McKinley into the White House, Theodore Roosevelt, who proposed the public funding of elections in his 1907 State of the Union Address, but his proposal went forgotten for 60 years.

Congress passed the Tillman Act of 1907, also backed by Theodore Roosevelt, which barred corporations and banks from contributing to campaigns. In 1925, it passed the Federal Corrupt Practices Act. But these laws did little to stem the tide of money in politics, which had become, at that time, very much a bipartisan problem.

In 1932, the chairman of the Democratic National Committee, John Raskob, the former finance chairman of General Motors, gave about $500,000 a year of his own money to fund the Democratic Party and gave nearly $150,000 alone to the campaign of Franklin Roosevelt.

The year 1940 saw the rise of a young Texas Congressman named Lyndon Johnson. He revitalized what at the time was a very moribund Democratic Congressional Campaign Committee, with money raised from the oil and construction barons who dominated the politics of his State.

Mr. President, I laid that down, and much more can be laid in this debate, to indicate that there is generally a sort of history of lawlessness about campaign finance reform that should be noted when this debate is going on.

The system of funding campaigns is dramatically different. The system itself is much, much cleaner than it was 100 years ago or even 30 years ago. But, again, the perception still dominates in the land that special interests control our legislative process, and that seems to me to be the most important argument for changing our law.

Laws which currently govern our system of campaign finance were passed in the 1970's.

There was the Revenue Act of 1971, which introduced public funding of Presidential campaigns, as well as voluntary limits on campaign spending.

The Federal Election Campaign Act of 1971 set up our system of disclosing contributors and of providing broadcast time to candidates at the lowest unit rate.

The scandal of Watergate later on caused Congress to pass the Federal Election Campaign Act Amendments of 1974. These amendments created the Federal Election Commission; they established individual and PAC contribution limits; they established public funding of Presidential primaries and political conventions; and they limited the amounts that individuals could spend on their own campaigns, a provision which would later be ruled unconstitutional as a violation of the first amendment by the U.S. Supreme Court.

In 1976 and again in 1979, Congress passed additional amendments to the Federal Election Campaign Act. These amendments addressed the constitutional problems of the 1971 and 1974 legislation and expanded the role of the political parties under the law.

But since then, efforts by Congress to pass laws that would reform the system failed.

Mr. President, I believe when more than 50 percent of the American people believe that special interests control the Federal Government and when the two most powerful politicians in America meet in New Hampshire before the first Presidential primary and promise with a handshake to do something to change the law, that we would expect to see some action. The lack of action reinforces the view that Americans have of their Government.

The American people are frustrated by our delay. They are frustrated with the political process that appears to respond to those with economic power and which, all too often, ignores the needs of working men and women.

They are frustrated with the rising cost of campaigns, with a political system which closes the door to people of average means who also want to serve their country in the U.S. Congress.

They are frustrated with a Congress which, in their minds, has been bought and paid for. I serve in the Senate, Mr. President, and I know my colleagues to be men and women of honor, but I can hardly blame the American people for believing that we are not.

They see millions of dollars that go into our campaigns. They read the newspapers and see pictures of lobbyists huddling outside our Chamber with cellular phones, and the citizens wonder whose voice is being heard. They think the men with the cellular phones have first priority.

The American people are frustrated with our tendency to talk instead of act. Eliza Doolittle, in the musical ''My Fair Lady,'' sang a verse which captures how the American people feel about campaign finance reform. She sang:

> Words, words, words. All I hear is words. If you love me, show me.

Mr. President, it is time for us to show the American people, not with words but with action. With a single vote today or tomorrow, Senators can act to allow this issue to move front and center on the political stage. With this bipartisan bill, we can show the American people that we mean what we say when we talk about political reform.

S. 1219 amends the Federal Election Campaign Act of 1971 and it also amends the Communications Act of 1934. It has four simple titles, and I have chosen to go through these titles and allow those who are listening to make their own determination as to whether or not this will improve the system.

Title I of the bill sets up a system of voluntary spending limits for primary, general and runoff elections which are based upon State population. It also sets a voluntary limit on the amount of personal funds which a candidate spends.

For example, let us say you have a woman citizen of this country who challenges a male incumbent. The bill would provide benefits to this candidate who would meet a threshold contribution requirement, and it works within the bill's spending and fundraising limits. It would give her up to 30 minutes of free air time on television and allows her to buy television time and send bulk mail at special low rates.

When she runs against someone who will not accept the bill's limits, whether it is an incumbent or nonincumbent, it boosts her fundraising spending and maximum individual contribution limits so she can keep up with her opponents. If her opponent pledges to obey the limits, and then backs out, he is not only forced to pay back the benefits he received, but then has to start buying his television time at normal commercial rates instead of the lowest unit rate that all candidates enjoy.

The bill requires candidates to raise 60 percent of their funds from residents of their State, but allows candidates in our smaller States to meet that requirement by having 60 percent of their individual contributors be in-State residents. This is a very sensible provision, Mr. President, which prevents the small number of powerful economic interests from dominating the Senate campaign politics of a given State.

Title II of the bill bans contributions from political action committees and provides that if the courts rule the ban unconstitutional, that the maximum contribution limit for PAC's will drop from $5,000 to $1,000 per election. It bans national political parties from raising and spending soft money. It requires State and local parties to spend Federal money on activities that would affect Federal races. It prevents political parties from funding so-called 501(c) organizations.

It allows State parties to raise funds under the control of the Federal Election Campaign Act for grassroots activities such as get-out-the-vote and generic ballot efforts. It requires corporations and unions that spend more than $10,000 for internal communications efforts to report their activity to the Federal Election Commission within 48 hours.

It restricts the bundling of contributions by counting those contributions toward the bundler's individual contribution limit. It requires those who make independent expenditures to report those expenditures within a matter of hours.

Title III, Mr. President, codifies Federal Election Commission regulations which keep candidates from spending their campaign funds on themselves. It requires the FEC to allow a candidate to file their reports electronically. It allows the FEC to conduct random audits upon a vote of four of its members.

Further, it toughens the disclaimer requirements for television ads, something that almost every single Member has observed is very much in need. It bans Members of Congress from using the franking privilege for mass mailing during the calendar year in which they are up for reelection.

Title IV, Mr. President, the bill's final title, provides for expedited review of constitutional issues by the Supreme Court and authorizes the Federal Election Commission to implement the bill's provisions through regulations.

It is not a perfect bill, Mr. President. For example, my view is that PAC and bundling provisions do too much to limit the participation of average men and women in America and too little to

rein in the big corporations which could stay beyond the reach of the law. But it is unquestionably a start, and a very important start. It should not be the target of a filibuster. It should not be an occasion for Senators to weep more crocodile tears and say, we support the concept of reform, but we just cannot live with this or that particular proposal. The voters have heard that before, Mr. President. They know what it means.

It means we want to do nothing. It means we are worried about protecting ourselves, when we ought to be worrying about protecting our democracy. The best test of this bill's success is whether it makes an incumbent Senator nervous. If it does, then it gets the job done.

We cannot afford to tell the voters one more time that we do not want to do anything. They are quickly losing their trust in us. They do not trust us to reform our entitlement programs and allow our children to retire in dignity. They do not trust us to improve the way we teach our children. And they do not trust us to send our troops overseas, to keep our Nation strong, and to lead in the world.

Mr. President, last week 70 percent of Russian voters went to the polls to choose a President. They went because they thought they could make a difference. Meanwhile, in this country it has been a long time since 70 percent of our citizens, who fought and won the cold war, would vote in the 70-percent range.

Mr. President, it is time for us to prove to the American people that we mean what we say when we talk about reforming our political system. Let us earn back their trust so we can go to work and build a better nation.

Mr. President, I again want to say, as I said at the start, I know there are significant disagreements about what should be in any change in the 1971 Campaign Finance Act. I respect those differences of opinion and respect different points of view on this. But, for gosh sakes, let us allow the voters and the citizens of the United States of America to hear a full and open debate. Let us rally the 60 votes necessary to allow this proposal to be considered. I hope sincerely that we will have enough votes tomorrow so that once and for all we can put some action behind our words. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I filed an amendment as a sense-of-the-Senate amendment on last Friday, believing at the time that you could not amend the Constitution by amending a simple bill, that it would not be in order. I have since learned differently. So I ask unanimous consent that that sense-of-the-Senate amendment be modified into the form of a regular amendment.

The PRESIDING OFFICER (Mr. BROWN). Is there objection?

Mr. MCCONNELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HOLLINGS. Mr. President, we see really where they all stand. Now I can give a good sense of history, 23 years ago, we passed the act that gave rise to the problems we're dealing with today—the 1974 act was passed. So if cloture is agreed upon tomorrow, we will be around with that same amendment—a constitutional amendment, because I have just learned for the first time today—you learn something new every day—that you can amend a simple bill with a joint resolution to amend the Constitution.

I have been told otherwise time and again for a good 10 years, ergo, back in the late 1980's, we were trying to get the joint resolution out of the Committee on the Judiciary for 2 or 3 years. We finally got it out. At that particular time we had the distinguished Senator from Oklahoma leading the charge for his particular campaign finance reform, Senator David Boren.

We were trying our best to have our amendment considered. I finally worked out with the then-majority leader, Senator George Mitchell, if I could get it out of the committee, he would give me an up-or-down vote. So after a 3-year struggle we did get it out of the committee.

Back in April 1988, we got 52 votes to amend the Constitution. We had four Republicans. Again, in 1993, in the form of a sense of the Senate we got 52 votes—a bipartisan effort including 6 Republican colleagues. At that time, I was told that one could not amend the Constitution by amending a bill.

I have been told time and time again that what we really needed to do was to correct the fundamental flaw in Buckley versus Valeo. Ironically, what happens is that Buckley versus Valeo amends the Constitution. That is what has occurred. By equating money in politics with speech, the decision essentially amends free speech, because it dictates that those with money can talk and those without money can shut up.

You know, the mother's milk of politics, as it has been said many times on the floor of the Senate, is money. And television, of course, has a great deal of control over elections. Anybody that has been elected—and I am proud to have been elected six times to this particular body—will agree.

I remember when billboards were a sufficient form of advertising. Today, any consultant will tell you, do not waste your money on billboards or on newspaper advertising or whatever else. You get a far greater return on television advertising. And television advertising is very, very costly. Therefore those with money, those that can bear the cost, have a better chance to prevail.

So I am not going to take a long time here because I am hoping we can get cloture, and then I will offer up my amendment, either as a simple amendment to the bill itself or a second degree. And we will stay here as long as we can because it is a simple Senate bill that we would have cloture upon.

It seems the distinguished Senator from Kentucky will not allow me an honest mistake, made because I have been instructed over the many years that one could not submit a constitutional amendment. Well, I harken the memory of everyone to when we voted last year on the flag burning legislation. At that time I was asked if I had any amendments. I said, ''Yes, I have two,'' because I had been waiting all year long to bring up the joint resolution to amend the Constitution for a balanced budget. Senator Dole's amendment, S. 1 of this particular Congress provided for a balanced budget using Social Security trust funds, thereby abolishing the law that protects the fund. I thought we ought to retain that protection and not decimate Social Security trying to balance the budget. We never could get that up.

The leadership was very astute. They did not call any joint resolutions except to call up the flag burning amendment. When that arose, I said, ''Oh, yes, I have two amendments: one to balance the budget and the other one that pertains to campaign finance reform.'' So, as everyone saw in the U.S. Senate, my amendments failed.

They talk about a New York minute: if there is a lesser time period to measure, it is political air. If my amendment passes, we will have this adopted here in a few months, in November, by all the several States. The States came to me, back some 10 years ago when I was working on this and said, ''Please, please, put us in there, too.'' So the legislation will not dictate that just the Congress of the United States is hereby empowered to regulate or control expenditures in Federal elections, but that the States be permitted, also.

So that is my amendment, a very simple one. How it is implemented, what they do about bundling, what they do about separate committees and what they do about disclosure, it can be done constitutionally. That is the fundamental flaw in not only the Buckley versus Valeo decision, but in the pending amendment by my distinguished colleagues, the Senator from Arizona and the Senator from Wisconsin. They are trying to face up to a real problem, but the solution they propose does not control spending in Federal elections. That is the evil that we confronted back in the early 1970's.

You go back to the 1968 Presidential race. You had institutionalized campaign financing. The fundraisers came, for example, to the textile industry. The textile industry, predominant in my State, is almost like the United Fund or the Community Chest. They said, ''Your fair share is $350,000.'' Mr. President, they got 10 textile industries together and they collected $35,000 apiece from each of them in order to comply. This got a lot of people in legal trouble.

I could go on, but that is not the point here. The distinguished Senator from Illinois, Senator SIMON, spoke about buying a Congressman—he told of a bumper sticker he saw, ''Invest in America. Buy a Congressman.'' That was the problem 25 years ago. After the 1968 election when President Nixon took office, John Connally, the Secretary of the Treasury, stated to President Nixon: ''There are a lot of people that have given you millions and thousands and thousands of dollars, and they have not even had a chance to shake your hand. Some you haven't met. I know you want to thank them.''

President Nixon said, ''Fine, I would love it. Give me the chance.'' Connally says, ''Well, come down here in a couple of weeks to my ranch in Texas, and we will have a barbecue. I will invite them there. We can have a grand time. You could meet them and thank them.'' The famous prankster Dick Tuck, a Kennedy confidante, got himself a Brinks' truck, and he put the truck out there on the main road, by the Connally ranch. The press took a picture of the truck and blew it up. They said, ''There it is, Washington is up for sale.'' Republicans and Democrats were hollering. They could not stand it. There was no complaining about disclosure.

We just went ''ticker tape'' on all the things we wanted. No. 1, cash was absolutely forbidden, against the law. Contributions were limited. To an individual, $1,000; a race, $2,000, the primary and general elections; and PAC's were limited to $5,000.

With regard to PAC's, we said representative groups like the teachers association or the doctors in the group or whatever, like labor unions, they ought to be able to band together. So we decided they should be limited to $5,000. So we set the limit there. We said, now we will have complete disclosure. You will have to file every dollar in and every dollar out, not just with the secretary of the Senate, but with the secretary of state in your own home State, so the people back home can see it and know.

Then we said we are going to limit spending overall. Based on a formula: so much per registered voter in each one of the States. My little State of South Carolina, then, would have been limited—we calculated it at around $670,000. This was back in the mid-1970's. Now, double it here from 20 years ago to a million and a half, which is, my gracious, plenty—not $3.5 million and $4 million that it costs for that statewide race.

Look at the reports and the amounts and everything else, and the Senator from Illinois is right. More Senators this minute are out collecting money than Senators that avail themselves of the opportunity to participate in this discussion on the floor of the Senate itself. That is a crime.

According to the FEC reports, during the 6-year period, a Senator must raise something like $12,000 or $14,000 a week, each week, in order to run for reelection. Then, if you get one of these high-fliers coming in that spends $12 million of their own money, then the ox is in the ditch. You are in real trouble there—people who have achieved financial success by way of family or otherwise, suddenly decide that running for the U.S. Senate would be a fun thing to do. Well, that has to stop.

First of all, we must eliminate the poisonous influence of large sums of money. Second, we must get rid of the poisonous influence of the amount time it takes to raise these sums.

The flaw in Buckley versus Valeo, and the flaw in all of these amendments, is that money is not controlled, which is ultimately what everybody wants to do.

Everybody wants that done: we who serve and have to collect the money, those who give it and participate—whether individual PAC's or otherwise—and it is easily done. If you go back to the last five or six constitutional amendments, they deal with elections. Do not give me this acrimony. I have had this before the Judiciary Committee. Oh, they have so many thousands of amendments, and everybody wants to change them. I have to agree that this is a bad atmosphere up here because the contract crowd wants to amend everything in the Constitution.

This is one amendment that has been dutifully considered and voted on by way of a majority at least twice in the last 10 years. I think we can get an even larger majority now that Senator Dole ran into Steve Forbes. He came in like a bolt out of the blue with $35 million and ran around hollering ''Flat tax, flat tax, flat tax.'' Of course, some voters thought, ''They are going to lower my taxes so I will vote for them.'' Come on, Senator Dole was the one calling on the President for a balanced budget. I want to tell Senator Dole, ''Call your colleagues, get on Senator MCCONNELL from Kentucky and tell him now is the time to limit spending.''

The Senator from Kentucky has been frank and straightforward. He says we spend more money on Kibbles and Bits and cat food and dog food than we spend on political campaigns, and we ought to spend more. The Senator from Utah started out the debate. He said: ''If I had to solve it, I think it ought to be recorded, but collect all the money you want and spend it all the time, wherever you want.''

That is exactly the opposite of the intent of campaign finance law. The way we passed that law—Republican and Democrat, overwhelmingly—was to control spending in Federal elections. Our friend, Senator Buckley of New York at that time, took issue. He sued the Senate, in the person of the Secretary Valeo. That is where we got the Buckley versus Valeo decision. I have the appropriate references here in the prepared remarks.

Mr. President, all I can say is here we go again with the same sing-song—a half-hearted attempt to fix the chronic problems surrounding campaign financing. Problems flowing from the Supreme Court's flawed decision of Buckley versus Valeo. We all know the score—we're hamstrung by that decision and the ever increasing cost of a competitive campaign. With the total cost of congressional campaigns skyrocketing from $446 million in 1990 to over $724 million in 1994, the need for limits on campaign expenditures is more urgent than ever. For nearly a quarter of a century, Congress has tried to tackle runaway campaign spending with bills aimed at getting around the disjointed Buckley decision. Again and again, Congress has failed.

Let us resolve not to repeat the mistakes of past campaign finance reform efforts, which have become bogged down in partisanship as Democrats and Republicans each tried to gore the other's sacred cows. During the 103d Congress there was a sign that we could move beyond this partisan bickering, when the Senate in a bipartisan fashion expressed its support for a constitutional amendment to limit campaign expenditures. In May 1993, a nonbinding sense-of-the-Senate-resolution was agreed to which advocated the adoption of a constitutional amendment empowering Congress and the States to limit campaign expenditures. Now we must take the next step and adopt such a constitutional amendment—a simple, straightforward, nonpartisan solution.

As Prof. Gerald G. Ashdown has written in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is ''the most theoretically attractive of the approaches-to-reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere.'' Adds Professor Ashdown: ''If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated.''

Right to the point, in its landmark 1976 ruling in Buckley versus Valeo, the Supreme Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a bizarre distinction between campaign contributions on the grounds that ''* * * the governmental interest in preventing corruption and the appearance of corruption outweighs considerations of free speech.''

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free

speech that has been eroded by the Buckley decision.

After all, as a practical reality, what Buckley says is: Yes, if you have personal wealth, then you have access to television, you have freedom of speech. But if you do not have personal wealth, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking between $1000 and $2,000 for 30 seconds of primetime advertising. In New York City, it's anywhere from $30,000 to $40,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flushed with money go directly to the TV studio. Those without personal wealth are sidetracked to the time-consuming pursuit of cash.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of his speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley. By striking down the limit on what a candidate can spend, Justice Marshall said, ''It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start.''

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right and Ross Perot and Steve Forbes have proved it. Massive spending of their personal fortunes immediately made them contenders. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a winning Senate race was $1.2 million in 1980, rising to $2.9 million in 1984, and skyrocketing to $3.1 million in 1986, $3.7 million in 1988, and up to $4.3 million this past year. To raise that kind of money, the average Senator must raise over $13,800 a week, every week of his or her 6-year term. Overall spending in congressional races increased from $446 million in 1990 to more than $724 million in 1994—almost a 70 percent increase in 4 short years.

This obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 16 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting a big country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. But in recent years, those mill visits and dropping by the country store have become a casualty of the system. There is very little time for them. We're out chasing dollars.

During my 1986 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It's a vicious cycle.

After the election, I held a series of town meetings across the State. Friends asked, ''Why are you doing these town meetings: You just got elected. You've got 6 years.'' To which I answered, ''I'm doing it because it's my first chance to really get out and meet with the people who elected me. I didn't get much of a chance during the campaign. I was too busy chasing bucks.'' I had a similar experience in 1992.

I remember Senator Richard Russell saying: ''They give you a 6-year term in this U.S. Senate: 2 years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue.'' Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to politics and demagoguery right after the election because of the imperatives of raising money.

My proposed constitutional amendment would change all this. Unfortunately, Senate procedure prevents me from offering my amendment to this bill, but, hopefully tomorrow when we see yet another attempt to reform our campaign spending laws fail, we will realize a constitutional amendment is the only viable solution. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, $800,000 per Senate candidate in a small State like South Carolina—a far cry from the millions spent by my opponent and me in 1992. And bear in mind that direct expenditures account for only a portion of total spending. For instance, my 1992 opponent's direct expenditures were supplemented by hundreds of thousands of dollars in expenditures by independent organizations and by the State and local Republican Party. When you total up spending from all sources, my challenger and I spent roughly the same amount in 1992.

And incidentally, Mr. President, let's be done with the canard that spending limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of mortality in upper Chamber elections. And as to the alleged invulnerability of incumbents in the House, I would simply note that well over 50 percent of the House membership has been replaced since the 1990 elections.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress.

I also agree with University of Virginia political scientist Larry Sabato, who has suggested a doctrine of sufficiency with regard to campaign spending. Professor Sabato puts it this way: ''While challengers tend to be underfunded, they can compete effectively if they are capable and have sufficient money to present themselves and their messages.''

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC's, or from individuals. It is still a reasonable—''sufficient,'' to use Professor Sabato's term—amount any way you cut it. Spending will be under control, and we will be able to account for every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small business people, senior citizens, unionists, you name it. They permit people of modest means and limited individual influence to band together with others of mutual interest so their message is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, ''Oh, no, your influence is corrupting, your money is tainted.'' This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations, and special interests.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important impacts. First, it would end the mindless pursuits of ever-fatter campaign war chests. Second, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we wouldn't have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests. And fourth, it would create a more level playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach that I propose. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is not coincidence that all five of the last six recent amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you're talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through a constitutional amendment.

And let's not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since the early 1970's, and we haven't advanced the ball a single yard. It has been a quarter of a century, and no legislative solution has done the job.

Except for the 27th amendment, the last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to govern the 1998 election. Indeed, the amend-the-Constitution approach could prove more expeditious than the alternative legislative approach. Bear in mind that the various public financing bills that have been proposed would all be vulnerable to a Presidential veto. In contrast, this joint resolution, once passed by the Congress, goes directly to the States for ratification. Once ratified, it becomes the law of the land, and it is not subject to veto or Supreme Court challenge.

And, by the way, I reject the argument that if we were to pass and ratify this amendment, Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974, and we can certainly do it again.

Mr. President, this amendment will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In the Buckley decision, it prescribed a bogus if-you-have-the-money-you-can-talk version of free speech. In its place, I urge the Congress to move beyond these acrobatic attempts at legislating around the Buckley decision. As we have all seen, no matter how sincere, these plans are doomed to fail. The solution rests in fixing the Buckley decision. Unfortunately, today we are barred procedurally from getting to take such a vote. It is my hope that before this Congress is out, the majority leader will provide us with an opportunity to vote on my amendment—it is the only solution.

Mr. President, this is a significant reference, and it has been prepared for me with respect to the substituting, or actually amending, a simple bill by a constitutional amendment. The Parliamentarian says:

> The most significant question addressed here is whether the form for proposing a constitutional amendment is prescribed. Article V of the Constitution provides that Congress may, upon a two-thirds vote in each House, propose amendments to the Constitution, subject to ratification by three-fourths of the States. In the alternative, Congress may, upon application of two-thirds of the States, call a convention to consider proposed amendments. Neither the Constitution nor the Standing Rules of the Senate specify the form that the proposal should take. The vast majority of measures proposing amendments to the Constitution introduced in either House of the Congress have been in the form of a joint resolution. A report prepared by the Congressional Research Service, or reference service of the Library of Congress, in 1985, which built upon two earlier compilations of this material states that 9,994 proposals to amend the Constitution had been introduced since 1789 through the 98th Congress (report number 8536, page 3). Of these, only the following 6 have been determined to be in a form other than a joint resolution: S. 2 (December 4, 1889); S. 3000 (January 5, 1916); S. Con. Res. 4 (January 9, 1924); H.R. 9468 (February 17, 1926); S. 199 (January 4, 1935); S. 1020 (April 20, 1981). This enormous weight of practice has, however, never resulted in a Senate precedent. To the contrary, in the only Senate precedent on this point, Vice President Barkley stated, in response to a related point of order: ''On the question of whether an amendment to the Constitution must be submitted in the form of a joint resolution, or in the form of a bill, the only requirement of the Constitution is that the question shall be submitted by a two-thirds vote. It does not require that it be done by joint resolution. It may be done in the form of a bill (January 25, 1950, CONGRESSIONAL RECORD, page 872, 8lst Congress, second session). On May 9, 1962, in response to an inquiry, the chair implied that a constitutional amendment could be proposed as a substitute for a House private relief bill. Therefore, no point of order would lie against a bill which proposed to amend the Constitution.''

I thank the distinguished Chair and my colleagues for their indulgence.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1899 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. STEVENS. Mr. President, I would like to say a few words about this campaign reform bill which is before us. It is with reluctance that I come to the floor to make these statements because I, also, along with Senator HOLLINGS, was a member of the conference committee that brought forth the Senate and the House bill, and sent to the President what I considered to be a real reform bill. We did that coming out of the days of the disclosures of the Watergate era. I believe we have come through several reform eras, and unfortunately those who have come in after the reform has taken place do not recognize that what they see has been reformed, when compared to the past.

When I first came to the Senate there were campaign chairmen who went from State to State with suitcases full of cash. There was no disclosure as to where it came from. We did a lot to reform politics in the United States with the acts that have already been passed. If those acts had only been really followed perhaps we would not be here today arguing over whether this is a reform bill. I come to the Senate because in recent weeks Alaskans who were worried about the impact of this bill have contacted my office. They came to me from the Alaska Broadcasters Association, they came to me as members of various church related organizations, and they came just as individuals who are concerned about the limits placed on their political freedom by this bill.

I agree with the statements earlier made by the Senator from Washington concerning the freedom of association. I view this bill as being directly contrary to one of the basic freedoms of our country. And it is not a bill that is a reform bill at all. It is a bill that people want to call reform because they want to have some symbol in this campaign to use against those of us who are candidates, and they think we will not have the guts to stand up and oppose this bill. They are wrong.

This bill is not a reform bill. I believe we must clean up the system even more than we have in the past and make it fair. But we cannot do that by limiting people's freedom, or by forcing upon the public the cost of financing campaigns.

To me this bill places unfair restrictions on advocacy groups and associations. People in this country ought to be free to associate together and pool their money as long as there is disclosure of where it has come from and there is a record of it. The bill restricts organizations that are the eyes and ears of people who are far distant from this place, and bans political action committees.

Mr. President, the political action committee itself was a reform. It required that people who band together disclose who contributes to their campaign fund, and it requires those to whom the funds are given disclose the receipt of it as well as the committee disclosing the contribution of it. This bill would discourage voter guides that are given to members of groups such as the Christian Coalition or individual churches, or fishermen's organizations in my State. They are records to guide their membership as to the actual voting that takes place here on the floor, and the positions taken by candidates.

I think that ought to be encouraged in a democracy, and not discouraged. This bill will discourage it.

This bill requires broadcasters—and in my view unconstitutionally—to provide free air time to participating candidates.

I happen to have in my State a series of very small broadcasters. I sometimes wonder how they survive. As a matter of fact, one of them, Al Bramstedt of a network affiliate in Anchorage, flew in and testified at our Rules Committee and set forth their objections to this bill. Mr. President, at this point I ask unanimous consent that Mr. Bramstedt's testimony be printed in the RECORD.

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

ORAL TESTIMONY OF AL BRAMSTEDT ON CAMPAIGN REFORM

Thank you, Mr. chairman. My name is Al Bramstedt. I am general manager of the NBC affiliate in Anchorage, Alaska. I thank you and Senator Stevens for allowing me to speak to you this morning on the impact broadcast provisions of campaign reform proposals would have on small-market television. During the new few minutes I want to discuss the effects of the bill's free-time provisions. And you'll hear examples of how these provisions, with reductions in the lowest unit rate and revised classification of time, would bring about financial harm for many smaller stations.

Changing technologies will present us new challenges in the future, but with calm minds and stout hearts America's television broadcasters, even most of the small-market broadcasters, will meet these challenges and remain viable. Today, and in the years ahead, that viability depends on stable income.

A.C. Nielsen ranks Anchorage, Alaska number 156 in market size. Although that's considered small, there are dozens of other markets even smaller. In our market, with its low television station profit margins, every dollar makes a difference.

Political advertising revenue is no exception. In 1994, Anchorage market television cash revenue totaled over $19 million dollars. Political advertising represented more that 10 percent of that total—close to $2 million dollars.

In any business decision, I believe we must consider the impact of Isaac Newton's third law of physics. Newton taught us that for every action there is an equal and opposite reaction.

The action of the free-time provisions of S. 1219 would be to disrupt and reduce revenue from political advertising upon which we, as small-market television broadcasters, are dependent.

Our stations' regular advertisers in turn depend on television to deliver the vital fourth-quarter revenue that sustains them the other nine months of the year.

Local broadcasters also depend heavily on fourth quarter revenues to meet their overall profitability. S. 1219 and proposals like it would reduce television's effect as an advertising medium for commercial advertisers each political season and would directly impact our ability to operate profitably.

These free political ads would not really be free. Newton was right: there will also be a reaction.

To make up revenue lost by displacing regular advertisers, broadcasters would have to increase already challenging fourth-quarter rates for their year-round advertisers, or simply eat those costs themselves.

There is no such thing as ''free'' time. The cost of providing this time under S. 1219 would be paid by advertisers and broadcasters.

Mandated free time proposals are unnecessary. Broadcasters already are providing ever-increasing news and public affairs coverage of federal candidates' campaigns, without the force of federal law.

It is unfair that, while more coverage is taking place, broadcasters are being singled out by this proposed legislation—unlike our major advertising competitor, newspapers.

The current lowest-unit-rate law contains remarkable benefits for political candidates. Forty-five days prior to the primary and 60 days before the general election, legally qualified candidates receive the lowest unit rates the station provides to its most favored advertisers.

Even in small markets, to receive these substantial discounts—typically 25 percent or more—non-political advertisers must spend at least $100,000 each year.

Under the current lowest-unit-rate provisions, during the most important pre-election period candidates pay the lowest rates possible without a commitment of any kind.

Any greater discount formula, much less any free-time provisions, would be unfair not only to television broadcasters, but also to every fourth-quarter advertiser.

In conclusion, I urge you to reject S. 1219. The free-time provisions contained in this bill would harm television broadcasters financially and disrupt advertisers significantly. Further discounts and revising the classification of time simply would make the fourth quarter of every election year unmanageable for television broadcasters. Thank you.

Mr. STEVENS. Mr. President, these broadcasters are the people who deliver over-the-air free television and free radio to people who live in rural America. And if there is any place that is rural it is my State, one-fifth the size of the United States.

To have a bill that says these people must provide the candidates free time is a burden from which many of those broadcasters cannot survive. If they do survive, it will be by charging their advertisers, their customers, to pay higher rates to cover the cost of this free time mandated by the Congress, if this bill is enacted. I think that too is unconstitutional.

It also burdens the Postal Service. Mr. President, I now have served on the Post Office and Civil Service Subcommittee of this Senate longer than any Senator in history. I have really spent a lot of time trying to help the Postal Service survive. It is something I believe must continue. Today, there are many, many Members of Congress would like to just do away with it altogether. This bill would start the process because it would require that the Postal Service provide reduced postal rates to the participating candidates. It is other postal users, their customers again, that pay those costs, or else there will be a deficit for the Postal Service.

This bill is simply public financing of political campaigns again. It is masked. It is in disguise. It is not a reform bill. The broadcasters will pass along their costs to advertisers who try to support free over-the-air radio, or television, if they can. It will require the Postal Service to pass on their costs to the users of the Postal Service, if they can. In effect this bill may be raising the rates for everyone else in the country who uses the Postal Service. The Postal Service is not supported by the taxpayers. It is supported by the ratepayers.

I believe that reform of the system is possible. But it must be constitutional, and it must be fair. It cannot place the financial burden of reform on the public.

I support changing the system in many ways. I have discussed these before. All contributions and campaign expenditures I think should be held to the strictest standards of disclosure. I do not believe in soft money whether it is given to political parties or to candidates, or in bundling of contributions from many sources. I think sunlight is the best disinfectant for the political process, but there is no sunlight under this bill at all.

I support the concept that political action committees should be held to the same disclosure standards and the same contribution limits as individuals or as associations of individuals. In my judgment, business people, fishing groups, and even Alaska whaling captains ought to have the right to participate in the system as a group. But it is not a stronger right I think than individual citizens.

Cash contributions I think should be banned in any amount, whether it is called soft money, or whatever you want to call it. It ought to be banned. Cash is too difficult to track, too difficult to monitor, and it is ripe for abuse. I do not want to go back to the days when campaign chairmen traveled with suitcases full of cash.

They do not do it anymore, Mr. President. There has been reform. And not too many people remember the reforms.

Corporate contributions of any sort to candidates or to parties ought to be banned. We thought we had banned it before under the act that passed the Congress, and there have been ways found around it. But I do not think we should allow corporate contributions of any sort to candidates or parties. All contributions to parties or individuals who are candidates ought to be after-tax dollars. There should be no burden on the taxpayers as a result of the political process.

I would support an additional constitutional amendment to get around the problem of Buckley versus Valeo, the Supreme Court case that held that the bill we passed was unconstitutional as far as the spending of the money that belonged to an individual candidate or his family. I support a constitutional amendment that would limit a candidate's personal spending to a reasonable amount—a quarter of a million dollars, shall we say. That ought to be enough for anyone to spend of their own money to run for political office. Congress ought not to become a special preserve for the wealthy.

But it also ought not to be so structured that it denies an individual or a group of individuals to freely associate and freely conduct themselves in a political process.

Again, I say I was in the chair when one Member kept repeating that this is the reform bill of this Congress. If this is the reform bill of this Congress, if this is the best that we can do, we ought to go home now.

Thank you very much, Mr. President.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, perhaps this would be a good time to spend just a few minutes on distinguishing what is in this bill and what is not in the bill.

We have heard a number of concerns from the opponents that apparently relate to other pieces of legislation. What I would like to do just briefly is indicate what we do have in the bill, and then the Senator from Arizona, I think, will more plainly explain the basic structure of the bill.

The Senator from Alaska just made a few comments about the bill which, unfortunately, simply do not reflect what the bill does now. A concern was raised in the past about these voter guides that people want to be able to send out. The concern was heard. The Senator from Arizona and I specifically included a provision in this bill which reads as follows:

> The term ''expressed advocacy'' does not include the publication and distribution of a communication that is limited to providing information about votes by elected officials on legislative matters and that does not expressly advocate the election or defeat of a clearly identified candidate.

We heard the concern. It has been taken care of. This is another red herring.

Second, speaker after speaker in the opposition today has said that there are mandatory spending limits on this bill, that it is a return to the legislation in the early 1970's. That is just false. We read Buckley versus Valeo. We understand there is a concern in that decision, and that is why we have a voluntary structure. You only have to limit your campaign spending voluntarily. If you do not want to, you do not have to.

Third, the Senator from Alaska says that small TV stations in places like Alaska will have a problem with the free television time. We were aware of that problem from the beginning and specifically have included a hardship provision where a station can easily demonstrate—a smaller station, which is not very likely to be the station used for the free time anyway, can get out from under those provisions. Again, a red herring.

And finally, the concern about the postal service. Senator MCCAIN and I have included a sense-of-the-Senate provision suggesting that the money we save on not having franking done in an election year by people running for office be used to fund the postal reduction. So this is not some kind of new public financing or new burden on the post office if it is done right.

Mr. President, let us talk a little bit about what the bill really does. The proposal does not advocate taking money completely out of the process. Consistent with the Supreme Court's ruling in Buckley versus Valeo, we do not limit any single candidate's ability to spend as much money on their campaign as they want.

No matter how many times the opposite is said to try to confuse the issue, all we try to do here is set up a fair fight. That is all, just a fair fight. We want to ensure that all qualified candidates, not just those with access to big money, have the ability to adequately participate in the political process. All this talk about a gag rule or automatic limitations simply does not relate to our bill. What the overwhelming majority of Americans believe, Mr. President, and what I suspect most Members of this body believe is that our current campaign system which has as its foundation unlimited campaign spending has become about as dysfunctional as it can possibly get.

So what does our bill actually do? None of the things that have been said in the Chamber today by the opposition. What it does do is create a simple, voluntary system.

What are the things that one must volunteer to do in order to get the benefits of the bill? Three major things. First, you have to agree, in order to get the incentives that the Senator from Arizona says, if you want to get the incentives, you have to agree to limit how much you spend in total based on the size of your State—$1 million in a smaller State, something like $9 million in California and all the States in between. You do not have to. But if you want the benefits of the bill, that is what you need to agree to.

Second, you need to get 60 percent of your campaign contributions from individuals from your own home State. That means all the PAC money and all the out-of-State contributions have to be less than 40 percent. If you do not want to do it, you do not have to. If you want to spend $20 million in out-of-State money or PAC money, you can do it. But if you want the goodies, if you want the benefits, if you want the fairness of this system and not spend all of your time raising money from out of State or from PAC's, then you have to agree to this 60 percent limitation.

Third, you cannot spend any amount of your own personal money in order to get the benefits of the bill. In the largest State, you cannot spend more than $250,000. In my State, you could not spend more than $150,000. This is irrelevant to me and some of us in the body, but assuming you have that, that is what you have to do. But again, you can do whatever you want. Mr. Huffington could still spend $30 or $40 or $100 million in California. He just would not get the benefits of the bill. So it is all voluntary.

It is a major distortion to suggest that any of that is mandatory. It simply is not. We crafted it that way because, of course, we intended for this bill to be constitutional, and we strongly believe it is.

What does the person get if they abide by these rules? They sure do not get equality. That is not what the Senator from Arizona and I believe is the result of this bill. They just get a fighting chance.

One of the things a person gets who obeys and abides by the rule is half price on their television time. They get half of the lowest commercial rate—30 days before the primary and 60 days before the final. That is the biggest expenditure of most campaigns. That is what they would get.

Second, they get 30 minutes of free television time if they make it to the final election.

And third, they get the equivalent of two statewide postal mailings at the third class rate given to nonprofits. That is all they get.

They do not get public financing. They do not get equality with their opponent, and the opponent can still spend $5, $10, $15, $20 million. Again, the notion that these provisions are either unconstitutional or mandatory is simply false.

In addition—and this has not been brought out yet—this bill puts the toughest restrictions on soft money ever in a piece of legislation in this body. In other words, we are going to shut down on this practice of pretending that there are hard money limits of $1,000 or $5,000 for PAC's and then somehow allowing individuals and political action committees to come through the back door and end up spending anything they want. Currently, individuals can only give $1,000 to candidates per election, but, with

soft money, individuals can give unlimited contributions to a national party's non-Federal account. PAC's are limited under the law today to $5,000 for hard money, but they may make unlimited contributions to a national party's non-Federal account. Corporations and unions today are prohibited from making direct contributions to Federal candidates or national parties, but they may make unlimited contributions to a national party's non-Federal account. The McCain-Feingold bill shuts this down.

So there is a voluntary scheme that candidates need to abide by to get the benefits, but, yes, there is a scheme of cracking down on soft money that would make the process much more fair and much more accountable.

Mr. President, I want to emphasize, because of the criticisms of the bill as being unconstitutional, the voluntary nature of the bill. If a particular candidate wants to spend more than the system allows or if the candidate is spending $1 million and wants to drop more money into the campaign, they can go ahead and do it. All the candidates can operate as under the present system.

Mr. President, in the time remaining, let me indicate specifically that the authors of this bill strongly reject the notion that this bill is not constitutional. Let me read from the opinion of L. Paige Whitaker, the legislative attorney for the Congressional Research Service, who was specifically asked the question about the constitutionality of our voluntary scheme. He said as follows:

> In the 1976 landmark case of Buckley v. Valeo, the Supreme Court held that spending limitations violate the first amendment because they impose direct substantial restraints on the quantity of political speech. The Court found that expenditure limitations failed to serve any substantial Government interest in stemming the reality of corruption or the appearance thereof and that they heavily burdened political expression. As a result of Buckley, spending limits may only be imposed if they are voluntary.

Mr. Whitaker continues:

> It appears that the provision in question would pass constitutional muster for the same reasons that the public financing scheme for Presidential elections was found to be constitutional in Buckley. The Court in Buckley concluded that Presidential public financing was within the constitutional powers of Congress to reform the electoral process and that the public financing provisions did not violate any first amendment rights by abridging, restricting or censoring speech, expression and association but, rather, encouraged public discussion and participation in the electoral process.

Indeed, as Mr. Whitaker quotes the Court, he says:

> The Court succinctly stated, ''Congress may engage in public financing of election campaigns and may condition acceptance of public funds on agreement of the candidate to abide by specific expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forego private fundraising and accept public funding.

Finally, applying this principle to this bill, which does not involve public financing, he says:

> Because the subject provision does not require a Senate candidate to comply with spending limits, the proposal appears to be voluntary. Although the incentives of public benefits are provided in the form of reduced and free broadcast time and reduced postage rates to those candidates who comply with the spending limits, such incentives do not appear to jeopardize the voluntary nature of the limitation. That is, a candidate could legally choose not to comply with the limits by opting not to accept the public benefits. Therefore [he concludes] it appears the proposal would be found to be constitutional under Buckley.

The constitutional analysis that has been given to this closely reads Buckley versus Valeo and concludes what is inescapable, and that is, if it is a voluntary scheme, which this is, it will pass constitutional muster. All the claims that have been made today that this bill that is before us today is somehow the bill that was passed 20 years ago are simply false. This is a constitutional provision; we drafted it that way with that in mind, and this is, again, perhaps, the largest red herring that is being offered by the other side.

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, as one of the original cosponsors of the McCain-Feingold bill S. 1219, I rise in support of the bill and urge that it not be set aside by a cloture vote. It is by no means a perfect bill, but it does move us several steps closer to a better campaign finance system.

More than 35 years in the Senate I have joined in sponsoring and supporting virtually all major campaign reform legislation before the Senate. In my view, many of these reforms have worked quite well, notwithstanding the traditional laments about the evils of the system.

Just consider how far we have come in improving the system since the Watergate era. We have an effective reporting and disclosure system which works very well; it uses electronic technology and is light years beyond the previous system. We have a system for public funding of Presidential elections, which while compromised by recent practice, is still at core an effective counterforce to flagrant abuse. And we have the Federal Election Commission which fulfills the indispensable role of a neutral—or at least bipartisan—referee, notwithstanding the structural problems inherent in such a role.

To be sure, there are major flaws and problems crying out for resolution. They include the glaring problem of soft money, the disproportionate influence of PAC's and the exorbitant cost of media advertising. The McCain-Feingold bill addresses these problems in a straightforward way.

Indeed, one of the main reasons I joined as an original cosponsor of the bill is that it provides an entitlement of free broadcast time for candidates who voluntarily comply with the spending limits proposed by the bill.

The concept of free broadcast time for Federal candidates is an idea that I have embraced for many years. I believe that the provision of free media time to educate the electorate should be a basic condition of a grant of a license for commercial use of a segment of the broadcast spectrum.

I have sponsored legislation providing various schemes for free time grants for political campaigns for the past 10 years, and I remain hopeful that the concept will one day become law.

When I first introduced legislation providing for free media time in 1986, the idea was viewed as being quite far out of the mainstream—so much so that the bill was not taken very seriously. But by 1993, the concept had gained enough momentum to attract 32 votes in the Senate when I offered it as an amendment to Senator Boren's Election Reform Act. So while the amendment failed to carry the day, the idea had indeed come into its own. And now the McCain-Feingold bill takes it a step further.

I would point out that my own proposals for free broadcast time differ from those in the bill in two respects. First, I believe free broadcast time should be made available for all legitimate candidates, regardless of whether they agree to spending limits, because all should be sharing in an equal claim on a public resource, namely the broadcast spectrum. And my plan would actually distribute the free time through the political parties, to allow for the problem of overlapping claims on broadcasters, which might result from direct distribution to candidates.

Second, I would note that my 1993 amendment to the Boren bill contained a contingency provision of tax deductibility for broadcasters of the value of free time made available for political campaigns. Some such consideration seems necessary to overcome the objections of the broadcast industry.

Finally, Mr. President, I have a basically different view of political action committees than is reflected in this bill. In my view, PAC's play a useful and legitimate role in conveying valid political interests to the campaign process. I do fully agree that they have come to wield disproportionate influence and that their techniques have frequently created the appearance and often the reality of undue and improper influence.

But the solution, I believe, is not to ban PAC contributions altogether from the political process. Surely, there must be a middle ground that would permit PAC's to make their legitimate contribution to the political process without compromising the beneficiaries.

One approach that I find intriguing is the idea of an intermediary, or buffer, between the contribution PAC and the

beneficiary candidate both for purpose of sanitizing the transaction and enforcing an overall limit of PAC expenditures per candidate.

This would entail the creation of a neutral entity which might be called the national political action fund, to be the central repository to which all PAC contributions must be sent, with a pubic listing of intended beneficiaries. The fund would be administered by a neutral authority, possibly the Federal Election Commission.

Part and parcel of this concept would be the provision of statutory limits on the aggregate amount of contributions a candidate could receive from all PAC's in an election cycle. A model for such a provision is the standby limitation proposed in S. 1219, which is 20 percent of the applicable spending limit per State.

Under the plan I am outlining, PAC's could designate intended recipients for payments up to the existing $5,000 limit, and the neutral administrator of the fund would make the payments accordingly, up to the statutory aggregate limit for a given candidate. Any surpluses remaining in the national political action fund at the end of each cycle could be transferred to the Presidential Election Campaign fund, or some similar appropriate source.

Mr. President, I offer the outline of this plan for further development. The process of political campaign reform is an evolutionary process, and I am pleased to have been part of it so far. It remains for those who follow to take up the cause and carry it to new levels of improvement. I urge them to be persistent and patient.

Mr. KOHL. Mr. President, I rise today to join with my colleagues in supporting S. 1219, the Senate Campaign Finance Reform Act. First, I wish to commend my colleague, Senator RUSS FEINGOLD, for his tireless work in bringing this issue to the floor. Senator FEINGOLD has done a tremendous job in keeping this issue before the Senate and ensuring that we have a full debate on this bill. I also wish to commend Senator JOHN MCCAIN, another stalwart advocate of campaign finance reform. Without his bipartisan leadership, we would not be debating this bill today.

Mr. President, we all know our campaign finance system is broken. We all know that the American public is losing trust in our government institutions and electoral system more and more each year. It seems that all members of Congress, Democrats and Republicans, agree that reform is absolutely necessary. Unfortunately, that is where the agreement ends. For a variety of reasons, it seems impossible for Congress to pass and for the President to sign meaningful campaign finance reform. This issue is consistently mired in partisan politics, tinged with the self interest of some individuals and groups who have a vested interest in maintaining the status quo.

That is why today's proposal is so unique. The Senate Campaign Finance Reform Act is the first, real bipartisan reform plan to reach the Senate floor in decades. In the House of Representatives, there is a companion measure which also has garnered bipartisan support. These two bills have widespread grassroots backing through the United States, from groups as diverse as United We Stand to the Gray Panthers to the Children's Defense Fund.

This legislation strikes at the heart at much of what is wrong with our campaign finance system: it eliminates PAC contributions; caps the amounts that can be spent in campaigns; curtails the practice of bundling contributions; and closes the loopholes allowing so-called soft money contributions. The legislation establishes many of these limits through a voluntary system, thereby conforming with Supreme Court rulings governing campaign financing.

Like many Senators, if I had drafted my own bill, I would have omitted some provisions of this legislation and included others. But any meaningful bipartisan reform must be a compromise between competing proposals. And campaign finance reform must be done in a bipartisan fashion—legislation crafted by one party and rammed through the Congress will not and should not get the support of the American people.

Mr. President, I recognize there are deep divisions among Members of Congress over the how to reform our campaign finance system. These divisions have led to stalemate after stalemate over 20 years. Without serious reform, the American public will continue to mistrust not only the way we elect candidates, but the very fundamental precipes of our government. This must not go on.

S. 1219 is the best option currently moving through the Congress to begin renewing America's faith in our elections and curtail the influence of special interest contributions. I am pleased to be a cosponsor of this bill, and urge my colleagues to vote in favor of cloture.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I understand we have a unanimous-consent agreement concerning tomorrow's activities on this particular measure, as well as the rest of today. In the meantime, I would like to make some additional remarks.

I am pleased today we have begun debate on the issue of campaign finance reform. It is a very important issue, one that affects every Member individually, perhaps more than any other issue that will come before this body. There are strong views on this subject. I appreciate the sincerity of those views, but I think we must recognize the public is rightfully demanding reform, and we have an obligation to act on that demand.

Today, as we begin debate on this legislation, the bipartisan Senate Campaign Reform Act of 1995, introduced by myself, Senators FEINGOLD, THOMPSON, WELLSTONE, KASSEBAUM, SIMPSON, GRAHAM of Florida, and others, we are taking a step in the right direction.

Tomorrow we will be faced with the next step. Tomorrow the Senate will vote on cloture on this measure. Make no mistake, that vote is a vote for or against campaign finance reform. A vote for cloture is a vote to move forward, a vote to reform the system. A no vote on cloture is a vote against reform, a vote to preserve the status quo.

This Congress has taken positive steps in the area of institutional reform. The Senate has passed both lobbying reform and gift ban reform legislation. The Senate deserves great praise for this action. The public is justifiably now demanding we take action on the most important sweep of reforms, campaign finance reform. Failure to do so will result in greater public disdain for the Congress.

I hope my colleagues recognize that the status quo has led to dismal approval ratings of the Congress. According to a recent poll conducted by CBS News and the New York Times, only 19 percent of the American people approve of the job that Congress is doing, while a staggering 71 percent disapprove.

We must do something to restore the public's confidence in the Congress as an institution. Our bill is not perfect, but we should not let ''perfect be the enemy of the good.'' After cloture is invoked, my colleagues will have the opportunity to offer amendments and attempt to improve the bill. I hope we can move forward.

Mr. President, this bill is about restoring the public's faith in the Congress and the electoral system. It is about elections being won and lost on ideology, not fundraising. It is about leveling the playing field between challengers and incumbents, and it is a bipartisan effort to bring about a dramatic change to the status quo.

Again, I want to note, this bill is about placing ideas over dollars. Last year, the Republicans took control of the House and the Senate, not due to fundraising but due to ideas that the American people understood and related to. Campaigns are not run for free. This bill recognizes that fact. It does not end campaign spending, but it limits it in a manner that forces candidates to rely more on their message than on their fundraising prowess.

Mr. President, poll after poll demonstrates that the public has lost faith in the Congress. One of the reasons this has occurred is that the public believes, rightly or wrongly, that special interests control the political and electoral system.

In order to limit the ability of special interests to control the process, we must enact campaign finance reform. A recent USA-CNN-Gallup poll revealed that 83 percent of the American people want to see campaign finance reform passed.

According to the same poll, the only two issues that the public felt more important were balancing the Federal budget and reforming welfare. Other polls show how badly campaign finance reform is needed.

I made reference earlier to a poll conducted by Mr. McInturff of Public Opinion Strategies, which asks three questions: ''Which of the following do you think really controls the Federal Government in Washington?''

Registered voters responded: the lobbyists and special interests, 49 percent; Republicans in Congress, 25 percent; have not thought much about it, 14 percent; the President, 6 percent; the Democrats in Congress, 6 percent.

When asked ''those who make large campaign contributions get special favors from politicians,'' respondents said: this is one of the things that worries you most, 34 percent; worries you a great deal, 34 percent; worries you some, 20 percent; worries you not too much, 5 percent; and worries you not at all, 3 percent.

Finally, when asked ''we need campaign finance reform to make politicians accountable to average voters rather than special interests,'' the voters stated: this was very convincing, 59 percent; somewhat convincing, 31 percent; not very convincing, 5 percent; not at all convincing, 4 percent; and don't know, 2 percent.

Mr. President, I think that pretty well describes the view of the American people on this issue. I would like to outline, again, because of a lot of the statements that have been made already on the floor on this issue, again, what the bill does, because there has been either a misunderstanding or misconstruing of what this legislation does. It contains voluntary spending limits and benefits. Spending limits would be based on each State's voting-age population, ranging from a high of over $8 million in a large State like California to a low of $1.5 million in a smaller State like Wyoming.

Candidates who voluntarily comply with spending limits would receive free broadcast time. Candidates would be entitled to 30 minutes of free broadcast time, broadcast discounts. Broadcasters would be required to sell advertising to a complying candidate at 50 percent of the lowest unit rate, reduced postage rate. A candidate would be able to send up to two pieces of mail to each voting-age resident at the lowest third-class nonprofit bulk rate.

As my colleague from Wisconsin pointed out earlier, by eliminating the franked mail, the free mail that Senators make use of during this time period, that would be the way that we would pay for the reduced postage rates.

I also point out this free broadcast time of up to 30 minutes in every 6-year cycle in a State I do not believe would be a debilitating experience for most broadcasters. However, if a small station can prove that that would have harmful—in fact, damaging—financial effects on them, then there is a way to get dispensation from this requirement.

There is a new variable contribution limit. If a candidate's opponent does not agree to the spending limits or exceeds the limits, the complying candidate's individual contribution limit is raised from $1,000 to $2,000 and the complying candidate's spending ceiling is raised by 20 percent.

The bill limits the use of personal funds. Complying candidates cannot spend more than $250,000 from their personal funds. Candidates who spend more than that amount are considered in violation of this act and thereby qualify for none of this act's benefits.

The legislation requires candidates to raise 60 percent of campaign funds from individuals residing in the candidate's home State. If a candidate is running from a small State, a candidate may still qualify for the benefits contained in this bill if 60 percent of the individuals contributing to the candidate's campaign committee legally reside in the candidate's State, as compared to the larger States where 60 percent of the dollars raised must come from within the candidate's State. All such individuals must be reported to the FEC.

There was a legitimate and, I think, sincere concern on the part of Members from small States, and I think this modification that we have made will be very helpful in that direction.

The legislation bans political action committee contributions. While the bill bans PAC's, in case a PAC ban is ruled unconstitutional by the Supreme Court, backup limits on PAC contributions are also included.

In such an instance, PAC contribution limits will be lowered from $5,000 to the individual contribution limit.

Additionally, candidates could receive no more than 20 percent of their contributions from political action committees.

Mr. President, I have heard the arguments today, and will hear them again tomorrow, about how political action committees are simply collections of individuals who want to see good Government. That is not the problem. I believe that individuals can contribute significantly, but the problem lies not in the political action committees being formed, the problem is that the political action committees cause a dramatic unlevel playing field.

I do not know how a challenger really thinks that they can compete when in 1995—and the numbers will be similar for 1996, Mr. President—$59.2 million went to incumbents and $3.9 million went to challengers.

That is what is wrong with the political action committee, Mr. President. It is where the money is going. You know, I said half facetiously earlier in the debate, if challengers were voting on this bill, it would go through in a New York minute. I understand how many incumbents have come to rely on political action committee funding. But what we have to do here is try to give challengers an opportunity.

This frustration with challengers not having an equal opportunity in the political playing field has been manifested in the term limits movement. Why is it that we have seen in recent years this tremendous increase in support for term limits? It is because incumbents stay too long, in the view of the voters.

I suggest to you a better solution than term limits—although I have supported term limits because that is the view of the majority of the people in my State—but if you really want to keep the good and great people, many of whom have graced this body and the other one, then you should make sure that there is an equal opportunity for all in the political arena, and thereby you keep the best people and you get rid of the worst.

There were a lot of comments made in the last election that there was this huge turnover in Congress, especially in the other body there was this huge turnover. There were some very spectacular defeats of some long-term incumbents.

Mr. President, I also remind you that 91 percent of the incumbents overall were reelected in the last election in this and the other body in the numbers of incumbents who sought reelection.

Mr. President, this is obviously a very, very emotional issue, this issue of political action committees. It is an emotional issue. There is a question about its constitutionality. That is why, if a complete ban is declared unconstitutional, then the limits on spending will be reduced to that of an individual contribution. Yet at the same time, Mr. President, this situation, in the view of the majority of the American people, I think very correctly, is that political action committees distort the political process. Looking at those numbers, I do not know how you reach any other conclusion except that they distort the political process rather dramatically.

Mr. President, the bill also bans all franked mass mailings in the calendar year of a campaign.

It increases disclosure and accountability for those who engage in political advertising. In order to discourage negative advertising and encourage accountability, any political ad must contain a disclosure where the individual running the ad states, ''(the name of the individual) is responsible for the contents of this ad.''

For example, if I was running against the Senator from Colorado, who is in the chair, for the U.S. Senate and I had something negative to say about him, then at the bottom of the television ad it would say—if my committee paid for it, if contributions to my campaign paid for it, down at the bottom of the television commercial it would say, ''JOHN MCCAIN is responsible for this message.''

Mr. President, it would not say, ''Paid for by Joe Smith, treasurer,

MCCAIN for Senate.'' It would not say a lot of the other things that you see which are a little confusing to voters. It would say, ''JOHN MCCAIN is responsible for the contents of this ad,'' so that there would be no doubt as to who was responsible for the message. I think it would do two things. I think it would dramatically contribute to truth in advertising, and I think it would also be discouraging to those who want to engage in negative advertising.

It limits bundling. The legislation also requires full disclosure of all soft money contributions. In other words, soft money is made hard so that it can be tracked.

The Scranton Times noted ''the soft money racket is a national scandal that perpetuates special interest dominance of the congressional debates on innumerable issues. Both parties troll the soft money waters for contributions.''

Finally, the bill bans the personal use of campaign funds. The bill codifies a recent FEC ruling that prohibits candidates from using campaign funds for personal purposes, such as mortgage maintenance or vacation trips.

Mr. President, I have been on the floor on this issue before. I have always been amazed at the creativity of some Members of Congress as to how they have been able to spend campaign funds. Clearly, it is an abuse that needs to be brought to a stop.

This bill will affect both parties equally. It does what other bills in the past did not. It does not benefit just one party. That is also why it has bipartisan support.

Is this a perfect bill? No. I do not know if it is even possible to write a perfect bill on this subject. But it is a good bill, and as the Washington Post said, ''it would represent a large step forward.''

That is why this bill has so much support. Groups ranging from United We Stand to Common Cause to Public Citizen, to the AARP support this bill.

Two hundred sixty-one editorials from 161 newspapers from around the country have opined in favor of campaign finance reform. Mr. President, I ask unanimous consent that a list of the 261 newspapers be printed in the RECORD.

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

Below are 261 editorials from 161 newspapers and publications, urging support for campaign finance reform. These editorials have been published since January 1, 1995:

Akron Beacon Journal, Akron, Ohio.
Alameda Times-Star, Alameda, California.
Times Union, Albany, New York.
Alexandria Daily Town Talk, Alexandria, Louisiana.
Altoona Mirror, Altoona, Pennsylvania.
Amarillo Daily News, Amarillo, Texas.
Anchorage Daily News, Anchorage, Alaska.
Asheville Citizen-Times, Asheville, North Carolina.
The Athens Messenger, Athens, Ohio.
The Daily Post-Athenian, Athens, Tennessee.
The Atlanta Constitution, Atlanta, Georgia (5).
The Atlanta Journal, Atlanta, Georgia (3).
Kennebec Journal, Augusta, Maine (3)
Bangor Daily News, Bangor, Maine (3).
The Times Argus, Barre, Vermont.
The Birmingham News, Birmingham, Alabama (4).
The Boston Globe, Boston, Massachusetts (4).
Boston Herald, Boston, Massachusetts.
The Brainerd Daily Dispatch, Brainerd, Minnesota.
Brattleboro Reformer, Brattleboro, Vermont (3).
Connecticut Post, Bridgeport, Connecticut (2).
The Courier-News, Bridgewater, New Jersey,
Brownwood Bulletin, Brownwood, Texas.
The Times Record, Brunswick, Maine (2).
The Buffalo News, Buffalo, New York.
Times-News, Burlington, North Carolina.
The Burlington Free Press, Burlington, Vermont.
Cadillac News, Cadillac, Michigan.
The Repository, Canton, Ohio (4).
Public Opinion, Chambersburg, Pennsylvania.
Chapel Hill Herald, Chapel Hill, North Carolina.
The Charleston Gazette, Charleston, West Virginia.
Chattanooga Free Press, Chattanooga, Tennessee.
Chicago Sun-Times, Chicago, Illinois.
Chicago Life, Chicago, Illinois.
The Leaf-Chronicle, Clarksville, Tennessee.
The Plain Dealer, Cleveland, Ohio.
Daily Editor, Cobleskill, New York.
Billerica Minute-Man, Concord, Massachusetts.
Concord Monitor, Concord, New Hampshire.
Corpus Christi Caller-Times, Corpus Christi, Texas.
The News-Times, Danbury, Connecticut.
Danvers Herald, Danvers, Massachusetts.
Danville Register & Bee, Danville, Virginia.
The Des Moines Register, Des Moines, Iowa (2).
Detroit Free Press, Detroit, Michigan.
The Dothan Progress, Dothan, Alabama.
Durango Herald, Durango, Colorado.
The Herald-Sun, Durham, North Carolina.
The Express-Times, Easton, Pennsylvania.
Imperial Valley Press, El Centro, California.
Times-Herald, Forrest City, Arkansas.
Sun-Sentinel, Ft. Lauderdale, Florida (2).
The Middlesex News, Framingham, Massachusetts.
The Gainesville Sun, Gainesville, Florida (11).
Georgetown Times, Georgetown, South Carolina.
Great Falls Tribune, Great Falls, Montana (2).
News & Record, Greensboro, North Carolina.
The Record, Hackensack, New Jersey.
The Times, Hammond, Indiana.
The Hartford Courant, Hartford, Connecticut (4).
The Daily Review, Hayward, California.
Standard-Speaker, Hazleton, Pennsylvania.
The Coastal Courier, Hinesville, Georgia.
Hobbs Daily News-Sun, Hobbs, New Mexico.
Houston Chronicle, Houston, Texas.
Independence Daily Reporter, Independence, Kansas.
Jacksonville Journal-Courier, Jacksonville, Illinois.
Johnson City Press, Johnson City, Tennessee.
The Joplin Globe, Joplin, Missouri.
The Kansas City Star, Kansas City, Missouri (3).
The Keene Sentinel, Keene, New Hampshire.
The Knoxville News-Sentinel, Knoxville, Tennessee.
La Crosse Tribune, La Crosse, Wisconsin.
The Ledger, Lakeland, Florida (3).
Las Cruces Sun-News, Las Cruces, New Mexico.
Bucks County Courier Times, Levittown-Bristol, Pennsylvania.
Lodi News-Sentinel, Lodi, California.
Newsday, Long Island, New York (3).
The Daily News, Longview, Washington (2).
Los Angeles Times, Los Angeles, California (2).
Lubbock Avalanche-Journal, Lubbock, Texas.
Wisconsin State Journal, Madison, Wisconsin.
Journal Inquirer, Manchester, Connecticut.
Herald Times Reporter, Manitowoc, Wisconsin.
The Times Leader, Martins Ferry, Ohio.
The Middletown Press, Middletown, Connecticut.
Times Herald-Record, Middletown, New York.
The Milwaukee Journal Sentinel, Milwaukee, Wisconsin (2).
Star Tribune, Minneapolis, Minnesota.
The Mobile Beacon-Alabama Citizen, Mobile, Alabama.
The Montgomery Advertiser, Montgomery, Alabama.
The Muskegon Chronicle, Muskegon, Michigan.
The Tennessean, Nashville, Tennessee (6).
New Braunfels Herald-Zeitung, New Braunfels, Texas.
The New York Times, New York, New York (6).
The Queens Jewish Week, New York, New York.
The Times Herald, Norristown, Pennsylvania.
The Oakland Tribune, Oakland, California.
Ocala Star-Banner, Ocala, Florida.
The Olympian, Olympia, Washington.
Messenger-Inquirer, Owensboro, Kentucky.
The Paris Post-Intelligencer, Paris, Tennessee.
The Parkersburg Sentinel, Parkersburg, West Virginia.
Star-News, Pasadena, California.
East Oregonian, Pendleton, Oregon.
The Philadelphia Inquirer, Philadelphia, Pennsylvania (8).
Pittsburgh Post-Gazette, Pittsburgh, Pennsylvania.
Port Arthur News, Port Arthur, Texas.
Portland Press Herald, Portland, Maine.
The Oregonian, Portland, Oregon (2).
The Daily Times, Primos, Pennsylania.
The Providence Sunday Journal, Providence, Rhode Island.
The News & Observer, Raleigh, North Carolina.
Record-Courier, Ravenna, Ohio.
Roanoke Times & World News, Roanoke, Virginia (5).
Rockford Register Star, Rockford, Illinois.
Rutland Herald, Rutland, Vermont (2).
The St. Augustine Record, St. Augustine, Florida.
St. Louis Post-Dispatch, St. Louis, Missouri (3).
St. Petersburg Times, St. Petersburg, Florida.
Statesman-Journal, Salem, Oregon.
Standard-Times, San Angelo, Texas.
San Antonio Express-News, San Antonio, Texas.
Examiner, San Francisco, California.
San Francisco Chronicle, San Francisco, California.

Telegram-Tribune, San Luis Obispo, California (2).
Santa Cruz County Sentinel, Santa Cruz, California (2).
Sarasota Herald-Tribune, Sarasota, Florida (2).
Savannah News-Press, Savannah, Georgia.
The Scranton Times, Scranton, Pennsylvania.
The Tribune, Scranton, Pennsylvania (2).
The Seattle Times, Seattle, Washington (2).
The Sheboygan Press, Sheboygan, Wisconsin.
Simi Valley Star & Enterprise, Simi Valley, California.
South Bend Tribune, South Bend, Indiana.
Statesboro Herald, Statesboro, Georgia (3).
Stevens Point Journal, Stevens Point, Wisconsin.
Pocono Record, Stroudsburg, Pennsylvania (2).
Syracuse Herald-Journal, Syracuse, New York.
The News Tribune, Tacoma, Washington.
Temple Daily Telegram, Temple, Texas (2).
Thousand Oaks Star & News Chronicle, Thousand Oaks, California.
The Blade, Toledo, Ohio.
The Times, Trenton, New Jersey.
Tyler Morning Telegraph, Tyler, Texas.
The Columbian, Vancouver, Washington.
Vero Beach Press-Journal, Vero Beach, Florida.
Vicksburg Evening Post, Vicksburg, Mississippi (2).
Waco Tribune-Herald, Waco, Texas (2).
The Washington Post, Washington, D.C. (10).
USA Today, Washington, D.C.
Watertown Daily Times, Watertown, Wisconsin (2).
Central Maine Morning Sentinel, Waterville, Maine (3).
San Gabriel Valley Tribune, West Covina, California.
The Palm Beach Post, West Palm Beach, Florida (4).
The Whittier Daily News, Whittier, California.
Morning Star, Wilmington, North Carolina.
The Potomac News, Woodbridge, Virginia.
Yakima Herald-Republic, Yakima, Washington.
Consumer Reports, Yonkers, New York.

Mr. MCCAIN. Mr. President, I would like to just note some of the many papers that have editorialized on this subject. I also want to point out that a couple of the editorials have made note of the fact that opposition to this legislation has made interesting bedfellows.

Mr. President, I do not know of a piece of legislation that is opposed by the American Trial Lawyers Association, the major business organizations in America, and the Christian Coalition. Let me quote from the Atlanta Journal editorial of this year:

Time was when lawyers in this country worked at making democracy work. Some still do. So it's discouraging to learn that among those creating a coalition against campaign finance reform is the American Trial Lawyers Association. Actually, it is discouraging that the nation's top business lobbying organization, which includes physicians as well as realtors and the AFL–CIO, which represents a whole lot of average folks, are also not giving up the money game. Our Washington reporter Andrew Mollison uncovered a plan for the probusiness National Association of Business Political Action Committees to form a coalition with the AFL–CIO and the trial lawyers to block a bill that the Senate will be considering next week cosponsored by Republican John McCain and Democrat Russell Feingold. The bill marks the first time ever the Republicans and Democrats have agreed on such reform and includes some honest changes.

Mr. President, as I say, I have never known of a piece of legislation that has been opposed by this conglomerate of individuals who have different interests. I can assume only that they feel threatened by this reform in order for them to join together in what must be and some would view as an unholy alliance.

Mr. President, the editorial writers from around the country of 261 newspapers support this bill because, first, it is the right thing to do. It recognizes the system needs fixing, and they also recognize that if any bill is to pass, it must affect both parties equally and fairly. This bill does that, and for that reason it has bipartisan support. My friend from Kentucky will contend that it is not bipartisan on that charge. I must disagree. This is a bipartisan, balanced bill. It favors neither party.

As the Philadelphia Inquirer stated:

To get the big money and its corrupting influence out of campaigns for Congress, hundreds of incumbents must abandon the system that coddles and protects them. [S. 1219] isn't just another high-minded reform headed nowhere. It's a hard-headed, achievable plan to cleanse a system that delivers legislative influence to the bidders while stacking the deck against challengers. Citizens should tell their lawmakers to get with it.

Second, in a dramatic change from past campaign finance bills, it contains no public financing. This is not a reincarnation of past partisan bills. Those bills may have contained spending limits, but the comparison ends there.

Third, the bill is constitutional. The Senator from Kentucky and others do not agree with me on this point. But many legal experts from around the country do.

Mr. President, I will submit for the RECORD several letters making a compelling argument for the constitutionality of S. 1219. These letters are from the American Law Division of the Congressional Research Service; Prof. Frederick Schauer, professor of the first amendment, Harvard University Law School; Prof. Daniel Lowenstein, professor of law, University of California, Los Angeles; Prof. Cass Sunstein, distinguished service professor of jurisprudence, University of Chicago Law School; Prof. Marlene Arnold Nicholson, professor of law, DePaul University; and Prof. Jamin Raskin, associate dean, the American University College of Law.

Mr. President, I ask unanimous consent that those letters be printed in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, April 12, 1996.

To: Senator Russell Feingold; Attention, Andy Kutler.
From: L. Paige Whitaker, Legislative Attorney, American Law Division.
Subject: Constitutionality of Campaign Finance Reform Proposals.

This memorandum is furnished in response to your request for a constitutional analysis of three campaign finance reform proposals:

I. CONSTITUTIONALITY OF A VOLUNTARY SPENDING LIMIT SYSTEM LINKED WITH PUBLIC BENEFITS IN THE FORM OF FREE AND DISCOUNTED TELEVISION TIME AND DISCOUNTED POSTAGE RATES

In the 1976 landmark case of *Buckley* v. *Valeo*,[1] the Supreme Court held that spending limitations violate the First Amendment because they impose direct, substantial restraints on the quantity of political speech. The Court found that expenditure limitations fail to serve any substantial government interest in stemming the reality of corruption or the appearance thereof and that they heavily burden political expression.[2] As a result of *Buckley*, spending limits may only be imposed if they are voluntary.

It appears that the provision in question would pass constitutional muster for the same reasons that the public financing scheme for presidential elections was found to be constitutional in *Buckley*. The Court in *Buckley* concluded that presidential public financing was within the constitutional powers of Congress to reform the electoral process and that public financing provisions did not violate any First Amendment rights by abridging, restricting, or censoring speech, expression, and association, but rather encouraged public discussion and participation in the electoral process.[3] Indeed, the Court succinctly stated:

''Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.''[4]

Because the subject provision does not *require* a Senate candidate to comply with spending limits, the proposal appears to be voluntary. Although the incentives of public benefits are provided, in the form of reduced and free broadcast time and reduced postage rates to those candidates who comply with the spending limits, such incentives do not appear to jeopardize the voluntary nature of the limitation. That is, a candidate could legally choose not to comply with the limits by opting not to accept the public benefits. Therefore, it appears that the proposal would be found to be constitutional under *Buckley*.

II. CONSTITUTIONALITY OF REQUIRING CANDIDATES WHO ARE VOLUNTARILY COMPLYING WITH SPENDING LIMITS TO RAISE AT LEAST 60% OF THEIR INDIVIDUAL CONTRIBUTIONS FROM INDIVIDUALS WITHIN THEIR HOME STATE

A voluntary restriction on Senate candidates to raise at least 60% of their individual contributions from individuals within their home state, with incentives for candidates to comply with the ban, would also appear to be constitutional. In exchange for voluntarily complying with the restriction on instate contributions, a congressional candidate could receive such public benefits as free and reduced television time and reduced postage rates. This type of voluntary restriction would most likely be upheld for the same reasons that the Supreme Court in *Buckley* upheld a voluntary spending limits system linked with public financing.

Here, in the subject proposal, as limitations on out-of-state contributions are linked to public benefits as part of the eligibility requirement, they would seem to be constitutional for the same reasons that similar eligibility requirements of the receipt of public funds were held to be constitutional in *Buckley* v. *Valeo*.[5] In exchange for public benefits, participating Senate candidates would voluntarily choose to limit the sources of their contributions. In addition, an out-of-state contribution limit would not seen to violate the First Amendment rights of out-of-state contributors as they would have other outlets, such as through independent expenditures, to engage in political speech in support of such candidates who voluntarily restrict receipt of out-of-state contributions.

III. CONSTITUTIONALITY OF PROHIBITING ALL POLITICAL ACTION COMMITTEES (PACS) FROM MAKING CONTRIBUTIONS, SOLICITING OR RECEIVING CONTRIBUTIONS, OR MAKING EXPENDITURES FOR THE PURPOSE OF INFLUENCING A FEDERAL ELECTION

Generally, the term political action committee (PAC) is used to refer to two different types of committees: connected and nonconnected. A connected PAC, also known as a separate segregated fund, is established and administered by an organization such as corporation or labor union.[6] A nonconnected PAC, on the other hand, is one which is unaffiliated with any federal office candidate, party committee, labor organization, or corporation, although it can be established and administered by persons who are labor union members or corporate employees. Typically, nonconnected PACs may be established by individuals, persons, groups, including even labor union members, corporate employees, officers, and stockholders, their families, and by persons who collectively work to promote a certain ideology; provided, however, that they keep their political funds separate and apart from any corporate or labor union funds and accounts. They are required to register with the Federal Election Commission after receiving or expending in excess of $1,000 within a calendar year, they are subject to contribution limitations, and, unlike connected PACs, they are limited to using only those funds they solicit to cover establishment and administration costs.[7]

A complete ban on contributions and expenditures by connected *and nonconnected* PACs would appear to be unconstitutional in violation of the First Amendment. Although the courts have not had occasion to address specifically this issue, in *Buckley* v. *Valeo,* the Supreme Court made it clear that the right to associate is a ''basic constitutional freedom''[8] and that any action which may have the effect of curtailing that freedom to associate would be subject to the strictest judicial scrutiny.[9] The Court further asserted that while the right of political association is not absolute,[10] it can only be limited by substantial governmental interests such as the prevention of corruption or the appearance thereof.[11]

Employing this analysis, the Court in *Buckley* determined that any limitations on expenditures of money in federal elections were generally unconstitutional because they substantially and directly restrict the ability of candidates, individuals, and associations to engage in political speech, expression, and association.[12] ''A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached,'' the Court noted.[13] Therefore, in view of *Buckley,* it appears that completely banning expenditures by nonconnected PACs would be found to be unconstitutional.

In *Buckley* the Court found that limitations on contributions can pass constitutional muster only if they are reasonable and only marginally infringe on First Amendment rights in order to stem actual or apparent corruption resulting from *quid pro quo* relationships between contributors and candidates.[14] The Court noted that a reasonable contribution limitation does ''not undermine to any material degree the potential for robust and effective discussion of candidates and campaign issues by individual citizens, associations, the institutional press, candidates, and political parties.''[15] Hence, *Buckley* seems to indicate that a *complete ban* on contributions by nonconnected PACs would be unconstitutional. Such an outright prohibition would arguably impose direct and substantial restraints on the quantity of political speech and political communication between nonconnected PACs and federal candidates.

In sum, it appears that prohibiting all expenditures by PACs would not pass strict judicial scrutiny as it would significantly restrict most PACs from effectively amplifying the voices of their adherents or members.[16] Moreover, an outright ban on contributions, although they are less protected by the First Amendment, would probably be found to substantially infringe on the First Amendment rights of the members of the PACs and therefore be found to be unconstitutional as well.

L. PAIGE WHITAKER,
Legislative Attorney.

FOOTNOTES

[1] 424 U.S. 1 (1976).
[2] *Id.* at 39.
[3] *Id.* at 90–93.
[4] *Id.* at 57, fn. 65.
[5] *Id.* at 90–92, 94–96.
[6] 2 U.S.C. §441(b)(2)(C).
[7] 2 U.S.C. §431(4) (definition of political committee); 2 U.S.C. §433 (registration of political committees).
[8] Buckley, 424 U.S. at 25 (quoting Kusper v. Pontikes, 414 U.S. 51, 57 (173)).
[9] *Id.* (quoting NAACP v. Alabama, 357 U.S. 449, 460–61 (1958)).
[10] *Id.* (citing CSC v. Letter Carriers, 413 U.S. 548, 567 (1973)).
[11] *Id.* at 27–28.
[12] *Id.* at 39–59.
[13] *Id.* at 19.
[14] *Id.* at 20–38.
[15] *Id.* at 29.
[16] NAACP v. Alabama, 357 U.S. 449, 460–61 (1958). This case was cited in *Buckley* v. *Valeo,* 424 U.S. at 22 to support the conclusion that an expenditure limitation precluded most associations from effectively amplifying the voices of their adherents. *See also Sweezy* v. *New Hampshire,* 354 U.S. 234, 250 (1957).

HARVARD UNIVERSITY,
Cambridge, MA, March 17, 1996.

Re S. 1219—Senate Campaign Finance Reform Act of 1995.

Hon. RUSSELL D. FEINGOLD,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINGOLD: You have asked me to provide to the Senate my views about the constitutionality of the proposed S. 1219, the Senate Campaign Finance Reform Act of 1995. I am pleased to respond to your request, and I hope that my analysis is useful to you and your colleagues.

At the outset, I should note that my political affiliation is independent, and I have not registered as a member of a political party in over twenty years. Moreover, I have no political, financial, or fiduciary connections with anyone who might be helped or hurt were this legislation to be enacted. Indeed, consistent with my longstanding practice, and consistent with my views about academic independence, I do not represent clients, directly or indirectly, and I do not enter into consulting relationships. Finally, I should note not only that I have had no prior dealings with you or your office, but also that when Mr. Kutler called me to ask if I might undertake this analysis, he did not inquire about my views, tentative or otherwise, on the advisability or constitutionality of this or related legislation.

For constitutional purposes, the central features of S. 1219 are Section 101, which provides various incentives to Senate candidates who limit their total campaign expenditures, and Section 201, which prohibits political action committees from contributing to candidates for federal office. I will consider them in turn.

Section 101 would amend the Federal Election Campaign Act of 1971, the Communications Act of 1934, and several other laws by providing to Senate candidates who agree to limit their total campaign expenditures a package of incentives consisting primarily of discounted broadcast advertising rates, thirty minutes of free broadcast air time, and discounted postal rates for campaign mailings.

In evaluating the constitutionality of this proposal, two potential constitutional problems are presented. One is the indirect restriction, by way of incentives, on candidate expenditures of their own resources, expenditures that since *Buckley* v. *Valeo,* 424 U.S. 1 (1976), have been considered to be themselves protected by the First Amendment. Another is the potential restriction on the First Amendment rights of broadcasters to allocate their air time as they see fit. I will address these concerns in that order.

In *Buckley* v. *Valeo,* the Supreme Court held unconstitutional a restriction on the amount of a candidate's own funds (the major corollary of permitting contribution limitations) that he or she could spend in the context of an election. 424 U.S. at 39–59. The Court held that the First Amendment protected the right of a candidate to spend an unlimited amount of his or her own funds in the service of advocating his or her candidacy. The Court reasoned that since spending one's money to make a political speech or support a political cause was plainly protected by the First Amendment, it would be anomalous to create an exception where the political cause was the cause of one's own election to office. And although this dimension of *Buckley* was criticized then, and is still criticized today, there is little in subsequent developments to indicate that it is not ''the law.'' In no subsequent campaign financing case, and there have been about a dozen, has the Court retreated in any way from its 1976 conclusion that personal expenditure limitations violate the First Amendment.

Although this bill does not directly restrict the right recognized in *Buckley,* it does provide an incentive for candidates to relinquish that right. In many other contexts, this form of indirect restriction would create the constitutional problems often discussed under the rubric of ''unconstitutional conditions.'' See *Speiser* v. *Randall,* 357 U.S. 513 (1958). To take an obvious example, it would be plainly unconstitutional for the federal government to offer a tax credit to anyone who agreed not to criticize the President, and it would be equally unconstitutional to provide discounted postal rates for pro-American but not anti-American publications, or for Protestant but not Catholic magazines. The idea of the doctrine of unconstitutional conditions is that it is impermissible to allow the government to do indirectly what it cannot do directly, and that the potential for such indirect restrictions are enormous given the number of governmental programs on which people routinely depend. See also *Arkansas Writer's Project, Inc.* v. *Ragland,* 481 U.S. 221 (1987).

Yet the doctrine of unconstitutional conditions, even in First Amendment context is much narrower than the First Amendment itself. As the Supreme Court (controversially) held in *Rust* v. *Sullivan,* 500 U.S. 173 (1991), the doctrine does not require the government to be neutral in terms of the programs it wishes to create or the activities it wishes to subsidize. See also *Regan* v. *Taxation With Representation of Washington,* 461 U.S. 540 (1983). The government may support a Fund for Democracy without having to offer equal support for the Fund for Theocracy or the Fund for Aristocracy. Similarly, there is no doubt that a high level employee of the Department of Defense can be required as a condition of employment to relinquish his or her right to express public support for the present government of Iraq, even though that right is one protected by the First Amendment when exercised by ordinary citizens. Although there is some force to the doctrine of unconstitutional conditions, it is thus a mistaken oversimplification to maintain that citizens may not constitutionally be induced by government to give up what would otherwise be their constitutional rights. Especially when the restriction is not, as it is not here, one based on the viewpoint of the speech, it is a misstatement of the current law to say that it is unconstitutional for the government to provide incentives for citizens to forego their right under *Buckley* v. *Valeo* to spend unlimited funds in support of their own political candidacies.

Although reasonable minds might disagree with the foregoing analysis, it is clear that the Supreme Court in *Buckley* did not. In *Buckley* the Court explicitly concluded, even while it was protecting the First Amendment rights of expenditure, that Congress could, consistent with the First Amendment, provide incentives to encourage political candidates to accept voluntary limitations on their own campaign expenditures. ''Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forego private fundraising and accept public funding.'' 424 U.S. at 57 n. 65. In *Buckley* the question arose in the context of Presidential campaigns, but the Court's just-quoted broad statement was not so limited, nor is there any reason to suppose that there could be a plausible distinction between the Senatorial campaigns that are the subject of S. 1219 and the Presidential election financing plan that prompted the Court's broad statement in *Buckley*. Moreover, when a three judge United States District Court in 1980 explicitly rejected an attack on voluntary expenditure limitations in exchange for public financing, and when the Supreme Court summarily affirmed that judgment, the argument that the exchange was not truly voluntary was rejected. *Republican National Committee* v. *Federal Election Commission*, 487 F. Supp. 280 (three-judge court, S.D.N.Y. 1980), affirmed without opinion, 455 U.S. 955 (1980).[1]

In examining the incentives in S. 1219, I cannot see any appreciable difference, on this issue, and from the perspective of the candidate, between public funding, as in *Buckley,* and the discounted advertising and postal rates that are offered in S. 1219. First of all, both have the effect of providing financial benefits for the candidate, and any difference between the two would be a difference, from the candidate's vantage point, of form and not of substance. In addition, the discounts available under S. 1219 are, if there is any difference at all, somewhat less direct. If a direct cash subsidy is not, in the Supreme Court's eyes, an unconstitutional inducement to relinquish a constitutional right, then it is hard to see how the indirect inducements in S. 1219 would be.

This is not to suggest that there is no merit in the argument that the inducements offered make the seemingly voluntary relinquishment not voluntary in fact. The line between an inducement whose acceptance is truly voluntary and one that begins to verge on the coercive is a wavering one, and the special circumstances of a political campaign, in which acceptance by a candidate's opponent would make the rejection of the inducement even more costly, accentuate this effect. Insofar as S. 1219, in section 105, offers increased benefits to candidates whose opponents reject the limitations, the coercive effect increases.[2] Yet the fundamentals of this phenomenon existed in *Buckley* itself, since even without an amount keyed to acceptance or rejection by a candidate's opponent, a candidate still is faced with a choice under circumstances in which the candidate's opponent will be subsidized by the government. Nor is there any suggestion in *Buckley* that the constitutionality of the conditional public funding should depend on case-specific determinations of the circumstances under which a candidate exercised the option. Thus, the grounds for current objections existed in large part in *Buckley* and existed in all of the subsequent court decisions,[3] all but one[4] of which have accepted the exchange that provides the linchpin of S. 1219. So although there are plausible objections to the voluntariness of the arrangement in S. 1219, these objections go back to *Buckley* itself, which concluded as a matter of law that such exchanges were voluntary rather than suggesting that a case-specific and factual voluntariness inquiry was a condition for constitutional acceptability. This leads me to conclude that the various objections now offered to S. 1219 and related proposals are not so much to the unconstitutionality of S. 1219 under current law, but rather to the state of the current law itself. The essence of the objection is far less that *Buckley* supports the objection than that *Buckley* was mistakenly decided.[5]

Much the same characterization applies to S. 1219 as a restriction on broadcasters. In giving candidates broadcast time, S. 1219 does to broadcasters what it plainly could not do to newspaper publishers were the time (or space) offered to be in newspapers, magazines, or even, in most contexts, cable television. Under *Miami Herald Publishing Co.* v. *Tornillo,* 418 U.S. 241 (1974), the First Amendment protects total editorial control over the contents of a newspaper, even in the face of a claim that granting space in a newspaper would broaden rather than narrow the range of public debate. There is no doubt, therefore, that the First Amendment would not allow Congress to provide free or discounted newspaper space (without the consent of the newspaper, of course) as part of the inducement for candidates to accept voluntary expenditure limitations.

Broadcasters are not newspapers, of course, not only as a matter of fact, but also as a matter of law. The Supreme Court rejected the broadcaster-newspaper analogy in *Red Lion Broadcasting Company* v. *Federal Communications Commission,* 395 U.S. 367 (1969), agreeing with the congressional judgment in 1934 that the airwaves were public property, to be assigned in the public interest, and subject to limitations designed to ensure that the public retained part of their use. This has been embodied in the personal attack, equal time, and (now obsolete) fairness doctrines, all of which has the effect of ''giving'' some of the time encompassed by a broadcast license to the public.

In rejecting the claim that broadcasters have an unlimited First Amendment right to unfettered editorial control over the time encompassed by their license, the Supreme Court in *Red Lion* relied in part on the controversial notion that the airwaves ''belonged'' to the government and could thus be licensed subject to otherwise impermissible content-based restrictions, and in part on the even more controversial, and potentially technologically obsolete, argument that because there were a limited number of broadcast bands (what is known as the scarcity argument), those bands could be allocated under content-based conditions that would never be permitted for newspapers. Again, however, it is very important to distinguish complaints about the existing law from the argument that the existing law prohibits this legislation. As long as *Red Lion* remains the law, Congress may within limits consider broadcast time to belong to the public, and to be subject to allocation in the public interest. In this respect, therefore, price restrictions on advertising, and direct grants of broadcast time, will not violate the First Amendment as it is presently interpreted.

Finally, let me add a few words about the Political Action Committee (PAC) contribution limitation in Section 201. As I am sure you know, this restriction, in light of *Federal Election Commission* v. *National Conservative Political Action Committee,* 470 U.S. 480 (1985), is likely unconstitutional under current law, although the narrow majority opinion in *Austin* v. *Michigan Chamber of Commerce,* 494 U.S. 652 (1990), might provide some basis for suggesting reconsideration of the earlier case. Given the state of the law, however, the issues now are much different, involving questions about the responsibility of Congress in the face of contrary Supreme Court precedent. There is a line of academic and political opinion that maintains that Congress should engage in its own direct consideration of what the Constitution requires, without regard for, or at least not subject to, the authority of contrary Supreme Court options. I do not subscribe to this view, and I do not urge it on you, although the reasons for my belief encompass the full domain of constitutional jurisprudence. Since this is not the place to engage that issue, I will simply assume that you believe that Congress should respect the role of the Supreme Court as authoritative interpreter of the Constitution.

Yet even within this view, it is of course possible in good faith to believe that times change, that Justices change, and that constitutional law changes. And it is possible, therefore, to believe that Congress can act responsibly in giving the courts the opportunity to reconsider their earlier views in light of changed circumstances or in light of the possibility that their earlier views may have been mistaken. The rapidly escalating cost of elections make this a plausible circumstance to give the Supreme Court this opportunity, and just as it is ''legitimate'' for opponents of section 101 to believe in good faith that the Court should reconsider its judgment in *Buckley* that public inducements for voluntary expenditure limitations do not violate the First Amendment, so too is it legitimate for proponents of section 201 to believe in good faith that changing circumstances, or the bipartisan nature of this initiative, are sufficient to invite the Court to reconsider its judgment in *Federal Election Commission* v. *National Conservative Political Action Committee.* Still, as a matter of existing case law, section 201 is far more problematic, as I am sure you know, than section 101.

To conclude, I believe that existing caselaw strongly supports the constitutionality of sections 101 and 241, and casts considerable doubt on section 201.[6] In both

Footnotes at end of letter.

cases, there are arguments that could be made against the caselaw, but it remains important to distinguish arguments against the caselaw from arguments from the caselaw.

I hope you find this useful. Please feel free to contact me at any time if I may be of further assistance.

Yours sincerely,

FREDERICK SCHAUER,
Frank Stanton Professor of the
First, Amendment, Harward University.[7]

FOOTNOTES

[1] The summary affirmance is technically a decision by the Supreme Court, but increasingly since 1980 the Court has made it clear that summary affirmances are at best of limited precedential value.

[2] This is the argument in a Student Note, *The Pitfalls of Contingent Public Financing in Congressional Campaign Spending Reform*, 44 Emory Law Journal 735 (1995).

[3] See, in addition to the previously noted *Republican National Committee* v. *Federal Election Committee*, cases such as *Vote Choice, Inc.* v. *DiStifano*, 4 F.3d 26 (1st Cir. 1993); *Weber* v. *Heaney*, 793 F. Supp. 1438 (D. Minn. 1992).

[4] See the dicta in *Weber* v. *Heaney*, 995 F.2d 872 (8th Cir. 1993).

[5] In light of the distinction that the *Buckley* court drew between expenditure limitations and contribution limitations, the source restrictions in section 241, especially when seen as part of a voluntary choice by the candidate, seem especially non-problematic.

[6] Although not on section 201's ''fallback'' provision.

[7] From an abundance of caution, I emphasize that my views are not to be taken as the views of the John F. Kennedy School of Government, the Harvard Law School, or Harvard University.

UNIVERSITY OF CALIFORNIA,
LOS ANGELES, SCHOOL OF LAW,
March 26, 1996.

Senator RUSSELL D. FEINGOLD,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINGOLD: Thank you for your letter of February 14, 1996, in which you asked for my assessment of the constitutionality of three provisions in S. 1219, the currently pending campaign finance bill authored by you, Senator McCain, and others.

In summary, I believe the provision of discounted television time and postage rates, conditional upon the candidate's compliance with voluntary spending limits, is constitutional.

It is more difficult to form a confident opinion with respect to the other two provisions, because there is very little from the Supreme Court on which to rely. The first of these is a requirement that candidates who accept the discounted television time and postage rates must agree that at least sixty percent of contributions received come from individuals residing in the candidate's state. I believe this probably is constitutional, at least in part. The second is a ban on PAC contributions to federal candidates. This may be unconstitutional, but in light of the ''back-up'' provision in S. 1219, the chance may be worth taking for those who wish to eliminate PACs, since a declaration that the provision is unconstitutional will not jeopardize the legislation as a whole.

1. Voluntary spending limits. The Supreme Court held, in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), that as a general rule, limits on the amount that a candidate's campaign can spend are unconstitutional. However, the Court also opened a loophole in this general ban on campaign spending limits, in footnote 65 of the Buckley opinion:

''. . . Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.''

Although footnote 65 may raise many more questions that it answers, it does seem to answer the question whether it is constitutional to condition discounted television time and postage rates on the acceptance of spending limits. The only difference between this case and the case considered in footnote 65 is that in the former, the government is offering in-kind benefits to the candidate, while in the latter it is offering money. The money gives the candidate more flexibility in the management of his or her campaign, and therefore is presumably of greater value than an equivalent amount of in-kind benefits. But there is no apparent reasons why this should make a difference for constitutional purposes. In each case, the government is providing a real benefit. If the in-kind benefit is less valuable to candidates than cash, then it may be less likely that candidates will accept the in-kind benefits than that they will accept the cash. But candidates who do accept the benefits/spending limits packages do so equally voluntarily in each case. Therefore, I conclude that these provisions of S. 1219 are constitutional.

2. Limit on organizational and out-of-state contributions. Part of the benefits/spending limits package that is offered to candidates under S. 1219 is that at least 60 percent of the contributions accepted by the candidate must be from individuals who reside within the candidate's state.

I have argued above that for purposes of footnote 65 of *Buckley* v. *Valeo*, the fact that in-kind benefits are being offered to candidates instead of cash should make no difference. In footnote 65, the provision of benefits was conditioned on the candidate's acceptance of spending limits. Here, the benefits are conditioned on accepting two combined aggregate contribution limits—on contributions from non-individuals, and on contributions from out-of-state individuals. Does this make a constitutional difference?

There is an obvious basis for answering this question in the negative. Buckley and subsequent decisions of the Supreme Court have generally treated restrictions on contributions as less constitutionally offensive than restrictions on expenditures. If voluntary expenditure restrictions tied to benefits to the candidate are permissible, why not voluntary contribution restrictions?

Insofar as the restriction is on the amount that can be accepted in contributions from non-individuals, the voluntary restriction should be constitutional. The government may prefer contributions from individuals on at least two grounds that seem plausible. First, organizations typically are formed for a limited set of purposes. A contribution by an organization is likely to be made in furtherance of the limited purposes of the organization. Accordingly, it may be more likely than a contribution from an individual to create the sort of conflict of interest that the Court refers to as ''corruption or the appearance of corruption.'' Of course, contributions from individuals may create the same conflict of interest, but because the purposes of individuals are not artificially limited, individuals are more likely to contribute for a variety of reasons unrelated to influencing legislation on particular issues. Second, it is widely accepted that the principle of freedom of speech protects both instrumental interests such as the airing of public issues, and individual interests such as the need of humans to express themselves. The second category of First Amendment interests applies to individuals, and this may provide some basis for the government preferring contributions from individuals over contributions from organizations.

It is much more difficult to justify the restriction on contributions from out-of-state individuals. I have occasionally made small contributions to Senator Joseph Lieberman, because he was a college classmate of mine. Under S. 1219, if Senator Lieberman had already received forty percent of his contributions from non-individuals or out-of-state residents, he would be required to reject my contribution. Yet, I can see no danger whatever to the public interest from my contribution, arising from the fact that I live in California rather than Connecticut. If anything, this restriction would enhance the likelihood of conflict of interest, by heightening the pressure on Senator Lieberman to raise money from individuals who reside in Connecticut. There is no apparent reason for assuming that in-state contributions are more or less corrupting than out-of-state contributions, but anything that reduces the flow of money from one source heightens the candidate's need for money from the remaining sources and thus may increase the likelihood of pressure.

Campaign spending limits can reduce conflict of interest by reducing the pressure on candidates to raise funds. Limits on contributions from organizations can be justified for the reasons stated above. Limits on contributions from out-of-state individuals serve no good purpose. Nevertheless, the emphasis in Buckley's footnote 65 is on the voluntariness of the candidate's acceptance of a restriction, not on the utility of the restriction. It is difficult to say whether the lack of utility of a restriction would enter into the Court's constitutional equation.

For the reasons, I conclude that the restriction on the proportion of contributions a candidate may accept from organizations is constitutional. The restriction on the proportion of contributions a candidate may accept from out-of-state contributions presents a close question, but there is a substantial possibility that it would be upheld.

3. Ban on PAC contributions. S. 1219 prohibits all contributions and expenditures in federal elections except from individuals and from committees controlled by candidates and political parties. The practical consequence is that PACs are banned from making contributions and expenditures in federal elections.

In *Austin* v. *Michigan Chamber of Commerce*, 494 U.S. 652 (1990), the Supreme Court upheld a state ban on independent expenditures by corporations. In *Austin*, the Court pointed out that there was no absolute ban on corporate political spending because corporations were permitted ''to make independent political expenditures through separate segregated funds'' (i.e., through PACs). Although *Austin* does not hold that a ban on corporate independent spending that extended to PACs would be unconstitutional, it suggests that a ban on independent spending by PACs would be highly suspect under the First Amendment.

Thus, the S. 1219 ban on expenditures by PACs is probably, though not certainly, unconstitutional. Whether the ban on PAC contributions is constitutional is much harder to say. As was stated above, the Supreme Court has been more tolerant of restrictions on contributions than on expenditures. In *Citizens Against Rent Control* v. *City of Berkeley*, 454 U.S. 290 (1981), the Court devoted some rhetoric to the value of ''the practice of persons sharing common views banding together to achieve a common end,'' and the ''tradition of volunteer committees for collective action.'' But that was in the context of a limit on contributions to a campaign committee, not to a PAC that would be making contributions in turn to other committees. A ban on PACs is a more severe restriction on association for campaign fundraising purposes than anything the Court has upheld, and it would have a severe practical effect on the ability of many small contributors to participate in the campaign finance

system. Union members and contributors to ideological PACs are examples of people who traditionally have depended on such organizations to pool their individually insignificant contributions. I know of nothing in the Supreme Court's precedents that gives much guidance as to how this question would be resolved.

I conclude that the ban on PAC expenditures is probably unconstitutional. The constitutionality of the ban on PAC contributions is uncertain.

S. 1219 has a ''fallback'' provision that, in the event that the PAC ban is struck down, candidates must limit the aggregate amount they receive from PACs to an amount equal to 20 percent of the spending limit. The constitutionality of such aggregate contribution limits has not been considered by the Supreme Court. I believe they are not unconstitutional in general, though they may be if they are overly restrictive. The S. 1219 fallback provisions are certainly restrictive, but whether they are so restrictive that the Supreme Court would declare them unconstitutional is a matter for speculation.

I have given extensive attention to the constitutionality of aggregate contribution limits in a law review article, and rather than report the analysis here, I simply refer you to Daniel Hays Lowenstein, ''A Patternless Mosaic: Campaign Finance and the First Amendment After *Austin*,'' 21 Capital University Law Review 381, 413–424 (1992). More generally, the remainder of that article and the articles in the same symposium by Professors Roy A. Schotland and Marlene Arnold Nicholson may be of interest to you, your colleagues and your staff on this difficult issue.

The foregoing is my response to your questions. Let me add the obvious point that I have confined this letter to the questions of constitutionality that you posed, and have not attempted to state my policy views on S. 1219 or the subjects with which it deals.

Thank you for extending me the opportunity to participate in the Senate's deliberations. If I can be of any further assistance, please contact me.

Sincerely,

DANIEL H. LOWENSTEIN,
Professor of Law.

UNIVERSITY OF CHICAGO LAW SCHOOL,
Chicago, IL, April 4, 1996.

Senator RUSSELL D. FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR: This will respond to your request for my views on the constitutional issues raised by S. 1219. I am writing under unusual time pressure, and I hope you will forgive me for offering a brief and somewhat preliminary analysis.

S. 1219 raises many difficult and complex questions, and my most general thought is that to sort out those questions, it would be best to hold hearings with some extended discussion of the underlying factual issues and the caselaw law. For the moment, I will devote my attention to three provisions about which you express most concern. The first of these provisions is probably constitutional; the second raises new issues and any judgment must be tentative; the third is probably unconstitutional.

1. Section 101 provides certain financial incentives to candidates to limit their spending. In exchange for agreeing to limit overall spending, a candidate will receive free and discounted television time, and also discounted postal rates.

I believe that this provision should and would be upheld. With respect to candidates, it is not direct coercion. It does not discriminate on the basis of point of view. It is also supported by the legitimate interests in promoting attention to electoral issues and in using public money to enlarge public discussion and participation. The best authority here is *Buckley* v. *Valeo,* 424 U.S. 1 (1976), where the Supreme Court upheld a provision making major party candidates eligible for public financing if and only if they agreed to forego private contributions and to limit their expenditures to the amount of the major party subsidy. This basic principle strongly supports section 101.

Some complex questions might be raised by requirements of free television time for specified candidates. Such requirements have no clear precedent. But a general requirement of free television time violates no one's first amendment rights so long as it is viewpoint-neutral, cf. Turner Broadcasting System v. FCC, 114 S. Ct. 2445 (1994), and the forms of selectivity in section 101 are consistent with Buckley. Most generally, a system that promotes more coverage of candidates through free media could enhance free speech purposes by counteracting the ''soundbite'' phenomenon and enhancing democratic processes. See Sunstein, Democracy and the Problem of Free Speech 85 (1993). The legal issues are not entirely settled, but my preliminary judgment is that section 101 should and probably would be upheld.

2. Section 241 would require candidates voluntarily complying with section 101 to raise at least 60% of their individual contributions from people within their own state. This provision is a bit more problematic and it raises novel issues. The major question is: What is Congress' legitimate justification here, and what factual evidence supports that justification? Apparently the proposal is a response to the perceived problem of out-of-state money affecting state elections, so that candidates receive support not because the real voters want them, but because out-of-state financial interests have allowed for a great deal of advertising. Perhaps Congress could find that the interest in in-state control of state elections justifies a measure of this kind, at least when the relevant law is tied to a voluntary restriction.

It is possible that this justification can be made legitimate and sufficiently weighty. But under existing law, the answer is not clear. The Court has not dealt with this particular justification. Moreover, it is possible that in a national system, out-of-state money legitimately affects state elections, and it is possible that the Court would find it unacceptably paternalistic to ban out-of-state money to ''protect'' in-state voters. See First National Bank v. Bellotti, 434 US 765 (1978) (questioning efforts to protect voters from ''excessive'' speech). Distinctive issues involving federalism are obviously raised by section 241. A set of hearings would be helpful in sorting out this important issue.

3. Section 201 would prohibit political action committees (PACs) from contributing to federal candidates. This provision appears to be unconstitutional under FEC v. NCPAC, 470 US 480 (1985), where the Court invalidated a provision prohibited any PAC from spending more than $1,000 to further the election of a presidential candidate receiving federal funding. Any regulation of PACs will have the best chance of success if it builds on CMA v. FEC, 453 US 182 (1981), where the Court upheld a system banning any individual from contributing more than $5,000 per year to PACs.

If Congress wants to put the Court's decision in the NCPAC case in question, it would do best to hold extensive hearings uncovering problems that the Court did not see in 1985, or proposing alternative mechanisms to allow organizations to give financial aid to candidates, or perhaps attaching ''strings'' to the receipt of money by PACs. This is a matter that could require a high degree of creativity.

My basic conclusions, then, are that section 101 is probably constitutional; that section 201 is almost certainly unconstitutional; and that under existing law, the constitutionality of section 241 is unsettled, and that is validity would turn on the underlying evidence and on a careful identification of a legitimate legislative interest. My more general suggestion is that because of the difficulty of these issues, and associated issues in these and other provisions on which I have not touched, it would be highly desirable to hold hearings to get a range of views about the underlying issues of fact, policy, and law.

I hope that these brief comments are helpful.

Sincerely,

CASS R. SUNSTEIN,
Professor of Law.

DEPAUL UNIVERSITY,
COLLEGE OF LAW,
Chicago, IL, April 30, 1996.

Senator RUSSEL D. FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINGOLD: Thank you for your letter of April 12, 1996, asking for my assessment of the constitutionality of provisions of S. 1219. I believe that the prospects for a finding of constitutionality are mixed. There is a high likelihood that the aspect of the bill which seems to be the central focus—voluntary expenditure limitations in return for in-kind benefits—would be found constitutional. Conversely, I believe the PAC ban would almost certainly be found unconstitutional. Predictions with respect to other aspects of the bill are less clear. I will discuss these conclusions below. I should note that some of the provisions present novel constitutional issues and that the analyses necessary to resolve some of the issues would be quite intricate and lengthy. Therefore my remarks below will be rather general and I will not attempt to explore the issues in depth in this letter. However, if you would like a more complex analysis in the future I would be happy to assist you further.

1. The spending limit condition attached to receipt of in-kind benefits.

In the well known *Buckley* footnote 65 the Supreme Court clearly stated that despite the fact that expenditure limitations are otherwise unconstitutional, when made a condition to the voluntary acceptance of public subsidies they are valid. Although this footnote must be considered dicta, as the constitutionality of the provision was not being challenged, it should be noted that the Supreme Court later summarily affirmed a case which rejected a direct constitutional challenge to the condition. *Republican National Committee* v. *Federal Election Commission (RNC)* 487 F. Supp. 280 (S.D.N.Y.) aff'd, 445 U.S. 955 (1980). A summary affirmance is a decision on the merits, and is therefore binding precedent; however, the Supreme court may feel less compunction about overturning such a decision that one supported by a written opinion.

In *RNC* the district court asserted that there was no real burden on First Amendment expression because a candidate would only choose the public subsidy if it would enhance his or her expression. Alternatively, the court determined that even if there was a burden on expression the restrictions would satisfy strict scrutiny because they were necessary to compelling government interests in preventing undue influence and saving time and energy for expression other than fundraising. (See my enclosed article from the Hastings Constitutional Law Quarterly for a more thorough discussion of this

case and the unconstitutional condition doctrine generally.)

The reasoning of the district court in *RNC* has been reinforced by practical experience in the years since it was decided. The public's growing perception that campaign contributions cause undue influence cannot be controverted. The degree of validity of that perception can probably never be definitively determined. But regardless whether that perception is correct, it has added to the rampant disillusion with our political system which we are currently experiencing. In *Buckley* the Court made clear that preventing the appearance of impropriety as well as the reality is a compelling government interest. Furthermore, the extraordinary amount of time spent by candidates on fundraising—time taken away from other kinds of campaigning that reaches more people—from attending to official duties. The latter concern alone might today be considered a compelling government interest. The in-kind benefits combined with expenditure limitations will advance the interests asserted in *RNC* and *Buckley* because they will substitute for a substantial number of contributions which would otherwise be raised by those candidates who choose to comply. To the extent that candidates fail to comply the interests will not be forwarded; however, this will merely maintain the status quo with respect to the campaign activities of noncomplying candidates without burdens to their first amendment expression. It is very clear that without expenditure limitations subsidies or in-kind benefits would merely be used to augment rather than substitute for fundraising and would therefore not serve the aims of S. 1219.

Expenditure limitations will no doubt be challenged as aiding incumbents to the disadvantage of challengers. However, the fact that the limitations are voluntary greatly weakens that argument. In addition, if one looks at the combined effect of the various provisions of S. 1219 the extent to which they would cut into major funding sources of incumbents is quite remarkable. I am referring to the restrictions on PACs, bundling, soft money, out-of-state contributions and leadership committees. The restrictions on the use of the frank further diminishes the advantages of incumbency.

2. The condition of limitations on contributions from organizations and out-of-state individuals.

I presume that the rationale for this condition on in-kind benefits is that in-state individuals are likely to contribute for reasons having to do with a generalized interest in representation, while organizations, and to a lesser extent, out-of-state individuals are likely to contribute to pursue a limited purpose that would be more likely to involve undue influence. It is difficult to reach a conclusion as to whether the Court would consider this distinction strong enough to uphold the restriction. The fact that the Court has generally been more accepting of contribution limitations than expenditure limitations will be a help, as will the fact that it is a voluntary restriction applicable only to candidates who accept the in-kind benefits. Although the aggregate limitation may be viewed as rather severe because it in effect bans contributions from some sources after the threshold has been reached, it is a particularly effective means of preventing undue influence. As Professor Daniel Lowenstein has persuasively argued, such restrictions vitiate the undue influence producing effects of even those contributions that are accepted below the threshold amount. This is because the supply of such contributions will ordinarily be greater than the legal demand, thereby lessening the importance of any one contribution.

3. The requirement that the media time be used in intervals of 30 seconds or more or less than 5 minutes.

I assume that the purpose for this limitation is two-fold. The 5 minute provision probably is an attempt to avoid onerous burdens on the media which will be required to cede time to candidates. This interest is certainly permissible and should not pose First Amendment problems. The minimum of 30 seconds does create what I consider to be a technical First Amendment problem. I use the term ''technical'' because it arises as the logical consequence of holdings in some Supreme Court opinions. I would argue that were the Court to invalidate this requirement it would be an example of carrying logic to an absurd conclusion.

The constitutional issue arises because the provision seems to be an attempt to cause candidates to formulate their message in a particular way. This runs into case law that has held that individuals can express themselves using whatever words or symbols they choose, with the possible exception of certain speech which is imposed on a captive audience. Compare *Cohen* v. *California,* 403 U.S. 15 (1971), and *Texas* v. *Johnson,* 491 U.S. 397 (1989), with *FCC* v. *Pacifica Foundation,* 438 U.S. 726 (1978). Also, somewhat relevant are cases holding that the government cannot force individuals to speak. See *Wooley* v. *Maynard,* 430 U.S. 705 (1977). The minimum 30 second commercial requirement in the bill, unlike the cases cited, does not directly target content. No one is forced to use particular words or avoid others, or to convey a particular message. The issue of content regulation comes into play because it appears that the purpose of the regulation is to cause candidates to express themselves using a format that is more likely to have serious content than the typical 10 second spot, thus encouraging a thoughtful exploration of real issues. The Supreme Court has never dealt with a case involving a simple time regulation of speech which is aimed at affecting content. Therefore, the cases presenting constitutional obstacles would not be directly on point—rather, general statements taken out of context would be used to challenge the regulation.

I believe that a credible response to such challenges would stress the following arguments: Even if the aim is to affect the content of the speech, the concern with content is quite general. There does not appear to be an intent to regulate viewpoint, which is the most serious of content regulation problems. Indeed, the concern is not even with the somewhat less serious matter of regulation of subject matter, as the candidate can use the time to discuss any subject he or she wishes. Rather the regulation is an attempt to encourage the candidate to actually say something meaningful. But the candidate can thwart the government and still use his or her time for totally vacuous expression without suffering any detriment other than the possibility that the vacuousness will be more obvious to the audience than it might be if the commercial was shorter. Such a detriment hardly seems to rise to the level of a serious First Amendment concern.

The fact that the restrictions only apply to candidates who voluntarily accept the in-kind benefits should be an important factor in favor of a finding of constitutionality. Although a more definitive content regulation attached as a condition of a benefit would be unconstitutional, the regulation in question should not meet the same fate because, for the reasons discussed above, it has little in common with the kind of content regulations which the Court has shown serious concern for in past cases. Furthermore, I find it hard to believe that the fact that the purpose of the regulation is to encourage an intelligent discussion of election issues will not influence the Court positively, even though that concern can be described as generally content based.

4. The increased spending limit in Section 502 and the increased contribution limit in Section 105 applicable to complying candidates opposed by non-complying candidates.

These two sections of S. 1219 present potentially serious constitutional problems, and it is very difficult to predict how they would be resolved by the Supreme Court. There is no Supreme Court case law dealing with an analogous provision. Although there are two federal circuit court cases addressing somewhat similar statutes—one upholding and one invalidating the provisions—the cases involved statutes that are distinguishable from S. 1219 and from each other.

In *Vote Choice* v. *DiStefano,* 4 F.3d 26 (1st Cir. 1993) the federal circuit court upheld a Rhode Island law which provided subsidies conditioned on spending limits and also increased the $1,000 contribution limit to $2,000 for candidates agreeing to the expenditure limitation. However, in *Day* v. *Holahan,* 34 F.3d 1356 (8th Cir. 1994), cert. denied 115 S. Ct. 936 (1995), the court invalidated a Minnesota statute which provided that when independent expenditures where made opposing a candidate complying with the spending limits (which were conditions of state subsidies), or supporting his or her opponent, the state subsidy would be increased in an amount equal to one half the independent expenditure. In addition, the overall campaign expenditure limitation of the complying candidate would be increased in an amount equal to the independent expenditure.

A third case, relied upon by Professor Joel Gora in his testimony, is somewhat analogous, but easily distinguishable. *Shrink Missouri Government PAC* v. *Maupin,* 71 F.3d 1422 (8th Cir. 1995) involved a statute which banned contributions from organizations to candidates not complying with expenditure limitations. The court stressed that this statute was not analogous to *Buckley* because the restrictions were not a condition of the receipt of any return benefit and because the ban on organization contributions could not have been constitutionally imposed independently of an agreement to the expenditure limitation. The Court concluded that ''No candidate would voluntarily agree to comply with the expenditure limits in exchange for access to sources of funding to which he or she already has a constitutional right of access.'' Id. at 1425.

Rather than engage in the very intricate and lengthy constitutional analysis which would be required to attempt to determine the significance of *DiStefano* and *Day* to the somewhat similar provisions in S. 1219, I will make a few general comments. In my view the provisions in S. 1219 fall somewhere between the provisions reviewed in the two cases, both with respect to the burdens on expression and the importance and legitimacy of the government interests being pursued. For this reason it is particularly difficult to determine whether either of the two circuit courts would have upheld the provisions in S. 1219. My guess is that the results in the two cases reflect an approach sufficiently different from each other that one circuit would uphold the provisions in S. 1219, while the other would find them unconstitutional. However, the two cases could be distinguished from each other in manner which would reflect negatively on the provisions in S. 1219. This is because a somewhat stronger case can be made for a chill on expression when a complying candidate obtains a comparative benefit based on the expressive actions of the other candidate or his supporters than when it is the action of the

complying candidate which results in his or her comparative benefit.

5. the PAC BANS and the ''fallback'' provision

I consider the PAC bans to clearly unconstitutional. Although there is a weak argument in favor of the constitutionality of the bans on contributions, there is no argument consistent with the Supreme Court's campaign finance jurisprudence which would lead to affirmance of a ban on expenditures. The ''fallback'' provision, however, is consistent with the Supreme Court's jurisprudence on campaign finance regulation. I am generally in agreement with the analysis submitted by Professor Lowenstein on these provisions, so I will not repeat that discussion here.

Thank you inviting me to comment upon the proposed legislation. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

MARLENE ARNOLD NICHOLSON,
Professor of Law.

AMERICAN UNIVERSITY,
OFFICE OF THE DEAN,
Washington, DC, May 2, 1996.

Senator RUSSELL FEINGOLD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINGOLD: Thank you for inviting me to provide comments on the constitutionality of S. 1219. It is an honor to give you my thoughts on this important legislation. It would probably be most useful for you to have a constitutional analysis based on existing case law, and so I have given you my best interpretive efforts based on the state of constitutional doctrine as it exists today.

Section 101: There is no general problem with conditioning the receipt of public funding or benefits by candidates on an agreement to abide by limits on overall campaign spending. This exact regime for financing presidential campaigns was upheld in *Buckley* v. *Valeo,* 424 U.S. 1 (1976). The Court stated in no uncertain terms: ''Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specific expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.'' Id. at 58, n.65. The Supreme Court has maintained this general posture towards the conditioning of public benefits since *Buckley* was decided. See, e.g., *Rust* v. *Sullivan,* 500 U.S. 173 (1991) (holding that the government could restrict speech within a publicly funded family-planning program so long as it was on a viewpoint-neutral basis).

It makes no difference to the analysis here that the campaign benefits awarded to participating candidates will be in the form of free and discounted television time and discounted postage rates. These goods have an easily ascertained monetary value and have no more coercive effect than money. Nor does it make any difference that participating candidates must abide by limits on what they spend of their own personal funds (Section 502) since the element of voluntary choice to participate in the public benefits regime remains effective and meaningful.

One problem that I see potentially arising with Section 101 relates to Section 502, which increases an eligible candidate's spending limit by 20% if a non-participating candidate collects contributions or spends personal funds over the spending limit by 10% or more. It may be argued—although I think with little force—that such a rule in effect punishes the non-complying candidate spending beyond the desired ceiling by giving the complying candidate for an extra benefit beyond the original bargain. There is actually an Eighth Circuit Court decision that stands for something like this proposition. See *Day* v. *Hollohan,* 34 F.3d 1356 (8th Cir. 1994), cert. denied, 115 S. Ct. 936 (1995). (striking down a provision that increased a complying candidate's spending ceiling by the amount of money he or she is overspent by a non-complying opponent and providing half of the difference in public money).

Whatever the merits of this strange decision, however, it does not apply here because of a key difference in the way the Minnesota plan and this one work. S. 1219 would not directly provide additional public funds to compensate for the difference in what complying and non-complying candidates spend. Rather, this provision simply increases the ceiling on what the complying candidate is authorized to raise on his or her own. Even if the *Day* v. *Hollohan* decision is right that we cannot directly, albeit partially, subsidize political speech to meet political speech—a shocking and novel concept if true—nothing like that is going on here. Congress is simply allowing for eligible candidates to achieve a rougher parity of resources and quantity of expression without altering the necessity for them to raise their own money. It should also be noted that under this regime it would still be perfectly possible for a candidate running outside of the public regime to outspend his or her opponent by huge amounts of money and margins of 2 or 3 or 4-to-1 or indeed more.

A similar conceptual problem is raised by Section 105, which would raise the limit on individual contributions to an eligible candidate if he or she is running against a non-participating opponent who has either received contributions or spent personal funds in excess of 10% of the general election limit. According to this provision, individuals contributing to eligible candidates could give $2,000 as opposed to the $1,000 limit that individuals giving to their opponents would have to observe. There may be a strong argument that this provision does not conform to the logic of *Buckley*. Recall that the $1,000 individual contribution limit was upheld as a narrowly tailored means of implementing the compelling interest in combatting the reality and appearance of corruption. See *Buckley,* 424 U.S. at 30. As soon as you raise—indeed double—the $1,000 limit in some cases, you may have undermined the argument for the necessity of the basic limit itself, especially when you have doubled it for contributors to those candidates who will, almost by definition, end up with a smaller overall pool of contributors than their rivals. If it is not inherently corrupting for candidate X to receive a $2,000 contribution from one of 500 contributors, why is it inherently corrupting for candidate Y to receive a $2,000 contribution from one of 1,000 contributors? This provision is potentially vulnerable to the objection that it is not narrowly tailored to advance *Buckley's* anti-corruption rationale and creates major disparities in the legal rights of third parties—citizen contributors—based simply on decisions that candidates make.

However, a strong argument can also be made in favor of the disparate contribution limits. In *Vote Choice, Inc.* v. *DiStefano,* 4 F.3d 26 (1993), the United States Court of Appeals for the First Circuit upheld a very similar state campaign financing provision which provided different contribution limits for publicly-financed and privately-financed candidates. In that case, the court considered Rhode Island Gen. Law sec. 17–25–10.1 and 17–25–30(3). These provisions generally capped contributions for political candidates at $1,000. However, if a candidate qualified for and accepted public financing, then his or her contribution limit from individual citizens was raised to $2,000.

The First Circuit held that this disparity was a permissible and narrowly tailored incentive encouraging candidates to accept public regulation and financing. The court dismissed the argument that a disparate cap was unconstitutional punishment for not accepting public-funding. *Vote Choice,* 4 F.3d at 37. Contrary to the analysis I suggested above, the court held that this provision was narrowly tailored to the ultimate goal of preventing corruption and the appearance of corruption. Id. at 41. Thus, there is some strong support for the proposition that even a special $2,000 limit for participating candidates could be seen as narrowly tailored to the anti-corruption goals promulgated in *Buckley*.

Section 241: This Section requires participating candidates to raise at least 60% of their total sum of individual contributions from individuals residing within their states. It is, in my estimation, perfectly constitutional. Indeed, it is my conclusion that the provision would be equally constitutional if it required that 100% of the complying candidate's contributions come from within state. The decisive point, of course, is that no candidate is forced to accept public financing, and so those who accept it can be asked to abide by the government's reasonable and viewpoint-neutral regulations. See, e.g., *Rust* v. *Sullivan,* supra. But even if it were an outright rule applying uniformly to all candidates—participating and non-participating alike—Section 241 would be lawful since it is safely rooted in three different constitutional principles: the Seventeenth Amendment guarantee of popular election of Senators, the equal protection principle of one person-one vote, and constitutional federalism, including Article V's command that ''no State, without its consent, shall be deprived of it's equal Suffrage in the Senate.''

The Seventeenth Amendment to the Constitution, passed in 1913, replaced the system of election of United States Senators by the state legislatures with election ''by the people [of] each State.'' This language, on its face, establishes a presumption in favor of the constitutional validity of federal and state laws that confine political participation in a state to the ''people'' or citizens of the state itself. Moreover, the legislative history of the Seventeenth Amendment reflects that it was added to the Constitution in order to break the political stranglehold that out-of-state money interests had over Congress. New York Senator Joseph Bristow, the author of the amendment, declared that the ''great financial and industrial institutions'' were using their power ''in almost reprehensible and scandalous manner,'' spending ''enormous amounts of money in corrupting legislatures to elect to the Senate men of their own choosing.'' Standing on the Senate floor in 1911, he asked: ''Shall the people of this country be given an opportunity to elect their own senators, or have them chosen by legislatures that are controlled by influences that do not many times reside within the State that those senators are to represent?''

Thus, if we take seriously the language, history, structure and spirit of the Seventeenth Amendment, it seems clear that Congress has the authority under Article I, Section 4, to enforce the boundaries of popular election of United States Senators.

The second Constitutional principle reinforcing the Seventeenth Amendment basis for Section 241 is that of one person-one vote under the Equal Protection clause. In *Reynolds* v. *Sims,* 377 U.S. 533 (1964), the case which constitutionalized the principle of one person-one vote, the Supreme Court connected

resident citizenship in a state to participation in its political processes:

''. . . representative government is in essence self-government through the medium of elected representatives of the people, and each and every citizen has an inalienable right to full and effective participation in the political processes of his State. . . .'' Id. at 565.

If one person-one vote guarantees every citizen's right to participate in the ''political processes'' of his or her own state and political community, it is equally clear that non-citizens of a state have no such right. If non-residents were allowed to participate, their votes would, in both a mathematical and constitutional sense, ''dilute'' the equal representation of members of the community. Thus, we might usefully think of *Reynold's* one person-one vote principle as establishing a rule of one resident-one vote.

The Supreme Court has accepted as a premise of American federalism that states may confine formal political rights to their own citizens and prevent citizens of other states from participating in their political processes. The Court has continually ruled that states have the power to categorically exclude both from the franchise and from political candidacy American citizens who are not citizens of the state or residents of the given election district. See *Pope* v. *Williams,* 193 U.S. 621 (1904); *Kramer* v. *Union-Free School District,* 395 U.S. 621, 626–28 (1969); *Evans* v. *Cornman,* 398 U.S. 419, 422 (1970); *Dunn* v. *Blumstein* 405 U.S. 330, 344 (1972); *Holt Civic Club* v. *Tuscaloosa,* 439 U.S. 60, 68 (1978).

By linking a person's membership in a state or local political community to the person's physical residence within the state or community's legal borders, the Supreme Court has tapped the deepest roots of American constitutional and political philosophy. The Declaration of Independence began with the principle that governments ''deriv[e] their just powers from the consent of the governed.'' The Declaration of Independence para. 2 (U.S. 1776). This principle means not only that all those who are governed have a presumptive right to participate in politics but that all those who are not governed have no such right. This principle is closely related to the founding American maxim of ''no taxation without representation,'' whose obverse corollary is ''no representation without taxation''—that is, no right of political participation for those not subject to the government's taxing power.

The Supreme Court has repeatedly upheld the power of states to confine political process rights to their own citizens and to the members of specific sub-state political jurisdictions. In *Holt Civic Club,* the Court rejected the voting rights claims of Alabama citizens who were partially governed by a municipality but not permitted to vote in it. Chief Justice Rehnquist stated: ''No decision of this Court has extended the 'one man, one vote' principle to individuals residing beyond the geographic confines of the governmental entity concerned, be it the State or its political subdivisions. On the contrary, *our cases have uniformly recognized that a government unit may legitimately restrict the right to participate in its political processes to those who reside within its borders.*'' Id at 68. (emphasis supplied)

In *Dunn* v. *Blumstein,* the Supreme Court struck down an illegitimate one-year durational residence voting requirement in Tennessee but carefully distinguished it from a legitimate *bona fide* residence requirement. See 405 U.S. at 343. The Court found that, unlike an arbitrary requirement that residents spend a year in-state before gaining the right to vote, a basic threshold requirement that all voters be *bona fide* state residents is presumptively legitimate. For, as the Court put it, an ''appropriately defined and uniformly applied requirement of bona fide residence'' may be ''necessary to *preserve the basic conception of a political community,* and therefore could withstand close constitutional scrutiny.'' Id. (emphasis supplied)

In *Evans* v. *Corman,* 398 U.S. 419 (1970), the Court stated that it assumed that any state had a compelling interest in ''insurin[ing' that only those citizens who are primarily or substantially interested in or affected by electoral decisions have a voice in making them.'' 398 U.S. at 422.

All of the Court's relevant decisions thus establish the government's compelling interest in confining participation in a state's formal ''political process'' to the state's own citizens. This interest can be defined as a political sovereignty interest, and may be vindicated also by Congress using its powers under Section 5 of the Fourteenth Amendment. See *Katzenback* v. *Morgan,* 384 U.S. 641 (1966) (holding that Congress has power under the Fourteenth Amendment to elaborate and define the meaning of equal protection beyond minimal constitutional requirements, especially in the voting field).

The remaining question is whether making campaign contributions can be treated by Congress as part of the formal political process. The teaching of *Buckley,* of course, is that political contributions are a formal and irreducible part of the political process. But, because we have no precedent directly on-point governing Section 241, we can shed light on this question by examining federal and state, statutory and judicial treatment of campaign contributions, and specifically contributions offered by outsiders to candidates in a political community.

Like voting and candidacy, the process of making campaign contributions is closely regulated by federal and state statute. This regulatory structuring is radically opposed to the laissez faire treatment of informal political activities like volunteering to help a campaign, endorsing a candidate, or speaking to the press or the public, all of which are not regulated by state or federal legislatures. The Federal Election Campaign Act, which was mostly upheld in *Buckley,* closely regulates federal campaign contributions, and similar statutes exist in every state. This vast and expansive regulatory treatment reflects the fact that campaign contributions have become a formal and integral part of the political process.

It is instructive to consider how federal law treats the desire of foreign nationals to participate in political campaigns by making money contributions. The United States Congress has categorically banned all campaign contributions in federal, state and local elections by foreign nationals—that is, persons who are not members of any of the relevant political communities. 2 U.S.C. sect. 441e(a) (1995) (''It shall be unlawful for a foreign national directly or through any person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.'') When Senator Lloyd Bentsen introduced the original 1974 legislation banning campaign contributions by non-citizens, he made the following apposite statement: ''I do not think foreign nationals have any business in our political campaigns. They cannot vote in our elections so why should we allow them to finance our elections? Their loyalties lie elsewhere . . . '' 120 CONG. REC. 8783 (1974).

The categorical prohibition adopted by Congress on ''money speech'' by non-U.S. citizens in American campaigns reflects the American political system's understanding that the right to finance campaigns belongs to members of the electoral community itself. From a constitutional perspective, a citizen of Florida or Puerto Rico or Vermont or the District of Columbia has no more of a cognizable interest in making campaign contributions in Wisconsin than he or she does voting there. Viewed through the proper lens of American federalism, all persons who are not legal residents of Wisconsin are not citizens of Wisconsin and should have no formal political rights to participate in state or federal elections there. Put in the starkest of terms, if a resident of New York has no constitutional right or interest in voting or running for office in Wisconsin's elections, he or she should have no such right or interest in making campaign contributions there that could have a far more decisive or sweeping effect on the outcome of an election.

In another closely analogous case from a statutory context, the United States Supreme Court upheld a blanket union rule forbidding candidates for union office to accept campaign contributions from persons who are not members of the union. *United Steelworkers of America* v. *Sadlowski,* 457 U.S. 102 (1982). The Court found that the Steelworkers' rule banning ''outsider'' contributions did not violate the Labor-Management Relations Act or the First Amendment. The Court emphasized the legitimacy of the Steelworkers' desire to see that ''nonmembers do not unduly influence union affairs.'' Id. at 115. The union justly ''feared that officers who received campaign contributions from nonmembers might be beholden to those individuals and might allow their decisions to be influenced by considerations other than the best interests of the union. The union wanted to ensure that union leadership remained responsive to the membership.'' Id.

Thus, it seems inescapable that Congress has a compelling political equality interest in preventing a situation to develop in which a majority of the money raised by U.S. Senate candidates comes from non-citizens.

Third, Congress has a compelling constitutional interest in protecting federalism and the states' ''basic conception'' of their political communities. Intervention in Senate races by non-citizen contributors changes the definition of the state's political community, distorts the character of the campaign process and the nature of campaign appeals, potentially changes the outcome of elections and damages the relationship of loyalty that ought to exist between residents and their officials. In sum, out-of-state and out-of-district money contributions are as distorting a political intervention by non-citizens as would be out-of-state and out-of-district votes and candidacies. If, as the Supreme Court has held, the principal constitutional protections for federalism lie in the political structure of state representation in Congress, then there is clearly a compelling governmental interest in preserving the integrity of each state's political autonomy. Congress has constitutional authority to preserve the ''equal Suffrage'' of each state's representation in the Senate as provided for in Article V.

Beyond the Seventeenth Amendment, one person-one vote and federalism justifications for Section 241, Congress can spell out compelling anti-corruption interests in enacting this provision. Thus, even if one were to apply First Amendment strict scrutiny to Section 241, I believe that the compelling state interests and correspondingly narrowly tailored means exist here.

There are two anti-corruption interests that the Supreme Court has found sufficiently compelling to uphold public regulations of campaign contributions and expenditures. First, in *Buckley,* the Court found sufficient justification for Federal Election Campaign Act caps on campaign contributions in Congress' ''primary purpose'' of ''limit[ing] the actuality and appearance of corruption . . .''

This interest is present here as well, but in an even more striking way. There is a great risk of corruption when non-citizens participate in the financing of a state's federal candidates' campaigns since non-citizens are far more likely to be motivated by a material or economic interest. The Center for Responsive Politics has consistently found that special interests and PACs give overwhelmingly to members who sit on the congressional committees that legislate over them regardless of their state affiliations. *Open Secrets,* the Center's ''Encyclopedia of Congressional Money and Politics,'' reveals further that a majority of Senate and House committee chairs receive a majority of their money from out-of-state contributors. Out-of-state and out-of-district contributors are more likely to have a narrow material interest in legislation, to exercise a corrupting effect on legislation and legislators, and to promote the appearance of *quid pro quo* corruption and trades.

The second anti-corruption interest upheld by the Supreme Court is in guaranteeing that the levels of money spent on behalf of a candidate authentically reflect popular support rather than extrinsic and antidemocratic factors. This interest was identified in *Austin* v. *Michigan Chamber of Commerce,* 494 U.S. 652 (1990). In Austin, the Court upheld a Michigan law preventing corporations from using corporate treasury funds to support or oppose candidates for state office. The Court reasoned that a corporation amassed profits on the basis of its economic prowess and the state's valuable conferral of benefits to all corporations—not on the basis of the public's support for the political ideology of the corporate directors or management. Thus, Michigan was perfectly justified in refusing to allow corporations to convert their profits into political advocacy for particular candidates. In allowing regulation of political money beyond *quid pro quo* arrangements, the Court validated regulation of ''a different type of corruption in the political arena: the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas.'' Id. at 660.

Austin established that money contributions from sources other than the individual citizens who make up the community are inherently corrupting of democratic norms. The Court stated that ''the political advantage of corporations is unfair because '[t]he resources in the treasury of a business corporation are not an indication of popular support for the corporation's political ideas. They reflect instead the economically motivated decisions of investors and customers.'' Id. at 660 (quoting *FEC* v. *Massachusetts Citizens for Life, Inc.,* 479 U.S. 238, 257 (1986).

Just as contributions drawn from a corporate treasury have ''little or no correlation'' to the public's support for the corporation's political ideas, contributions sent from non-citizens who live out-of-state and out-of-district have ''little or no correlation'' to the public's support for the political ideas of such outsiders. These contributions instead mostly reflect the economically motivated contributions of outside interests and political investors. Thus, corporate treasury funds and funds from out-of-state sources inhabit the same vulnerable constitutional position of antidemocratic political money that does not reflect the popular preferences of the actual voting public.

If it advances compelling interests, Section 241's partial ban on out-of-state contributions is also narrowly tailored. First of all, it allows non-citizens to give campaign contributions up until the point that they would become almost half of the candidate's total receipts. Moreover, like the contributions caps upheld in *Buckely,* this provision leaves in place the unhampered ability of the regulated parties—here, the out-of-state contributors—to spend unlimited amounts of money on direct campaign expenditures expressing their own political views in support of, or against, a particular candidate. Thus, while a ban on expenditures by non-citizens would presumably violate the Court's *Buckley* ruling, ''a limitation upon the amount that any one person or group may contribute to a candidate or political committee entails only a marginal restriction upon the contributor's ability to engage in free communication . . .'' *Buckley,* 424 U.S. at 20. Such a ban ''does not in any way infringe the contributor's freedom to discuss candidates and issues.'' Id. at 21.

Section 241 mirrors the regulation upheld in *Buckley.* It works effectively to ban the political dominance created by an overwhelming cash nexus between out-of-state contributors and U.S. Senators. If non-citizens seek to promote a meaningful political or ideological point as opposed to a relationship of political debt with public officials, they can still spend untold millions of dollars speaking and making their views known. What they cannot do under this provision is threaten the systemic corruption of Congress. Although I would prefer to see it ban all out-of-state contributions categorically, Section 241 is still shaped to isolate the corrupting and antidemocratic effects of involvement by out-of-state interests while allowing them every opportunity to get a valid, non-corrupting message across.

To conclude, voting and running for office are fundamental rights of U.S. citizenship protected by the Constitution, but the Constitution allows states to deny the right to vote and run for office to persons who are not citizens of the relevant state. The confinement of formal political rights to voting citizens is always presumptively based on compelling state interests in sovereignty, loyalty and honest government. The making of campaign contributions to candidates for public office constitutes just such an exercise of a formal political right. Congress may declare the existence of compelling interests in preserving the constitutional sovereignty of the people and in combatting the corruption of their political and governmental processes by non-citizens. Section 241 advances these interests with considerable effect while still leaving unlimited room for campaign expenditures by outside interests.

Section 201: This Section prevents political action committees (PACs) from making independent expenditures or giving to federal candidates. It seems clear that the ban on expenditures runs counter to the Court's holding in *FEC* v. *NCPAC,* 470 U.S. 480 (1985), that independent PAC expenditures have the full measure of First Amendment protection since they do not threaten *quid pro quo* corruption. However, I read that case as relating only to independent expenditures and not direct contributions to candidates, which pose a far more serious risk of the kinds of corruption identified in *Buckley.* Indeed, Congress can fairly invoke the last 20-odd years of experience with disproportionate and systematically corrupting PAC influence on federal campaigns and national public policy to demonstrate a compelling interest in passing a ban on direct PAC contributions to federal candidates.

It is important to remember that a ban on PAC contributions to candidates still leaves in place the right of every voter to give directly to a candidate and the right of every PAC, or group of voters, to spend whatever it wants independently advocating or disparaging a particular candidate. Thus, all of the voters' legitimate constitutional interests—the right to associate with a candidate's campaign with a direct contribution and the right to associate with other voters and promote a particular candidate—are still vindicated by a ban on PAC contributions.

I hope that these thoughts are useful to you and that you will feel free to call on me for assistance in the days ahead.

Very truly yours,

JAMIN B. RASKIN,
Professor of Law,
Associate Dean.

Mr. MCCAIN. For those who question the constitutionality of this bill, I hope they will take the time to read the opinions of these legal experts.

Fourth, and the most important, this bill makes message, and not money, the most important part of any election. And as such, challengers will have a more fair and equal footing when running against an incumbent.

Spending limits will do more to level the playing field in an election than any other contemplated reform. Analysis of past races shows incumbents raised and spent considerably more money than the challengers and that the candidates who spent the most money usually won the election—this is especially the case in races where multimillionaires outspent their rivals. It is especially interesting to note that in competitive open seats, the candidate who raises the most money tends to win the election. Spending limits would change that dynamic.

This perverse system under which the richest takes all has resulted in entrenched incumbents. The nonpartisan 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 election. Elections should be about message, not money.

The flow of PAC money is especially enlightening about how the system favors incumbents. I pointed out earlier how much that disparity is. Challengers basically receive $1 in PAC contributions for every $20 given to an incumbent. Which is why entrenched incumbency is such a problem, and why we must do something to fix this situation.

Mr. President, the Supreme Court has ruled we cannot stop someone who is willing to spend an unlimited amount of money for a Federal office from doing so. That is the law of the land. Our bill conforms to it. But the bill does provide 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 bill's benefits. Further, the bill raises the individual contribution limit for candidates who comply with the bill's provisions when they run against someone who either refuses to comply with the spending limits or exceeds the personal contribution limit.

Some have said that the simple solution of raising the individual contributor limit is the answer to the problem. That solution just is not true. Raising the individual contribution limit does nothing to control or limit the amount of money spent in a race. It may actually have the perverse effect of discouraging candidates of modest means from seeking office when confronted with an incumbent with unlimited resources. Under the current system, an incumbent's access to PAC contributions and an incumbent's appeal to well represented interests in Washington who like to bet safely on election favorites will almost always allow the incumbent to outspend his or her challenger.

Increasing contribution limits would do nothing to level the playing field and may, in fact, only further entrench incumbents who will always have superior advantages when it comes to attracting big money. It has been said several times that the public spends more on yogurt than is spent on campaigns. That is almost a catchphrase around here. My friends use the example to demonstrate that spending limits are not needed. Mr. President, I must respectfully disagree. This comparison is amusing but completely irrelevant. There is not a crisis of confidence in the yogurt industry. Confidence, trust, and faith in the yogurt industry is not important for the well-being of future generations. This country is not the great Nation it is today due to the yogurt industry.

We live in the greatest democracy in the history of the world because of the foresight of our Founding Fathers to create a government that represented and had the trust of the people. It is that trust that we must seek to restore.

Poll after poll reveals the public's urgent demands for genuine finance campaign reform. These polls mark the progress of public sentiment on this question. The people's cynicism over the way we seek office has grown into contempt for the way we retain office. The foundations of self-government rest on the public's faith in the basic integrity of our legal system. That faith is shaken today.

This bill will not cure public cynicism for politics. But we believe it will prevent cynicism from becoming contempt, and contempt from becoming utter alienation.

Our bill represents substantial, necessary change to the status quo—a status quo that has generated a reelection rate of over 90 percent for Members of the House and Senate. We know the current system has served incumbents well, and we know what a daunting task it will be to convince the Congress to reform this system.

Our appreciation for the political realities and institutional impediments arrayed against reform will not extinguish our determination for reform because we know the consequences of failing to act are far more frightening than the personal prospect of involuntary retirement.

We must move forward. We must pass meaningful campaign finance reform. The American people expect us to do at least that much.

Today's Washington Post stated: ''Give them a vote, and perhaps for another Congress the issue will go away: That's the leadership position. It's the way both parties deal with the issue; they spend half their time endorsing reform and the other half making sure it won't occur.''

Mr. President, I challenge my colleagues to prove the Washington Post wrong. I urge my colleagues to vote for cloture and make reform more than an unkept promise.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate now resume consideration of S. 1745, the Department of Defense authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1745) to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kyl/Reid Amendment No. 4049, to authorize underground nuclear testing under limited conditions.

Kempthorne Amendment No. 4089, to waive any time limitation that is applicable to awards of the Distinguished Flying Cross to certain persons.

Warner/Hutchison Amendment No. 4090 (to Amendment No. 4089), to amend title 18, United States Code, with respect to the stalking of members of the Armed Forces of the United States and their immediate families.

CLOTURE MOTION

Mr. MCCAIN. Mr. President, I send a cloture motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 433, S. 1745, the Department of Defense authorization bill.

Trent Lott, Don Nickles, Dirk Kempthorne, Rod Grams, Jim Jeffords, Craig Thomas, Kay Bailey Hutchison, Judd Gregg, Bill Frist, Fred Thompson, Mike DeWine, Rick Santorum, John Ashcroft, Sheila Frahm, Ben Nighthorse Campbell, Hank Brown.

MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, 4 years ago when I commenced these daily reports to the Senate it was my purpose to make a matter of daily record the exact Federal debt as of the close of business the previous day.

In my very first report on February 27, 1992, the Federal debt the previous day stood at $3,825,891,293,066.80, at the close of business. The Federal debt has, of course, shot further into the stratosphere since then.

Mr. President, at the close of business this past Friday, June 21, a total of $1,283,809,880,199.26 had been added to the Federal debt since February 26, 1992, meaning that the exact Federal debt stood at $5,109,701,173,266.06. On a per capita basis, every man, woman, and child in America owes $19,271.14 as his or her share of the Federal debt.

REPORT ON THE PEOPLE'S REPUBLIC OF CHINA AND THE EXPORT OF UNITED STATES-ORIGIN SATELLITES—MESSAGE FROM THE PRESIDENT—PM 154

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Pursuant to the authority vested in me by Section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (P.L. 101–246) (''the Act''), and as President of the United States, I hereby report to Congress that it is in the national interest of the United States to terminate the suspensions under section 902(a) of the Act with respect to the issuance of licenses for defense article exports to the People's Republic of China and the export of U.S.-origin satellites, insofar as such restrictions pertain to the Hughes Asia Pacific Mobile Telecommunications project. License requirements remain in place for these exports and require review and approval on a case-by-case basis by the United States Government.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 23, 1996.*

REPORT OF REVISED DEFERRAL OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT—PM 155

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Finance.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one revised deferral of budgetary resources, totaling $7.4 million. The deferral affects the Social Security Administration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 24, 1996.*

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–3108. A communication from the White House, President of the United States, transmitting, pursuant to law, a report concerning the presence of personnel from states of the former Soviet Union at the Juragua nuclear facility near Cienfuegos, Cuba; to the Committee on Foreign Relations.

EC–3109. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to nectarines and peaches grown in California, received on June 20, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3110. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Irish potatoes grown in Washington, received on June 19, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3111. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to limes and avacados grown in Florida, received on June 19, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3112. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a final rule relative to grapes being grown in a designated area of Southeastern California, received on June 19 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3113. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a final rule relative to specialty crops, received on June 19, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3114. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Japanese Beetles, received on June 20, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3115. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92–84; to the Committee on Appropriations.

EC–3116. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93–03; to the Committee on Appropriations.

EC–3117. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a notice of intent to obligate funds, following the transfer, for the purpose of upgrading existing non-government television stations in Bosnia and Herzegovina; to the Committee on Appropriations.

EC–3118. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the description of property to be transferred to the Republic of Panama in 1996 and 1997; to the Committee on Armed Services.

EC–3119. A communication from the Secretary of Defense, transmitting, relative to the retirement of Lieutenant General Harold W. Blot, United States Marine Corps; to the Committee on Armed Services.

EC–3120. A communication from the Secretary of Defense, transmitting, relative to the retirement of Lieutenant General George R. Christmas, United States Marine Corps; to the Committee on Armed Services.

EC–3121. A communication from the Secretary of Defense, transmitting, relative to the retirement of Lieutenant General James A. Brabham, Jr., United States Marine Corps; to the Committee on Armed Services.

EC–3122. A communication from the Secretary of Defense, transmitting, relative to the retirement of Lieutenant General Arthur C. Blades, United States Marine Corps; to the Committee on Armed Services.

EC–3123. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the Defense Environmental Restoration Program; to the Committee on Armed Services.

EC–3124. A communication from the Under Secretary of Defense Acquisition and Technology, transmitting, pursuant to law, a report relative to the Amphibious Transport Dock Ship; to the Committee on Armed Services.

EC–3125. A communication from the Director of Financial Management and Deputy Chief Financial Officer, Department of the Interior, transmitting, pursuant to law, the Secretary's Report on Audit Followup; to the Committee on Energy and Natural Resources.

EC–3126. A communication from the Assistant Secretary, Lands and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a final rule entitled ''Effective Dates of Permit Decisions'' (RIN1004–AB51), received on June 19, 1996; to the Committee on Energy and Natural Resources.

EC–3127. A communication from the Office of the Chairman, Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to being exempted from regulation of the construction and operation of connecting railroad track, received on June 14, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3128. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a final rule concerning energy consumption and water use, received on June 14, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3129. A communication from the Program Management Officer, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a final rule relative to Magnuson Act Provisions (RIN0648–AI17), received on June 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3130. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled ''Regulatory Actions Affecting Tourist Railroads''; to the Committee on Commerce, Science, and Transportation.

EC–3131. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of four final rules concerning special local regulations (RIN2115–AE46, 2130–AA97), received on June 20, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3132. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of twenty-one final rules concerning airspace (RIN2120–AA66, AA64, A64, AF90, AA65), received on June 20, 1996; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. DOMENICI:

S. 1898. A bill to protect the genetic privacy of individuals, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. STEVENS (for himself, Mr. LEAHY, and Mr. MURKOWSKI):

S. 1899. A bill entitled the Mollie Beattie Alaska Wilderness Area Act; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. HARKIN, and Mr. ROCKEFELLER):

S. 1900. A bill to amend titles XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. GRASSLEY):

S. 1901. A bill to amend title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 1898. A bill to protect the genetic privacy of individuals, and for other purposes; to the Committee on Labor and Human Resources.

THE GENETIC CONFIDENTIALITY AND NONDISCRIMINATION ACT OF 1996

Mr. DOMENICI. Mr. President, I rise today to return a momentous issue to the forefront. This issue is genetics confidentiality and nondiscrimination. I am pleased to report that the human

genome project is proceeding rapidly to map and sequence the entire complement of human genes. These genes are coded in over 3 billion molecular building blocks of DNA.

Now, most people—and I must say most Members of the Congress—are not necessarily aware of the fact that since 1986, our Government has been involved in an annual program which has reached the size of about $138 to $140 million a year, which is divided one-third in the Department of Energy and two-thirds in the National Institutes of Health. That program spends that money by permitting various major American institutions to proceed to map certain chromosomes which are yielding fantastic information regarding diseases of the human species.

One might quickly recognize that if that is going on, it probably is also going on in the area of animals and in the area of agricultural products. And, yes, although the genome project is human, because of its tremendous success it is going on in the other areas also. So, in a very real sense, believe it or not, while all the discussion of late is about conventional health care proposals, it is entirely possible, in fact I believe probable, that within 25 to 40 years the entire delivery of health care will be built around genetics rather than what we are doing today. In fact, at certain conferences we have sat around and thought about what a hospital will probably look like when we have finally mapped and sequenced the entire chromosome system. It will not be anything like we have today.

So, in these 3 million molecular building blocks, we are busy locating the situs within that molecular system of most of the diseases that impede human progress and have this enormous impact on our well-being, our health, and thus our prosperity and the joy of living. Determining this entire code is going to provide scientists and doctors with a road map. This map will lead them to great discoveries and breakthroughs, as I have indicated, to prevent suffering and pain of diseases.

The human genome project stands to be one of humanity's greatest scientific achievements. Nonetheless, when the human genome was first brought to my attention in 1986, I recognized that it could catalyze revolutions, not just in science and medicine, but also in ethics and in law and society. That is why one will find, as part of the human genome funding, that there is money set aside specifically to address the ethical, legal, and social implications of this project.

There is literally a revolution occurring in genomic information, special information, information about our species, about our bodies, and, most important, about ourselves. Who should know this information? Should it be public? Should our doctors, our friends and our families, our insurers, our employers or even our very selves know every detail of our genetic blueprint? These are penetrating and provocative questions, and they are proactive, and they deeply concern many who know about them. I guarantee the Senate that there will be, with the passage of each year, more and more people concerned about them as the ramifications begin to unfold.

I am not one who says that, because of these serious ramifications, we should stop the progress of knowledge about human disease. But, obviously, if we do not do this carefully, the abuse could stop this progress. About that, there can be no doubt, for, if this kind of information is abused in a country like ours, there may be an enormous backlash. Frankly, I think that would be a pathetic response to one of the approaches to wellness with most potential that humankind has ever seen.

So, this genetic confidentiality and nondiscrimination is a monstrous issue, and I raise it today not as the first to raise it, for it is around. Certain Senators—led over time by Senator HATFIELD and, of late, a few others—are rising to the occasion and worrying about it.

The right for each individual to have some control over his or her most personal and most identifying information is what we are talking about. Indeed, I could change my name again and again and maybe some people would no longer be able to identify me, maybe some would, maybe some wish they could not. However, I can never, never change my genetic information. It will always be me, and yours will be you. People will always be able to identify this genetic information that is peculiar to each of us. Whether it comes from a drop of blood, the back of a postage stamp where saliva remains, or a pathology specimen, it is the person from whence the blood, the saliva, or whatever other piece of our anatomy is put to the pathology test.

So, along with my colleague, Senator SIMON, I am today introducing the Genetic Confidentiality and Nondiscrimination Act of 1996. This is a comprehensive and defining legislative vehicle. It is, indeed, needed to bolster the efforts of 19 States that have enacted some kind of information privacy statutes, as well as five of my colleagues who have introduced similar legislation, although substantially different. This bill in no way infringes on those efforts. Genetics privacy is a big issue, and many groups will have concern about specific provisions. There is much work to be done. There needs to be much more debate. I am certain the Chair is aware of that from this discussion thus far. My staff, as well as others, have worked very hard to craft the very best bill that we could.

I think from this point on we should not let time lapse. We should work together and get something done to make sure we do not punish and penalize the progress of this rather fantastic health research. Again, this bill is a comprehensive legislative vehicle that will be subject to exhaustive legislative review processes, with hearings and input from all sources and all points of view.

So let me briefly describe our bill. First, I send forward a summary to the desk and ask unanimous consent it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMENICI. The act itself will be known as the Genetic Confidentiality and Nondiscrimination Act of 1996. First, the bill defines genetic information as uniquely private and distinct from other personal information such as medical records. As I mentioned before, it is impossible to separate one's identity from one's genes. One's DNA also provides information about one's family. Genetic information carries significance and has great potential for misuse. Let me repeat. This information is of special significance and has great potential for misuse. Genetics transcends medicine and can penetrate many aspects of life, including employment, insurance, education, forensics, finance, and even one's self-perception.

Let me also make it perfectly clear that this bill does not make it illegal for a third party to collect, store, analyze, or even disclose an individual's genetic information. This bill requires that third parties obtain the individual's informed and written consent.

This legislation puts individuals in control of his or her genetic information. Some will object to that, but ultimately the question is going to be asked: If not the individual, who? Exceptions are provided in the bill for legitimate medical research, law enforcement activities, court-ordered analysis and purposes of identification of dead bodies or active duty military remains and, on the latter, we have already been hearing something about that.

Specifically, the purposes of this legislation are:

First, to define the circumstances under which genetic information may be created, stored, analyzed, or disclosed;

Second, to define the rights of individuals with respect to genetic information;

Third, to identify the responsibilities of third parties with respect to genetic information;

Fourth, to protect individuals from genetic discrimination with respect to insurance and employment. Just think of that one, the opportunity to discriminate because of genetic information if randomly delivered to people such as insurance carriers, employers, and many other institutions and individuals that could act based on it.

Fifth, to establish uniform rules to protect genetic privacy and allow the advancement of research.

Today, there is clear and pressing need for Federal legislation on this issue. This Senator, along with Senator SIMON—and I am sure there will be others who will join us, but I have just not had enough time to get this circulated and get it out to other Senators; that will start today—but we are introducing this bill to motivate, consolidate,

and strengthen the process of getting something done in this very, very important area. I look forward to working with my House and Senate colleagues in bringing this issue, with broad bipartisan support, to an anxiously awaiting American public.

Mr. President, the call is now. Once again, the human genome project stands to be one of the greatest scientific and medical achievements of all time. And incidentally, I think one might wonder why we did not do this a long time ago. We constantly talk about the computer and what it permits us to do that we could not have done. It is patent and obvious that we could never ever have begun the process of mapping the 3 billion human genomes within the chromosome system of a human being without the computer system that has evolved in our country.

Without that, we would still be having researchers take on and study for their whole lifetime where the gene for multiple sclerosis might be. This is not to say many of those great research teams struggled mightily, and they did, and they found the situs for many of them and cures and drugs have resulted that ameliorate and sometimes cures.

But this offers science ultimately a map of all of the chromosomes, and then they will begin to sequence them in some kind of order. They will have a road map and then start to sequence them.

What they will have done, once they have finished, is give the great scientists an opportunity to focus in on the work to find where the mutation is that is causing breast cancer. Work is being done with families on just that subject, and the mutation is being isolated and people are being, in some instances, told whether they are going to get this cancer or not. It is rather amazing.

Where will all this end up? Let us hope, with an appropriate reservation of rights on disclosure, that it will end up in the right hands doing the right kind of things, making the right kind of progress that our great society is taking the lead in. I will say, though, so nobody thinks this is totally and singularly an American project. It is not. The French are doing great work. In some cases, they have a lead on America. Japan is doing some, and almost all of the industrialized nations are doing some. But our great genome project has moved ahead in a dramatic manner. It is ahead of schedule, it has cost much less than we expected and, consequently, it is time for us to do something now about this aspect of it.

Its wonderful promise may never be fully realized if the public is afraid of what someone else will do with their information. That is the reason that this becomes very important.

Mr. President, in addition to the matter for which I asked unanimous consent earlier, I ask unanimous consent that a number of news articles be printed in the RECORD, and I send the bill to the desk and ask for its appropriate referral.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

GENETIC PROPHECY AND GENETIC PRIVACY—CAN WE PRESENT THE DREAM FROM BECOMING A NIGHTMARE?

(By George J. Annas)

Would you want to know if you're likely to develop Alzheimer's disease later in life? Would you want your employer, your health insurer, your colleagues, or your family to know? Who should decide who should know, and how can public health practitioners use genetic information on predisposition to diseases like dementias and cancer for the public good without stigmatizing individuals?

In this issue's Health Law and Ethics, Mayeux and Schupf pose all of these questions and more in the context of apolipoprotein-E screening for Alzheimer's disease. Although the presence of the 4-type apolipoprotein E allele is not a test for Alzheimer's disease, Mayeux and Schupf's analysis suggests many of the issues we will face when tests for the genes that cause various types of Alzheimer's disease, such as early onset Alzheimer's, become available. They argue, persuasively I think, that population screening now ''would not only be impractical, but would be of no obvious benefit'' and ''without a clear-cut therapeutic option, early detection (by testing) at this point does not seem beneficial.'' They also properly stress the dangers of creating disease in the absence of symptoms, and the necessity for pre- and post-test counseling for any such probabilistic, presymptomatic genetic testing.

The central question presented by genetic screening and testing is whether genetic information is different in kind from other medical information (such as family history and cholesterol levels), and if so, whether this means that it should receive special legal protection. Stated another way, are Mayeux and Schupf correct in concluding that ''the genetic code of an individual should be protected and considered confidential information in all circumstances''? I think they are, but their conclusion with respect to genetic privacy deserves more analysis.

Genetic information can be considered uniquely private or personal information, even more personal than other medical information such as human immunodeficiency virus (HIV) status or mental health, for at least three reasons: it can predict an individual's likely medical future; it divulges personal information about one's parents, siblings, and children; and it has a history of being used to stigmatize and victimize individuals.

The highly personal nature of the information contained in one's deoxyribonucleic acid (DNA) can be illustrated by thinking of DNA as containing an individual's coded ''future diary.'' A diary is perhaps the most personal and private document a person can create. It contains a person's innermost thoughts and perceptions and is usually hidden and locked to assure its secrecy. Diaries describe the past. The information in one's genetic code can be thought of as a coded probabilistic future diary because it describes an important part of a person's unique future and, as such, can affect and undermine one's view of himself or herself and his or her life's possibilities. Unlike ordinary diaries that are created by the writer, the information contained in one's DNA, which is stable and can be stored for long periods of time, is largely unknown to the person. Most of the code cannot now be broken, but parts are being deciphered almost daily. As decoding techniques get better, and if one's DNA is deciphered without permission, another person could learn intimate details of the individuals likely future life that even the individual does not know.

Deciphering an individual's genetic code also provides the reader of that code with probabilistic health information about that individual's family, especially parents, siblings, and children. Finally, genetic information (and misinformation) has been used by governments (US) immigration and sterilization policies and Nazi racial hygiene policies, for example) to discriminate viciously against those perceived as genetically unfit and to restrict their reproductive decisions.

Mayeux and Schupf note my prior recommendations regarding regulating DNA banks. Although regulating such ''gene banks'' is necessary to protect genetic privacy, it is not sufficient. My colleagues Leonard Glantz and Patricia Roche and I now believe that we need federal legislation to protect individual privacy by protecting not only DNA samples, but also the genetic information obtained from analyzing DNA samples. To be effective, such legislation must govern activities at at least four points: collection of DNA, analysis of DNA, storage of DNA and information derived from it, and distribution of DNA samples and information derived from DNA samples. As a general rule, no collection or analysis of an individual's DNA should be permitted without an informed and voluntary authorization by the individual or his or her legal representative. Research on nonindentifiable DNA samples need not be inhibited; but research on DNA from identifiable individuals should proceed only with informed consent.

To codify these rules and make them uniform throughout the United States, we have drafted the ''Genetic Privacy Act of 1995,'' the core of which prohibits individuals from analyzing DNA samples unless they have verified that written authorization for the analysis has been given by the individual or his or her representative. The individual has the right to do the following:

Determine who may collect and analyze DNA;

Determine the purpose for which a DNA sample can be analyzed;

Know what information can reasonably be expected to be derived from the genetic analysis;

Order the destruction of DNA samples;

Delegate authority to another party to order the destruction of the DNA sample after death;

Refuse to permit the use of the DNA sample for research or commercial activities; and

Inspect and obtain copies of records containing information derived from genetic analysis of the DNA sample.

A written summary of these principles (and other requirements under the act) must be supplied to the individual by the person who collects the DNA sample. The act requires that the person who holds private genetic information in the ordinary course of business keep such information confidential and prohibits the disclosure of private genetic information unless the individual has authorized the disclosure in writing, or unless the disclosure is limited to access by specified researchers for compiling data. Although the act itself does not prohibit the use of genetic information by employers and insurance companies (because this is a separate problem from privacy), it would be reasonable public policy to prohibit both employers and health insurance companies from using genetic information in making hiring and coverage decisions. Congress should act now to protect genetic privacy. While we

wait for congressional action, states can act, and private companies and practitioners can voluntarily adopt these privacy rules as their own.

The new genetics raises virtually every major health care policy question, as well as unique legal and ethical problems. How should screening for BRCA 1 and BRCA 2 (two ''breast cancer genes'') be introduced into medical and public health practice? Should we prohibit parents from authorizing the testing of minors or fetuses for breast cancer genes, or any other gene predisposing to a nonpreventable, late-onset disease? The Human Genome Project has devoted approximately $3 million a year for the past 5 years to exploring the legal, ethical, and social policy issues raised by the project. The Genetic Privacy Act is one of the products of this funding. In addition, the Institute of Medicine's Committee on Assessing Genetic Risks has made more than 225 specific recommendations dealing with genetic screening and testing, virtually all of which are reasonable. We know the privacy and policy issues that come with the new genetics. The challenge is to act now to try to maximize the good and minimize the harm that will come to all of us from our new genetic knowledge.

[From the Washington Post, May 12, 1996]

THIS MAP WON'T SHOW US THE WAY

(By Jessica Mathews)

The job of deciphering the 60,000 to 100,000 genes the human genome will be finished in less than 10 years. That may sound like a long time, but it isn't. Long before then, but it isn't. Long before then, at an accelerating pace, we will begin to be flooded with genetic information that can be as treacherous and unwelcome as it sometimes is lifesaving. We will need every minute to prepare for a revolution in medicine that will invade our privacy in unprecedented ways and challenge legal protections, social values, personal ethics and religious beliefs.

If the past is any measure, we won't be ready. With no societal consensus about how to approach the issues, most of the decisions will get bumped, as a last resort, to the courts where judges with no particular qualification nor preparation will have to decide, struggling to find some constitutional basis for resolving novel, moral dilemmas.

Think for a moment about a world in which genetic screening of people and fetuses is routine.

Suppose you knew you had a high risk of dying in 10 years? Should it be legal to keep that information to yourself when buying life insurance?

How would a managed-care provider treat a couple who refused preventive treatment. (an abortion) for a fetus that would require lifetime medical care?

What if screening revealed children's individual endowments of traits were now call intelligence. Would society demand educational tracking beginning in preschool?

How will prospective parents deal with the information in a fetal screen? Suppose it reveals a high risk of heart disease, or mental disorders, or obesity or undesirable temperament? Will pregnancy in this brave new world necessarily be a time of achingly difficult decisions? What will it mean for society when every child enters the world with hundreds of ''preexisting conditions''? What will it mean for religion when innate characteristics become a matter of choice?

Will the rich, who can afford repeated fetal screening and genetic interventions, begin to produce children who differ more and more from those of the poor?

Should prospective employers and insurers have access to an individual's genetic profile? What about prospective spouses? What about us—would we have a ''right'' not to know about ourselves?

Will we want all this information we can do very little about? Will we ever be able to meaningfully apply statistical risks to our own, individual cases? How will we cope with decades of enormous uncertainty as scientists sort out the interactions of tens of thousands of genes and the interactions of the resulting genetic propensities with the environment?

Where will we find enough genetic counselors who combine scientific knowledge, therapeutic insight, clerical compassion and the wisdom of Solomon? Should they just give the facts? If they do more, whose values will they be transmitting?

What about genetic alteration of germ cells, those that pass on traits to future generations? So have said that a line can be clearly drawn making these cells off limits. But suppose it becomes possible to alter the genes that give rise to familial predispositions to cancer and other diseases. Wouldn't we want to do that? Then aren't we facing an era of human eugenics?

The widespread unhappiness with having judges rule on the moral question of physician-assisted suicide offers a faint preview of what it would be like to leave such questions to the courts. In one of those cases, Andrew Kleinfeld, a dissenting judge on the 9th Circuit, made his own discomfort plain. ''The Founding Fathers did not establish the U.S. as a democratic republic,'' he wrote, ''so that elected officials could decide trivia, while all great questions would be decided by the judiciary.''

The alternative is to develop sufficient public understanding to address these choices through referendums and legislatively and, if possible, to do so in a way that avoids making genetic ethics into a political football like abortion. A small beginning has been made. The government-funded Human Genome Project wisely set aside a small fraction of its budget to study moral and ethical questions, so there are expert groups and advisory committees and a stream of scholarly papers. But that is not enough.

Nor is it enough to vaguely call—as I have in the past—for a ''broad public conversation'' on the subject. Without some sort of crisis it just won't happen. What is needed is a national commission of a new and different kind.

The usual mission for such a body is to serve either government or interested groups through fact-finding, research and expert advice. This one's client would be the public. Its job would be to find innovative ways to inform and stimulate public debate; to frame choices, to offer balanced pros and cons; to confront as many Americans as it can with the facts and the uncertainties and scientists' best guesses about where their work is leading. It should be nonpartisan and operate for as long as we need it.

The mapping of the human genome will be an enormous scientific achievement, at least on a par with nuclear fission, but much more personal. If it is, on balance, to improve our lives in the next few decades, we'll have to collectively think it through—in advance.

[From the Washington Post National Weekly Edition, June 3–9, 1996]

ALL IN THE GENES—THE NEW AVAILABILITY OF TESTS RAISES A HOST OF ETHICAL QUESTIONS

(By Rick Weiss)

When Ebenezer Scrooge got a sneak preview of his own demise, including views of his funeral that no one cared to attend, he had only to change his evil ways to revise the future. If only genetic testing offered such simple solutions.

New genetic tests are moving rapidly from research laboratories into doctors' offices, where they are being marketed as a way to predict people's chances of getting common diseases such as colon cancer, breast cancer and Alzheimer's disease.

But instead of offering clear views of the future and strategies for altering it, genetic tests have raised the specters of DNA-based discrimination and loss of health insurance, and the prospect of people learning just enough to scare them but not enough to cure them.

Now, as companies begin to market their new tests, scientists, patients' groups, health insurers and legislators are rushing to stake out positions on what restrictions, if any, should be placed on the commercialization and use of genetic tests. The strained positions some are taking reveal the extent to which science today is intermingled with politics and business.

Congress, for example, is preparing legislation that would prohibit genetic discrimination against some people—but not against others. The Food and Drug Administration, already on the defensive amid corporate claims of over-regulation, has declared it has the authority to regulate genetic tests but hastens to add that it has no plans to do so. And in perhaps the most unusual twist, many advocates of patients' rights who usually clamor for access to the latest cancer breakthroughs are asking that some genetic tests be kept from patients.

The National Breast Cancer Coalition, for example, a patients' rights group, opposes open marketing of a test for the so-called breast cancer gene, BRCA1. At the risk of sounding as paternalistic as the doctors they often fight against, members say the test's generally ambiguous results may trigger unnecessary panic in many women while reassuring others who should remain vigliant.

''There's a real dilemma among feminist scholars on this,'' says June Peters, a genetic counselor at the National Institutes of Health. ''You need to build in safeguards,'' she says, since profit-driven companies do not necessarily share the same interests as patients. ''At the same time, there is the feeling, 'I am an adult and I can take care of these decisions myself.'''

Genetic tests differ from many medical tests because they often provide very vague answers, such as, ''You have a gene that gives you a 70 percent chance of getting breast cancer in the next 20 years.'' That uncertainty can be all the more frsutrating because in most cases there is nothing a person can do to prevent the predicted disease from occurring.

Moreover, people can reduce their risk of getting heart disease or cancer by changing unhealthful habits such as overeating or smoking, but they are stuck with their genes. And with legal protections still not fully established, the information gleaned from genetic tests today is as easily used against people as for them.

''You can't choose your genes,'' says Francis Collins, director of the National Center for Human Genome Research. ''So you shouldn't be discriminated against on the basis of those genes.''

The stakes are high on both sides of the issue. The fledging genetic testing industry, which foresees soaring profits in the next few years, is pushing hard to get its tests to market, arguing that patients have the right to learn about their own genes even if the information is incomplete or inconclusive. Similarly, health insurers desperately want the right to peek at their clients' genes to help predict their medical fates—and to set their insurance rates accordingly—in part because they are afraid that people who discover they have faulty genes may try to take out large policies.

On the other hand, many scientists, doctors and patients' groups argue that, at least for now, most gene testing should be limited to research studies designed to gather more information about how to make the most of this new resource. Studies could keep track of how people with various ''bad'' genes fare over the years, settling the question of which genetic glitches really matter and which are less important.

Studies also could compare different preventive treatments to see whether it is worthwhile, for example, to remove a person's colon just because a genetic test reveals a very high risk of colon cancer, or whether that individual can safely put off surgery until a cancer is actually found. Extra time also would allow Congress and other institutions to devise safeguards against the misuse of genetic information.

With these concerns in mind, several prestigious scientific organizations—including the American Society for Human Genetics, the National Advisory Council for Human Genome Research and the National Action Plan on Breast Cancer, which is coordinated by the U.S. Public Health Service—have come out against commercialization of the BRCA1 test, the first crude predictor of cancer risk to come on the market.

Scores of genetic tests have been developed for dozens of diseases. Some are used to diagnose existing conditions and others are used in healthy people to predict the odds that a disease will occur. The tests, usually done with a drop of blood, look for ''misspellings'' in a person's DNA—the strands of genetic material that spell out in biological code the instructions for making products the body needs.

Many genetic tests—especially those for rare diseases—can predict with certainty a person's fate. Everyone who tests positive for the genetic defect associated with Huntingdon's disease, for example, will get the fatal neurodegenerative disease, probably in midlife.

But many other genetic tests—especially those for more common diseases such as cancer and Alzheimer's disease—offer far less definite predictions. The breast cancer test, which looks for a spelling error in the BRCA1 gene, is one such test. It is now making its way onto the market in three different formats, ranging from ''research only'' to open marketing.

Increasing numbers of women are asking for the test because they are under the impression that those who have a mutation in the BRCA1 gene have an 85 percent chance of getting breast cancer, as well as an elevated risk of ovarian cancer.

But what should a woman do if she tests positive? No preventive strategies have been shown to help—not even preemptive removal of both breasts, since tumors may still develop in nearby chest tissues. More frequent mammograms to watch for the first sign of cancer may be useless or even dangerous, since there is evidence that some women with this mutation may be especially prone to DNA damage and cancer from X-rays.

To further complicate the issue, more than 130 mutations have been found in the breast cancer gene. Some are probably meaningless, and others deadly, but most have not been studied yet. Standard gene tests available today detect only one or a few of the more common mutations, so a negative test doesn't guarantee safety.

Most important, many women seem not to realize that it is only if a woman has a clear family history of breast cancer—usually defined as two or more close relatives with the disease—that the BRCA1 mutation confers 85 percent odds of getting breast cancer.

The vast majority of women do not come from cancer-prone families, and for them the risk of having a BRCA1 mutation remains completely unknown.

That is not to say the test is useless. For some carefully selected women already diagnosed with breast cancer, a positive test can indicate the need for more aggressive therapy.

And for a woman whose mother or sister had breast cancer from a BRCA1 mutation, a negative test can provide some reassurance. What remains unproved, however, is that the test has any value for the more than 95 percent of women who do not fit into those categories.

A federally funded study of thousands of women, ongoing in the Washington, D.C.-Baltimore area, will begin to answer the question of what a positive BRCA1 test really means. But because it is research, and the results of the study will take time to interpret, the women will not be told whether they have the mutation.

Meanwhile, the Genetics & IVF Institute, of Fairfax, Va., recently started offering the BRCA1 test to women willing to pay about $300. The clinic has been criticized by some doctors and ethicists for making the test available to women who might have little or nothing to gain from it. Its medical director, Joseph Schulman, declined to be interviewed for this story.

A third option, praised by several doctors as a good compromise, is underway at OncorMed, of Gaithersburg, Md. The company offers BRCA1 testing and results to women who are willing to follow certain rules prepared by an independent research review board. Women must be referred for counseling before and after the test is performed. Results must be given by the doctor in person, and the doctor must follow up with patient about three months later. The company also must compile data from its experience to determine which aspects of the gene-testing process need improvement.

At a recent meeting in Baltimore of a federal task force on gene testing, some participants questioned whether the companies marketing genetic tests should be the ones to decide who gets tested and what information they receive or whether some sort of regulatory oversight should be imposed.

The question of oversight is made more difficult because laboratory testing already is regulated in a patchwork manner, and none of the patches quite applies to genetic tests.

Medical testing is regulated in part by an act of Congress, the Clinical Laboratory Improvement Amendments of 1988. But CLIA stipulates only that laboratory tests must be scientifically accurate—that is, a test for a BRCA1 mutation must be good at finding BRCA1 mutations. It does not require that a test have any proven usefulness for patients. The FDA reviews and approves the relatively simple test ''kits'' that are sold for use in commercial laboratories or at home. At times it has even required that counseling be given with test results, as it did with the approval of a home AIDS test early last month.

But genetic tests are too new and complicated to be sold as kits. Most genetic tests are ''home brew'' tests, developed inhouse by the companies that do the testing. The FDA has the authority to regulate such tests, says Deputy Commissioner Mary K. Pendergast, but it has never done so. ''We would not be able to take it on,'' she says, ''without stopping other things we are doing now.''

Congress could help protect test recipients by making it illegal for insurers and employers to discriminate on the basis of genetic information. Both the House and Senate versions of the health care bill that is soon to be considered by a conference committee contain language that would prohibit some forms of genetic discrimination.

The bills would preclude companies from using genetic information to deny an insured person continued insurance when that person changes health plans. But they offer little or no protection to people who do not yet have insurance and are trying to get it. And other safeguards are far from complete.

''These bills would require that insurers offer a policy, but they don't cover pricing, so we can expect to see discriminatory pricing,'' says Wendy McGoodwin, executive director of the Council for Responsible Genetics, an advocacy group in Cambridge, Mass. ''And it has no impact whatsoever on life insurance or disability insurance.''

According to many experts, the last hope for intelligent guidance on the gene-testing issue may be a federal task force convened last year by the National Institutes of Health and the Department of Energy.

The task force, with representatives from the medical profession, the testing and insurance industries and patients' rights groups, is preparing a wide-ranging report on the ethical, legal and social implications of genetic testing, due to be completed by the end of the year. But consensus has been difficult to achieve.

At a task force meeting in April, representatives of the biotechnology industry said it is the doctor's job to make sure that patients understand the risks and benefits of being tested. Doctors said they were still getting up to speed in genetics and would be unable to stem the tide of patient demand if testing were not subject to regulatory restrictions. And insurers said they would go out of business if they were restricted from having access to genetic information.

Given the lack of agreement, some suspect the field will simply grow like any other ''buyer beware'' market as more and more tests become available.

''Physicians are soon likely to confront extremely awkward situations,'' Harvard scientists Ruth Hubbard and Richard Lewontin wrote recently in the New England Journal of Medicine. ''Physicians need to recognize the limitations of the new information * * * and the commercial pressures behind the speed with which preliminary scientific data are being turned into tests.''

Mr. DOMENICI. I yield the floor.

EXHIBIT 1

THE GENETICS CONFIDENTIALITY AND NONDISCRIMINATION ACT—SUMMARY

Sec. 1.—Short title: The ''Genetics Confidentiality and Nondiscrimination Act of 1996''

Sec. 2.—Findings: The DNA molecule contains an individual's genetic information that is uniquely private and inseparable from one's identity. Genetic information is being rapidly sequenced and understood. Genetic information carries special significance. It provides information about one's family, and, more importantly, provides information about one's self and one's self perception. Genetic information has been misused, harming individuals through stigmatization and discrimination. The potential for misuse is tremendous as genetics transcends medicine and has the potential to penetrate many aspects of life including employment, insurance, finance, and education. Genetic information should not be collected. stored, analyzed, nor disclosed without the individual's authorization. Current legal protections for genetic information are inadequate. Uniform rules for collection, storage and use of DNA samples and genetic information are needed to protect individual privacy and prevent discrimination, such as in employment and insurance, while permitting legitimate medical research.

Purposes: This legislation will: (1) define circumstances under which genetic information may be created, stored, analyzed, or disclosed: (2) define rights of individuals and

persons with respect to genetic information; (3) define responsibilities of others with respect to genetic information; (4) protect individuals from genetic discrimination; (5) establish uniform rules that protect individual genetic privacy and allow the advancement of genetic research; and (6) establish effective mechanisms to enforce the rights and responsibilities defined in this Act.

Sec. 3.—Definitions: Genetic information—means any the information that may derive from an individual or a family member about genes, gene products, inherited characteristics. Such term includes DNA sequence information including that which is derived from the alteration, mutation, or polymorphism of DNA or the presence or absence of a specific DNA marker or markers. Individual—means the source of the DNA sample including body, body parts, or bodily fluids from whom the DNA sample originated. Research—means systematic scientific (including social science) investigation that includes development, testing, and evaluation, designed or developed to contribute to original generalizable knowledge.

TITLE I.—COLLECTION, STORAGE, AND ANALYSIS OF DNA SAMPLES

Secs. 101–105 prohibit collection, storage, or analysis of genetic information, unless written, informed consent has been obtained from the individual (exceptions in the bill are provided for identification of dead bodies or active-duty remains, law enforcement purposes, purposes pursuant to court-ordered analysis, and some research purposes).

TITLE II—DISCLOSURE OF GENETIC INFORMATION

Secs. 201–205 describe the written authorization necessary to disclose genetic information. It also describes the protection, inspection, amendment, and disclosure of records containing genetic information. This part also provides exceptions for compulsory disclosure in any judicial, legislative, administrative proceeding, as well as court-order purposes. (The bill also provides some exceptions for research purposes under Title V.)

TITLE III.—DISCRIMINATION PROHIBITED

Secs. 301–302 prohibit genetic discrimination by employers and insurers.

TITLE IV.—EXCEPTIONS FOR IDENTIFICATION AND COURT-ORDERED ANALYSIS

Secs. 401–404 provide exceptions for identification of dead bodies and active-duty military remains, law enforcement purposes, and activities pursuant to court-ordered analysis.

TITLE V.—RESEARCH ACTIVITIES

Secs. 501–503 restate the need for researchers to obtain informed consent from individuals who participate in research. It provides exceptions for obtaining, storing, and analyzing genetic information for research purposes. It specifies: conditions for genetic analysis, safeguards against disclosures, limitations on minors (requires parental consent), destruction of DNA samples upon completion of the project (unless permission is given to maintain them), protections regarding pedigree analysis and family linkage studies, and the research subjects' right to obtain information. This part also specifies conditions for disclosure of genetic information for research purposes, allows limited access to genetic information for epidemiologic uses, and provides exceptions for DNA samples collected from individuals prior to the effective date of this Act.

TITLE VI.—MINORS

Sec. 601 provides conditions for collection and analysis of genetic information from minors. Essentially, the bill requires a parent, guardian to consent to the individual's participation in research and that the analysis benefits the individual.

TITLE VII.—MISCELLANEOUS

Secs. 701–702 require employers to annually notify employees who maintain DNA samples or genetic information of their responsibilities under this Act. It also provides for continuity of privacy of genetic information upon transfer of ownership or discontinuation of services.

TITLE VIII.—ENFORCEMENT

Secs. 801–802 provide civil penalties of $50,000 for negligent violation or $100,000 for willful violation; both per incident. No criminal penalties are specified. Injunctive relief and private right of action are also provided. There is a six year statute of limitations.

TITLE IX.—EFFECTIVE DATES, APPLICABILITY AND RELATIONSHIPS TO OTHER LAWS

Proposed effective date is January 1, 1997. Nineteen States have enacted genetics privacy or nondiscrimination legislation; this Act would only serve to strengthen existing State laws.

By Mr. STEVENS (for himself, Mr. LEAHY and Mr. MURKOWSKI):

S. 1899. A bill entitled the ''Mollie Beattie Alaska Wilderness Area Act''; to the Committee on Energy and Natural Resources.

THE MOLLIE BEATTIE ALASKA WILDERNESS AREA ACT

Mr. STEVENS. Mr. President, I am here today with a heavy heart to introduce a bill that I would like to have called the Mollie Beattie Alaska Wilderness Area Act. My colleague from Alaska, Mr. MURKOWSKI joins me in my remarks and as an original sponsor of this legislation.

I want to make a few remarks about Mollie, who has served well as the Director of Fish and Wildlife Service for this administration. I believe my colleague in the House, DON YOUNG, will introduce similar legislation. As the Senate knows, Mollie Beattie is gravely ill—so ill that she decided to step down from her position as Director of the Fish and Wildlife Service. We are now informed that Mollie's situation is worsening.

It may seem strange for me to be here talking about Mollie Beattie. She opposed many of the things that I believe in, as far as Alaska public lands are concerned. But I am introducing this bill to designate the 8 million acres of wilderness within the 19 million acre Arctic National Wildlife Refuge as the ''Mollie Beattie Alaska Wilderness Area.''

Under my legislation, the Secretary of the Interior would be directed to place a monument on a portion of the wilderness, so that people entering the wilderness might remember and honor Mollie Beattie's contribution to the conservation of fish and wildlife.

Now, Mollie Beattie opposed us on some things, and she worked with us on some things. But the reason I like her is she was always honest with us. We knew where she stood. And she listened. As a matter of fact, as days went on, we thought maybe she was listening to us more and we might be able to find some middle ground between the position she had taken and our own.

And so I was saddened, and I came to the floor and said so, when Mollie stepped down from her position as the Director of the Fish and Wildlife Service. In Mollie's departure from the Service, the American people are losing a leader of depth of knowledge and life experience.

Mollie, by the way, was the first woman to serve as the Director of the Fish and Wildlife Service. During the Eisenhower administration, I served in the Interior Department for almost 5 years, and I know of the mission of that service and its continuing benefit to the American public.

Mollie was and is a champion of resource conservation. I do not think we really had any disagreement as to the end result that we sought, but perhaps some of the means to get there.

She came to the Fish and Wildlife Service from the Richard A. Snelling Center for Government in Vermont, where she was the executive director. Prior to that, she served in several Vermont State land management agencies. I am happy that the senior Senator from Vermont, Mr. LEAHY, and the junior Senator, Mr. JEFFORDS, have asked to cosponsor the bill that I will send to the desk in a few moments.

In her last major speech as Director of the Fish and Wildlife Service, Mollie recalled releasing Hope, a rehabilitated bald eagle, as a highlight of her career. Her career has had many high moments. She has focussed on reconnecting the American people to the wildlife around them. Those of us who have worked with Mollie really are saddened to learn about her condition. We send her and her husband, Rick, our sincerest sentiments and really want him to know that, from a professional point of view, his wife has enjoyed the greatest of friendships in the Congress regardless of party.

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

S. 1899

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

SEC. 1. SHORT TITLE.—This Act may be cited as the ''Mollie Beattie Alaska Wilderness Area Act.''

SEC. 2. MOLLIE BEATTIE ALASKA WILDERNESS AREA.—Amend P.L. 96–487 by striking Section 702(3) and inserting in lieu thereof the following:

''(3) Arctic National Wildlife Refuge Wilderness of approximately eight million acres as generally depicted on a map entitled ''Arctic National Wildlife Refuge'' dated August 1980. That portion of the Arctic National Wildlife Refuge Wilderness located in the Brooks Range on a map to be prepared by the Secretary of the Interior shall be named and appropriately identified as the ''Mollie Beattie Alaska Wilderness Area'';''

SEC. 3. PLACEMENT OF MONUMENT.—The Secretary of the Interior shall place a monument in honor of Mollie Beattie's contributions to fish, wildlife, and waterfowl conservation and management at the entrance to the Mollie Beattie Alaska Wilderness Area or another suitable location he designates. Such sums as may be necessary are authorized for the placement of such monument.

Mr. JEFFORDS. Mr. President, today we dedicate a beautiful area of Alaska as the Mollie Beattie Fish and Wildlife Refuge. More than any person this century, Mollie has led the fight to protect our Nation's natural heritage. Her dedication to preserving wildlife and wildlife habitat and her spirit and enthusiasm in accomplishing this important goal will be appreciated by generations to come.

Mollie and I share much in common. We both love the wild, appreciate its complexity and beauty and value that it contributes to our lives. We also recognize the importance of protecting fragile ecosystems, from wetlands to forests. Finally, we both love Vermont and have worked together to preserve its distinctive character.

I have followed Mollie's career throughout her time in Vermont and here in Washington. A resident of Vermont since 1968, Mollie used her calm and determined manner and her knowledge of animals, plants, and natural resources to institute policies which today are a model of environmental protection. As a reporter, a University of Vermont professor and the developer of an experimental game bird habitat, Mollie strove to integrate her values into each position and left behind a legacy of success.

As Commissioner of the Vermont Department of Forests, Parks, and Recreation in the late 1980's, Mollie oversaw all of Vermont's public lands, including wildlife habitat areas and 48 State parks. In 1989, she became Deputy Secretary for Vermont's Agency of Natural Resources, caring for forests, public lands, water quality, air quality, and wildlife. After a stop over as Executive Director of the Richard A. Snelling Center for Government in Burlington, Mollie was nominated by President Clinton to serve as Director of the U.S. Fish and Wildlife Service. I have never known, in my 22 years representing Vermont, a person with greater dedication to preserving our Nation's wildlife.

I remember soon after her appointment, Mollie came to visit me here in the Senate. We spent time discussing the future of the refuge system and prospects for Endangered Species Act reform. We also reviewed our Nation's ability to curb the unnecessary slaughter of tigers, rhinos, elephants, and species rapidly disappearing from other countries. Her commitment to ending the rapid loss of species was remarkable. Since her arrival here in Washington, she recognized the importance of our Nation's wildlife refuge system and has been successful in protecting these vital resources. She did so effectively and I assure you that our children and their children will forever cherish this determined woman's work.

During her tenure at the Fish and Wildlife Service, Mollie visited Alaska several times and shared with me some of her special memories of the State. These visits made a remarkable impression on Mollie, especially her trip to the Arctic Refuge two summers ago. I can think of no better tribute than to name the 8 million acres of wilderness in the Arctic Refuge after Mollie. This area captures the ideals and beauty that Mollie strove to protect while at the Fish and Wildlife Service.

Mr. President, I want to thank Mollie Beattie on behalf of all my colleagues in the U.S. Senate and all Americans for all that she has done to make America a more beautiful Nation.

By Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. HARKIN, and Mr. ROCKEFELLER):

S. 1900. A bill to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. GRASSLEY):

S. 1901. A bill to amend title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition; to the Committee on Finance.

LONG-TERM-CARE LEGISLATION

Mr. DORGAN. Mr. President, today I am introducing legislation that will relieve nursing homes of unnecessary regulation without jeopardizing the high quality of care nursing home residents receive. These two bills, which enjoy bipartisan support, will improve long-term care in this country by giving nursing homes the flexibility they need to focus scarce resources on providing quality care.

I have long believed that the Federal Government has an important role to play in ensuring against the kinds of abuses that occurred in some areas of the country prior to enactment of Federal nursing home standards. I do not believe that those abuses were the norm in nursing homes. In fact, nursing homes in my State of North Dakota have a strong record of providing quality care, and I believe that this was the case in most nursing homes.

But it is clear that some nursing homes did not meet that high standard, and many States were far too slow to respond. To address that critical problem, I supported and continue to support minimum Federal quality standards. Our first priority in nursing home legislation must be the quality of care provided to residents, and we should not pass any laws that would compromise that goal.

However, I believe that some of our efforts to regulate nursing homes have not resulted in greater quality of care for residents. In some cases, by imposing unnecessary burdens and diverting scarce resources in nursing facilities, these laws and regulations can hinder the delivery of quality care. The legislation I am offering today will address two such instances.

NURSE-AIDE TRAINING PROGRAM

The first bill I am introducing has enjoyed broad bipartisan support during the 104th Congress. I am joined in offering this bill by Senator GRASSLEY and Senator HARKIN. This bill would exempt rural nursing facilities from the possibility of termination of their nurse-aide training programs for reasons unrelated to the quality of the training program

Simply put, this is a commonsense amendment. In rural areas all over the country, nursing facilities offer people an opportunity to learn the basic nursing and personal care skills needed to become a certified nurse aide. In return, those who participate in a nurse-aide training program help nursing facilities meet their staffing needs and allow the nursing staff to focus more on administering quality nursing care.

Nurse-aide training programs are especially important in rural areas like my State of North Dakota, where potential nurse aides might have to travel hundreds of miles for training if it is not available at the nursing facility in their community. These nurse-aide training programs comply with strict guidelines related to the amount of training necessary and determination of competency for certification.

Despite these safeguards, current law allows programs to be terminated for up to 2 years if a facility has been cited for a deficiency or assessed a civil money penalty for reasons completely unrelated to the quality of the nurse-aide training program. In North Dakota, this could result in real hardship not just for the nursing facility and potential nurse aides, but for the nursing home residents who rely on nurse aides for their day-to-day care.

Under my bill, rural areas would be exempt from termination of nurse-aide training programs in these specific instances only if: first, no other program is offered within a reasonable distance of the facility; second, the State assures that an adequate environment exists for operating the program; and third, the State provides notice of the determination and assurances to the State long-term care ombudsman.

Congress included this exception for rural nurse-aide training programs in the Balanced Budget Act passed last December, and the President included it in his 1997 budget proposal.

ANNUAL RESIDENT REVIEWS

The second bill I am introducing today relates to the pre-admission screening and annual resident review [PASARR] requirements enacted as part of OBRA '87. Senator GRASSLEY joins me in introducing this bill, which also has bipartisan support and was included in the President's balanced budget proposal.

PASARR was enacted to prevent inappropriate placements of residents with mental health or developmental disabilities. The need for assessments to determine whether a mental health

or developmental disability exists is critical, and we still have some way to go in ensuring that residents with these problems receive appropriate placement and treatment in all cases.

However, the annual resident review process duplicates other mandatory assessments and has not resulted in identifying inappropriate placements or improving the quality of care for nursing home residents. The current law adds an average of $700,000 to State costs for long-term care and diverts valuable nursing facility resources. We must continue to work to ensure that nursing home residents receive the quality care they need, but we should not do so by placing unnecessary or ineffective burdens on nursing facilities and their staffs.

My bill would retain the pre-admission screening for each resident, but would repeal the annual resident review requirement for each patient. This would go a long way toward streamlining the regulatory process and allowing nursing homes to focus more time on providing quality care.

I hope my colleagues will join me in supporting these sound policy proposals.

ADDITIONAL COSPONSORS

S. 814

At the request of Mr. MCCAIN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

S. 1607

At the request of Mrs. FEINSTEIN, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1607, a bill to control access to precursor chemicals used to manufacture methamphetamine and other illicit narcotics, and for other purposes.

S. 1799

At the request of Ms. SNOWE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1799, a bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues and through improved access to health care services, including preventive health services.

S. 1806

At the request of Mr. D'AMATO, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1806, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify that any dietary supplement that claims to produce euphoria, heightened awareness or similar mental or psychological effects shall be treated as a drug under the act, and for other purposes.

SENATE RESOLUTION 270

At the request of Mr. LIEBERMAN, the names of the Senator from Utah [Mr. HATCH], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Resolution 270, a resolution urging continued and increased United States support for the efforts of the International Criminal Tribunal for the former Yugoslavia to bring to justice the perpetrators of gross violations of international law in the former Yugoslavia.

AMENDMENTS SUBMITTED

THE SENATE CAMPAIGN FINANCE REFORM ACT OF 1996

HOLLINGS AMENDMENT NO. 4093

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (S. 1219) to reform the financing of Federal elections, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE THAT CONGRESS SHOULD ADOPT A JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION THAT WOULD EMPOWER CONGRESS AND THE STATES TO SET REASONABLE LIMITS ON CAMPAIGN EXPENDITURES

It is the sense of the Senate that Congress should adopt a joint resolution proposing an amendment to the Constitution that would—

(1) empower Congress to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for Federal office; and

(2) empower the States to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for State or local office,

(3) empower local governments of general jurisdiction to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general or other election for office in that government.

BUMPERS AMENDMENT NO. 4094

(Ordered to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill, S. 1219, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Senate Campaign Financing and Spending Reform Act''.

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

(c) TABLE OF CONTENTS.—

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.

(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;

(2) permitting candidates for Federal office to raise and spend unlimited amounts of money constitutes a fundamental flaw in the current system of campaign finance, and has undermined public respect for the Senate as an institution;

(3) the failure to limit campaign expenditures has caused individuals elected to the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;

(4) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns; and

(5) to prevent the appearance of undue influence and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system which provides public benefits to candidates who agree to limit campaign expenditures.

(b) NECESSITY FOR BAN ON POLITICAL ACTION COMMITTEES.—The Senate finds and declares that—

(1) contributions by political action committees to individual candidates have created the perception that candidates are beholden to special interests, and leave candidates open to charges of undue influence;

(2) contributions by political action committees to individual candidates have undermined public confidence in the Senate as an institution; and

(3) to restore public trust in the Senate as an institution, responsive to individuals residing within the respective States, it is necessary to encourage candidates to raise most of their campaign funds from individuals residing within those States.

(c) NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.—The Senate finds and declares that—

(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent a system of caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;

(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on campaign expenditures, unless they are included within such caps; and

(3) to maintain the integrity of the system of campaign finance, expenditures by any individual, group, or organization that have been made in cooperation with any candidate, authorized committee, or agent of any candidate must be attributed to that candidate's cap on campaign expenditures.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) AMENDMENT OF FECA.—

(1) IN GENERAL.—FECA is amended by adding at the end the following new title:

''TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

''SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

''(1) meets the primary and general election filing requirements of subsections (b) and (c);

''(2) meets the primary and runoff election expenditure limits of subsection (d); and

''(3) meets the threshold contribution requirements of subsection (e).

''(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

''(A) the candidate and the candidate's authorized committees—

''(i)(I) will meet the primary and runoff election expenditure limits of subsection (d); and

''(II) will only accept contributions for the primary and runoff elections which do not exceed such limits;

''(ii)(I) will meet the primary and runoff election multicandidate political committee contribution limits of subsection (f); and

''(II) will only accept contributions for the primary and runoff elections from multicandidate political committees which do not exceed such limits; and

''(iii) will limit acceptance of contributions during an election cycle from individuals residing outside the candidate's State and multicandidate political committees, combined, to less than 50 percent of the aggregate amount of contributions accepted from all contributors;

''(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(b); and

''(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 502(a).

''(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

''(c) GENERAL ELECTION FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

''(A) the candidate and the candidate's authorized committees—

''(i)(I) met the primary and runoff election expenditure limits under subsection (d); and

''(II) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to this election cycle from a preceding election cycle; and

''(ii)(I) met the multicandidate political committee contribution limits under subsection (f);

''(II) did not accept contributions for the primary or runoff election in excess of the multicandidate political committee contribution limits under subsection (f); and

''(iii) will limit acceptance of contributions during an election cycle from individuals residing outside the candidate's State and multicandidate political committees, combined, to less than 50 percent of the aggregate amount of contributions accepted from all contributors;

''(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

''(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

''(D) such candidate and the authorized committees of such candidate—

''(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 502(b);

''(ii) will not accept any contributions in violation of section 315;

''(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of the amount of the general election expenditure limit under section 502(b) and the amount described in section 502(c), reduced by any amounts transferred to the current election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

''(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

''(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

''(vi) will cooperate in the case of any audit and examination by the Commission under section 506; and

''(E) the candidate intends to make use of the benefits provided under section 503.

''(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date the candidate qualifies for the general election ballot under State law; or

''(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

''(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

''(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

''(i) 67 percent of the general election expenditure limit under section 502(b); or

''(ii) $2,750,000.

''(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(b).

''(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate with respect to such period under section 304(c).

''(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

''(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

''(i) would result in the violation of any limitation under section 315; or

''(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

''(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

''(A) 10 percent of the general election expenditure limit under section 502(b); or

''(B) $250,000.

''(2) For purposes of this section and section 503(b)—

''(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

''(B) The term 'allowable contributions' shall not include—

''(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

''(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

''(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period.

Clauses (ii) and (iii) shall not apply for purposes of section 503(b).

''(3) For purposes of this subsection and section 503(b), the term 'applicable period' means—

''(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

''(i) the date on which the certification under subsection (c) is filed by the candidate; or

''(ii) for purposes of section 503(b), the date of such general election; or

''(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

''(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMITS.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have accepted from multicandidate political committees contributions that do not exceed—

''(1) during any period in which the limitation under section 323 is in effect, zero dollars; and

''(2) during any other period—

''(A) during the primary election period, an amount equal to 20 percent of the primary election spending limit under subsection (d)(1)(A); and

''(B) during the runoff election period, an amount equal to 20 percent of the runoff election spending limit under subsection (d)(1)(B).

''(g) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year beginning with calendar year 1998, based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(1), the base period shall be calendar year 1992.

''SEC. 502. LIMITATIONS ON EXPENDITURES.

''(a) LIMITATION ON USE OF PERSONAL FUNDS.—(1) The aggregate amount of expenditures which may be made during an election cycle by an eligible Senate candidate or such candidate's authorized committees from the sources described in paragraph (2) shall not exceed $25,000.

''(2) A source is described in this paragraph if it is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) personal debt incurred by the candidate and members of the candidate's immediate family.

''(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

''(A) $5,500,000; or

''(B) the greater of—

''(i) $950,000; or

''(ii) $400,000; plus

''(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

''(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) In the case of an eligible Senate candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

''(A) '80 cents' for '30 cents' in subclause (I); and

''(B) '70 cents' for '25 cents' in subclause (II).

''(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 501(f) (relating to indexing).

''(c) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local taxes with respect to a candidate's authorized committees.

''(d) EXPENDITURES.—For purposes of this title, the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

''SEC. 503. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

''(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

''(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

''(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

''(3) payments in the amounts determined under subsection (b).

''(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), the amounts determined under this subsection are—

''(A) the public financing amount;

''(B) the independent expenditure amount; and

''(C) in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

''(2) For purposes of paragraph (1), the public financing amount is—

''(A) in the case of an eligible candidate who is a major party candidate and who has met the threshold requirement of section 501(e)—

''(i) during the primary election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the primary election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e);

(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(B); and

''(iii) during the general election period, an amount equal to the general election expenditure limit applicable to the candidate under section 502(b) (without regard to paragraph (4) thereof); and

''(B) in the case of an eligible candidate who is not a major party candidate and who has met the threshold requirement of section 501(e)—

''(i) during the primary election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the primary election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e);

(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(B); and

(iii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the general election spending limit under section 502(b).

''(3) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate which are required to be reported by such persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

''(4) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

''(A) In the case of a major party candidate, an amount equal to the sum of—

''(i) if the excess described in paragraph (1)(C) is not greater than 133⅓ percent of the

general election expenditure limit under section 502(b), an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

''(ii) if such excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

''(iii) if such excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

''(B) In the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the least of the following:

''(i) The allowable contributions of the eligible Senate candidate during the applicable period in excess of the threshold contribution requirement under section 501(e).

''(ii) 50 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

''(iii) The excess described in paragraph (1).

''(c) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible Senate candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (3) and (4) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 502(b).

''(2)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

''(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

''(3)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

''(i) a major party candidate in the same general election is not an eligible Senate candidate; or

''(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

''(B) The amount of contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

''(d) USE OF PAYMENTS.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

''(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

''(2) to make any expenditure other than expenditures to further the general election of such candidate;

''(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

''(4) subject to the provisions of section 315(k), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

''SEC. 504. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

''(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 501, the Commission shall issue a certification stating whether such candidate is eligible for payments under this title and the amount of such payments to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

''(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

''(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

''(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 506.

''SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

''(a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a candidate, the Commission shall examine and audit the campaign accounts of all other candidates in the general election for the office the selected candidate is seeking.

''(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

''(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

''(2) If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments received under this title.

''(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

''(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

''(1) the primary or runoff expenditure limit under section 501(d); or

''(2) the general election expenditure limit under section 502(b),

the Commission shall so notify such candidate and such candidate shall pay an amount equal to the amount of the excess expenditures.

''(e) CIVIL PENALTIES FOR EXCESS EXPENDITURES AND CONTRIBUTIONS.—(1) If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

''(2)(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

''(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

''(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 5 percent or more shall pay an amount equal to three times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

''(f) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

''(g) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

''(h) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

''SEC. 506. JUDICIAL REVIEW.

''(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

''(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

''(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the

meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

''(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

''(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

''(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

''(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; REGULATIONS.

''(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

''(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

''(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

''(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

''(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained by the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

''(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

''(c) STATEMENT TO SENATE.—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"SEC. 509. PAYMENTS RELATING TO ELIGIBLE CANDIDATES.

''(a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

''(2)(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

''(i) any contributions by persons which are specifically designated as being made to the Fund;

''(ii) amounts collected under section 505(h); and

''(iii) any other amounts that may be appropriated to or deposited into the Fund under this title.

''(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

''(C) Amounts in the Fund shall remain available without fiscal year limitation.

''(3) Amounts in the Fund shall be available only for the purposes of—

''(A) making payments required under this title; and

''(B) making expenditures in connection with the administration of the Fund.

''(4) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

''(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (d), the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

''(c) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 504 for payment to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

''(2) Amounts withheld under subparagraph (A) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

''(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

''(i) the amount of monies in the fund which will be available to make payments required by this title in the succeeding calendar year; and

''(ii) the amount of payments which will be required under this title in such calendar year.

''(B) If the Secretary determines that there will be insufficient monies in the fund to make the payments required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments under this subsection. Such notice shall be by registered mail.

''(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

''(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of such excess.''.

(2) EFFECTIVE DATES.—(A) Except as provided in this paragraph, the amendment made by paragraph (1) shall apply to elections occurring after December 31, 1995.

(B) For purposes of any expenditure or contribution limit imposed by the amendment made by paragraph (1)—

(i) no expenditure made before January 1, 1996, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(ii) all cash, cash items, and Government securities on hand as of January 1, 1996, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1996, to pay for expenditures which were incurred (but unpaid) before such date.

(3) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

(b) PROVISIONS TO FACILITATE VOLUNTARY CONTRIBUTIONS TO SENATE ELECTION CAMPAIGN FUND.—

(1) GENERAL RULE.—Part VIII of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

"Subpart B—Designation of Additional Amounts to Senate Election Campaign Fund

''Sec. 6097. Designation of additional amounts.

"SEC. 6097. DESIGNATION OF ADDITIONAL AMOUNTS.

''(a) GENERAL RULE.—Every individual (other than a nonresident alien) who files an income tax return for any taxable year may designate an additional amount equal to $5 ($10 in the case of a joint return) to be paid over to the Senate Election Campaign Fund.

''(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made for any taxable year only at the time of filing the income tax return for the taxable year. Such designation shall be made on the page bearing the taxpayer's signature.

''(c) TREATMENT OF ADDITIONAL AMOUNTS.—Any additional amount designated under subsection (a) for any taxable year shall, for all purposes of law, be treated as an additional income tax imposed by chapter 1 for such taxable year.

''(d) INCOME TAX RETURN.—For purposes of this section, the term 'income tax return' means the return of the tax imposed by chapter 1.''.

(2) CONFORMING AMENDMENTS.—(A) Part VIII of subchapter A of chapter 61 of such Code is amended by striking the heading and inserting:

"PART VIII—DESIGNATION OF AMOUNTS TO ELECTION CAMPAIGN FUNDS

''Subpart A. Presidential Election Campaign Fund.

''Subpart B. Designation of additional amounts to Senate Election Campaign Fund.

"Subpart A—Presidential Election Campaign Fund".

(B) The table of parts for subchapter A of chapter 61 of such Code is amended by striking the item relating to part VIII and inserting:

''Part VIII. Designation of amounts to election campaign funds.''

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 431 et seq.), is amended by adding at the end thereof the following new section:

''BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

''SEC. 323. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

''(b) In the case of individuals who are executive or administrative personnel of an employer—

''(1) no contributions may be made by such individuals—

''(A) to any political committees established and maintained by any political party; or

''(B) to any candidate for nomination for election, or election, to Federal office or the candidate's authorized committees,

unless such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

''(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

''(A) $20,000 in the case of such political committees; and

''(B) $5,000 in the case of any such candidate and the candidate's authorized committees.''.

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

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

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

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

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

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

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

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

''(D) any committee described in section 315(a)(8)(D)(i)(III).''.

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

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

''(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee which is prohibited by paragraph (3) or (6) of section 302(e).''.

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

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

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

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

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 323 of such Act (as added by subsection (a)) is not in effect—

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

(2) in the case of a candidate for election, or nomination for election, to Federal office (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting ''$1,000'' for ''$5,000'';

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to Federal office (or an authorized committee) to the extent that the making or accepting of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) 20 percent of the aggregate Federal election spending limits applicable to the candidate for the election cycle.

The $825,000 amount in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year 1996. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) RULE ENSURING PROHIBITION ON DIRECT CORPORATE AND LABOR SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 is held to be invalid by reason of the amendments made by this section, then the amendments made by subsections (a), (b), and (c) of this section shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization which is a bank, corporation, or other organization described in such section 316(a).

(f) RESTRICTIONS ON CONTRIBUTIONS TO POLITICAL COMMITTEES.—Paragraphs (1)(C) and (2)(C) of section 315(a) of FECA (2 U.S.C. 441a(a) (1)(D) and (2)(D)) are each amended by striking ''$5,000'' and inserting ''$1,000''.

(g) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1996.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received before January 1, 1996; or

(B) contributions made to, or received by, a candidate on or after January 1, 1996, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate before January 1, 1996, over

(ii) such contributions received by the candidate before January 1, 1996.

SEC. 103. REPORTING REQUIREMENTS.

Title III of FECA is amended by inserting after section 304 the following new section:

''REPORTING REQUIREMENTS FOR SENATE CANDIDATES

''SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

''(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

''(A) who is not an eligible Senate candidate under section 501; and

''(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓, 166⅔, and 200 percent of such limit.

''(3) The Commission—

''(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

''(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

''(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

''(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during

the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 24 hours after such expenditures have been made or loans incurred.

''(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

''(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

''(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

''(A) who becomes a candidate for the office of United States Senator;

''(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

''(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

''(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

''(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

''(d) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

''(e) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V (whenever a 24-hour response is required of the Commission) as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

''(f) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.''.

SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d), as amended by section 133, is amended by adding at the end thereof the following:

''(e) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.''.

Subtitle B—General Provisions

SEC. 131. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''forty-five'' and inserting ''30'';

(B) by striking ''sixty'' and inserting ''45''; and

(C) by striking ''lowest unit charge of the station for the same class and amount of time for the same period'' and inserting ''lowest charge of the station for the same amount of time for the same period on the same date''; and

(2) by adding at the end the following new sentence:

''In the case of an eligible Senate candidate (as defined in section 301(19) of the Federal Election Campaign Act of 1971), the charges during the general election period (as defined in section 301(21) of such Act) shall not exceed 50 percent of the lowest charge described in paragraph (1).''.

(b) PREEMPTION; ACCESS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f), respectively, and by inserting immediately after subsection (b) the following new subsection:

''(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

''(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.

''(d) In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time without regard to the rates charged for the time.''.

SEC. 132. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking ''and the National'' and inserting ''the National''; and

(B) by striking ''Committee;'' and inserting ''Committee, and, subject to paragraph (3), the principal campaign committee of an eligible House of Representatives or Senate candidate;'';

(2) in paragraph (2)(B), by striking ''and'' after the semicolon;

(3) in paragraph (2)(C), by striking the period and inserting ''; and'';

(4) by adding after paragraph (2)(C) the following new subparagraph:

''(D) The terms 'eligible Senate candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971.''; and

(5) by adding after paragraph (2) the following new paragraph:

''(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

''(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

''(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the congressional district or State, whichever is applicable.''.

SEC. 133. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of FECA (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

''(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

''(B) Any independent expenditure aggregating $10,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $10,000 are made with respect to the same election as the initial statement filed under this section.

''(C) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

''(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

''(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

''(B) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

''(5) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (3) or (4). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

''(6) At the same time as a candidate is notified under paragraph (3), (4), or (5) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 504(a) or section 604(b).

''(7) The Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).''

SEC. 134. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking ''an expenditure'' and inserting ''a disbursement'';

(2) in the matter before paragraph (1) of subsection (a), by striking ''direct'';

(3) in paragraph (3) of subsection (a), by inserting after ''name'' the following ''and permanent street address''; and

(4) by adding at the end the following new subsections:

''(c) Any printed communication described in subsection (a) shall be—

''(1) of sufficient type size to be clearly readable by the recipient of the communication;

''(2) contained in a printed box set apart from the other contents of the communication; and

''(3) consist of a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the statement required by paragraph (1) shall—

''(A) appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(B) be accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

' is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

SEC. 135. DEFINITIONS.

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

''(19) The term 'eligible Senate candidate' means a candidate who is eligible under section 502 to receive benefits under title V.

''(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

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

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

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

''(22) The term 'immediate family' means—

''(A) a candidate's spouse;

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

''(C) the spouse of any person described in subparagraph (B).

''(23) The term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

''(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

''(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

''(A) the date of the first primary election for that office following the last general election for that office; or

''(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

''(26) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

''(27) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

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

''(29) The term 'election cycle' means—

''(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

''(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.

''(30) The terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 509.

''(31) The term 'lobbyist' means—

''(A) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); and

''(B) a person who receives compensation in return for having contact with Congress on any legislative matter.''.

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking ''mailing address'' and inserting ''permanent residence address''.

SEC. 136. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

(a) MASS MAILINGS OF SENATORS.—Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A), by striking ''It is the intent of Congress that a Member of, or a Member-elect to, Congress'' and inserting ''A Member of, or Member-elect to, the House''; and

(2) in subparagraph (C)—

(A) by striking ''if such mass mailing is postmarked fewer than 60 days immediately before the date'' and inserting ''if such mass mailing is postmarked during the calendar year''; and

(B) by inserting ''or reelection'' immediately before the period.

(b) MASS MAILINGS OF HOUSE MEMBERS.—Section 3210 of title 39, United States Code, is amended—

(1) in subsection (a)(7) by striking '', except that—'' and all that follows through the end of subparagraph (B) and inserting a period; and

(2) in subsection (d)(1) by striking ''delivery—'' and all that follows through the end of subparagraph (B) and inserting ''delivery within that area constituting the congressional district or State from which the Member was elected.''.

(c) PROHIBITION ON USE OF OFFICIAL FUNDS.—The Committee on House Administration of the House of Representatives may not approve any payment, nor may a Member of the House of Representatives make any expenditure from, any allowance of the House of Representatives or any other official funds if any portion of the payment or expenditure is for any cost related to a mass mailing by a Member of the House of Representatives outside the congressional district of the Member.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

''(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

''(i) contains express advocacy; and

''(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

''(B) The following shall not be considered an independent expenditure:

''(i) An expenditure made by a political committee of a political party.

''(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

''(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

''(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

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

''(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

''(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

''(vi) An expenditure if the person making the expenditure retains the professional

services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

''(vii) An expenditure if the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

''(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

''(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

''(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.''.

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking ''or'' after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following new clause:

''(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).''.

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.

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

''(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions after the date of the general election for such election cycle may be used to repay such loans.

''(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.''.

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ''; or''; and

(3) by inserting at the end the following new clause:

''(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other similar types of general public political advertising, if such extension of credit is—

''(I) in an amount of more than $1,000; and

''(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of the mailing in the case of advertising by a mailing.''.

Subtitle B—Provisions Relating to Soft Money of Political Parties

SEC. 311. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434), as amended by section 133(a), is amended by adding at the end thereof the following new subsection:

''(e) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

''(2) Any political committee to which paragraph (1) does not apply shall report any receipts or disbursements which are used in connection with a Federal election.

''(3) If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as under subsection (b) (3)(A), (5), or (6).

''(4) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end thereof the following:

''(C) The exclusion provided in clause (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.''.

(c) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

''(f) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.''.

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Paragraph (4) of section 304(b) of FECA (2 U.S.C. 434(b)(4)) is amended by striking ''and'' at the end of subparagraph (H), by inserting ''and'' at the end of subparagraph (I), and by adding at the end the following new subparagraph:

''(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;''.

(2) NAMES AND ADDRESSES.—Subparagraph (A) of section 304(b)(5) of FECA (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking ''within the calendar year'', and

(B) by inserting '', and the election to which the operating expenditure relates'' after ''operating expenditure''.

TITLE IV—CONTRIBUTIONS

SEC. 401. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS; PROHIBITION ON CERTAIN CONTRIBUTIONS BY LOBBYISTS.

(a) CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.—Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

''(8) For the purposes of this subsection:

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

''(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

''(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

''(ii) the intermediary or conduit is—

''(I) a political committee;

''(II) an officer, employee, or agent of such a political committee;

''(III) a political party;

''(IV) a partnership or sole proprietorship;

''(V) a person who is required to register or to report its lobbying activities, or a lobbyist whose activities are required to be reported, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; or

''(VI) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

''(C)(i) The term 'intermediary or conduit' does not include—

''(I) a candidate or representative of a candidate receiving contributions to the candidate's principal campaign committee or authorized committee;

''(II) a professional fundraiser compensated for fundraising services at the usual and customary rate, but only if the individual is not described in subparagraph (B)(ii);

''(III) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(B), but only if the individual is not described in subparagraph (B)(ii); or

''(IV) an individual who transmits a contribution from the individual's spouse.

''(ii) The term 'representative' means an individual who is expressly authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate's campaign organization, provided that the individual is not described in subparagraph (B)(ii).

''(iii) The term 'contributions made or arranged to be made' includes—

''(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

''(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or

the person on whose behalf such person was acting.

Such term does not include contributions made, or arranged to be made, by reason of an oral or written communication by a Federal candidate or officeholder expressly advocating the nomination for election, or election, of any other Federal candidate and encouraging the making of a contribution to such other candidate.

''(iv) The term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(VI):

''(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

''(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

''(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

''(D) Nothing in this paragraph shall prohibit—

''(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

''(I) 2 or more candidates;

''(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

''(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

''(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.''.

(b) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 301, is amended by adding at the end the following new subsection:

''(j)(1) A lobbyist, or a political committee controlled by a lobbyist, shall not make contributions to, or solicit contributions for or on behalf of—

''(A) any member of Congress with whom the lobbyist has, during the preceding 12 months, made a lobbying contact; or

''(B) any authorized committee of the President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

''(2) A lobbyist who, or a lobbyist whose political committee, has made any contribution to, or solicited contributions for or on behalf of, any member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution or solicitation, make a lobbying contact with such member or candidate who becomes a member of Congress (or a covered executive branch official).

''(3) If a lobbyist advises or otherwise suggests to a client of the lobbyist (including a client that is the lobbyist's regular employer), or to a political committee that is funded or administered by such a client, that the client or political committee should make a contribution to or solicit a contribution for or on behalf of—

''(A) a member of Congress or candidate for Congress, the making or soliciting of such a contribution is prohibited if the lobbyist has made a lobbying contact with the member of Congress within the preceding 12 months; or

''(B) an authorized committee of the President, the making or soliciting of such a contribution shall be unlawful if the lobbyist has made a lobbying contact with a covered executive branch official within the preceding 12 months.

''(4) For purposes of this subsection—

''(A) the term 'covered executive branch official' means the President, Vice-President, any officer or employee of the executive office of the President other than a clerical or secretarial employee, any officer or employee serving in an Executive Level I, II, III, IV, or V position as designated in statute or Executive order, any officer or employee serving in a senior executive service position (as defined in section 3232(a)(2) of title 5, United States Code), any member of the uniformed services whose pay grade is at or in excess of 0–7 under section 201 of title 37, United States Code, and any officer or employee serving in a position of confidential or policy-determining character under schedule C of the excepted service pursuant to regulations implementing section 2103 of title 5, United States Code;

''(B) the term 'lobbyist' means—

''(i) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; or

''(C) the term 'lobbying contact'—

''(i) means an oral or written communication with or appearance before a member of Congress or covered executive branch official made by a lobbyist representing an interest of another person with regard to—

''(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

''(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

''(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); but

''(ii) does not include a communication that is—

''(I) made by a public official acting in an official capacity;

''(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

''(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

''(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a member of Congress or covered executive branch official at the time of the contact;

''(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

''(VI) testimony given before a committee, subcommittee, or office of Congress a Federal agency, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

''(VII) information provided in writing in response to a specific written request from a member of Congress or covered executive branch official;

''(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

''(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

''(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

''(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

''(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

''(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.''.

''(5) For purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

''(i) the member of Congress;

''(ii) any person employed in the office of the member of Congress; or

''(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.''.

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 401(b), is amended by adding at the end the following new subsection:

''(k) For purposes of this section, any contribution by an individual who—

''(1) is a dependent of another individual; and

''(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.''.

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

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

''(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.''.

SEC. 404. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking ''and'' after the semicolon at the end;

(2) in clause (xiv), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new clause:

''(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $500 with respect to an election.''.

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after ''calendar year'' each place it appears the following: ''(election cycle, in the case of an authorized committee of a candidate for Federal office)''.

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: '', except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed''.

SEC. 503. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of FECA (2 U.S.C. 434(b)(3)(A)) is amended by striking ''$200'' and inserting ''$50''.

SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) by striking ''and'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(11) maintain computerized indices of contributions of $50 or more.''.

TITLE VI—FEDERAL ELECTION COMMISSION

SEC. 601. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

''(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

SEC. 602. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking ''and'' at the end;

(2) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(3) by inserting the following new subparagraph at the end:

''(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-primary election report and a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.''.

(b) FILING DATE.—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking ''20th'' and inserting ''15th''.

SEC. 603. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by adding at the end the following new paragraph:

''(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.''.

(b) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting ''and the general counsel'' after ''staff director'' in the second sentence; and

(2) by striking the third sentence.

SEC. 604. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT PROCEEDING.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking ''it has reason to believe that a person has committed, or is about to commit'' and inserting ''facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit''.

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end the following new paragraph:

''(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

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

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

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

''(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

''(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found.''.

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

(A) in paragraph (7) by striking ''(5) or (6)'' and inserting ''(5), (6), or (13)''; and

(B) in paragraph (11) by striking ''(6)'' and inserting ''(6) or (13)''.

SEC. 605. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking ''which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation'' and inserting ''which is—

''(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

''(ii) not greater than all contributions and expenditures involved in the violation''.

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking ''which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation'' and inserting ''which is—

''(i) not less than all contributions and expenditures involved in the violation; and

''(ii) not greater than 150 percent of all contributions and expenditures involved in the violation''.

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows ''appropriate order'' and inserting '', including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.''.

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows ''other order'' and inserting '', including an order for a civil penalty which is—

''(i) not less than all contributions and expenditures involved in the violation; and

''(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986.''.

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking ''a civil penalty'' and all that follows and inserting ''a civil penalty which is—

''(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

''(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.''.

SEC. 606. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

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

''(2) Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of an eligible Senate candidate subject to audit under section 505(a) or an authorized committee of an eligible House of Representatives candidate subject to audit under section 605(a).''.

SEC. 607. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting after ''SEC. 322.'' the following: ''(a)''; and

(2) by adding at the end the following:

''(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.''.

SEC. 608. REGULATIONS RELATING TO USE OF NON-FEDERAL MONEY.

Section 306 of FECA (2 U.S.C. 437c) is amended by adding at the end the following new subsection:

''(g) The Commission shall promulgate rules to prohibit devices or arrangements which have the purpose or effect of undermining or evading the provisions of this Act restricting the use of non-Federal money to affect Federal elections.''.

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

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

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

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

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

''(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

''(B) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $1,000 to candidates for elective office.''.

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 314(b), is amended by inserting at the end the following new subparagraph:

''(D) A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.''.

SEC. 703. SENSE OF THE SENATE THAT CONGRESS SHOULD CONSIDER ADOPTION OF A JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION THAT WOULD EMPOWER CONGRESS AND THE STATES TO SET REASONABLE LIMITS ON CAMPAIGN EXPENDITURES.

It is the sense of the Senate that Congress should consider adoption of a joint resolution proposing an amendment to the Constitution that would—

(1) empower Congress to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for Federal office; and

(2) empower the States to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for State or local office.

SEC. 704. PERSONAL USE OF CAMPAIGN FUNDS.

Section 313 of FECA (2 U.S.C. 439a) is amended—

(1) by inserting ''(a)'' before ''Amounts''; and

(2) by adding at the end the following new subsection:

''(b) For the purposes of this section, the term 'personal use' means the use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign or duties as a holder of Federal office.''.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1996.

SEC. 802. SEVERABILITY.

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 803. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

GRAHAM AMENDMENT NO. 4095

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill, S. 1219, supra; as follows:

On page 18, strike lines 2 through 25 and insert the following:

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended to read as follows:

''(b) BROADCAST RATES.—

''(1) DEFINITIONS.—In this subsection, the term 'eligible candidate' means—

''(A) an eligible Senate candidate (within the meaning of section 501 of the Federal Election Campaign Act of 1971); and

''(B) a candidate for State or local office who undertakes to abide by reasonable spending limits established under State law.

''(2) MAXIMUM CHARGES.—The charge made for the use of a broadcasting station by an eligible candidate in connection with the candidate's campaign for nomination for election, or election, to public office shall not exceed—

''(A) during the 30 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which the candidate is a candidate, a charge equal to 50 percent of the lowest charge of the station for the same amount of time for the same period on the same date; and

''(B) at any other time, the charge made for comparable use of such station by other users of the station.''.

BINGAMAN AMENDMENTS NOS. 4096–4097

(Ordered to lie on the table.)

Mr. BINGAMAN submitted two amendments intended to be proposed by him to the bill, S. 1219, supra; as follows:

AMENDMENT NO. 4096

At the appropriate place in title III, insert the following:

SEC. 3___. BROADCAST REFERENCES TO OTHER CANDIDATES.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) (as amended by section 103) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by inserting ''subject to paragraph (2),'' before ''during the forty-five days''; and

(B) by adding at the end the following:

''(3) REFERENCE BY A CANDIDATE TO ANOTHER CANDIDATE.—

''(A) REQUIREMENT.—To be eligible to receive the broadcast media rates under paragraph (1)(A), if a legally qualified candidate for an office (or the authorized committee of such a candidate), using the rights and conditions of access under this Act, refers, directly or indirectly, to another legally qualified candidate for that office, the reference shall be made in person by the legally qualified candidate.

''(B) FAILURE TO COMPLY.—If a legally qualified candidate fails to comply with subparagraph (A), the legally qualified candidate shall be ineligible for the media rates under paragraph (1)(A) for the remainder of the 45-day period (for a primary or primary runoff election) or the 60-day period (for a general or special election) described in paragraph (1)(A).''; and

(2) in subsection (f)—

(A) by redesignating paragraphs (1), (2), (3), (4), and (5) as paragraphs (2), (3), (4), (5), and (7), respectively;

(B) by inserting before paragraph (2) (as redesignated) the following:

''(1) the term 'authorized committee' means, with respect to a candidate for nomination for election, or election, to a Federal elective office, a committee, club, association, or other group of persons that receives contributions or makes expenditure during a calendar year in an aggregate amount exceeding $1,000 and that is authorized by the candidate to accept contributions or make expenditures on behalf of the candidate to further the nomination or election of the candidate'';

(C) in paragraph (5) (as redesignated) by striking ''and'' at the end; and

(D) by inserting after paragraph (5) (as redesignated) the following:

''(6) the term 'person'—

''(A) includes an individual, partnership, committee, association, corporation, or other organization or group of persons; but

''(B) does not include a legally qualified candidate for any Federal elective office of an authorized committee of any such candidate; and''.

AMENDMENT NO. 4097

At the appropriate place in title III, insert the following:

SEC. 3___. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended—

(1) by striking ''(a) If any licensee shall permit any person who is a legally qualified candidate'' and inserting the following:

''(a) EQUAL OPPORTUNITIES TO RESPOND.—

''(1) RESPONSES TO OPPOSING CANDIDATES.—If a licensee permits a legally qualified candidate'';

(2) by redesignating paragraphs (1) through (4) as clauses (i) through (iv), respectively;

(3) by striking ''station:'' and inserting ''station.'';

(4) by inserting after ''station.'' the following:

''(2) RESPONSE TO OTHER PERSONS.—If a licensee permits any person to use a broadcasting station to broadcast material that endorses a legally qualified candidate for any Federal office or opposes a legally qualified candidate for that office, the licensee shall, within a reasonable period of time, provide at no charge to any legally qualified candidate opposing the candidate endorsed (or to an authorized committee of the candidate), or any legally qualified candidate who was so opposed (or to an authorized committee of the candidate), the same amount of time on the broadcasting station, during the same period of the day.'';

(5) by striking ''*Provided*, That such licensee'' and inserting the following:

''(3) NO CENSORSHIP.—A licensee'';

(6) by striking ''No obligation'' and inserting the following:

''(4) NO OBLIGATION.—No obligation'';

(7) by striking ''Appearance'' and inserting the following:

''(5) NEWS BROADCASTS.—

''(A) IN GENERAL.—Appearance''; and

(8) by striking ''Nothing in the foregoing sentence'' and inserting the following:

''(B) PUBLIC INTEREST.—Subparagraph (A)''.

MURKOWSKI AMENDMENT NO. 4098

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill, S. 1219, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. BAN ON ACCEPTANCE OF TRANSPORTATION AND LODGING IN CONNECTION WITH POLITICAL FUNDRAISERS IN THE SENATE.

For purposes of the Senate rule limiting Members and employees of the Senate from receiving gifts (including transportation and lodging), the acceptance of transportation and lodging paid for by a sponsor in connection with a political event raising funds for candidates for elective office shall be considered a gift prohibited by such rule.

SNOWE AMENDMENT NO. 4099

(Ordered to lie on the table.)

Ms. SNOWE submitted an amendment intended to be proposed by her to the bill, S. 1219, supra; as follows:

At the end of title III, insert:

SEC. ___. SENSE OF SENATE REGARDING TAX CREDIT FOR LOCAL CAMPAIGN CONTRIBUTIONS.

(a) FINDINGS.—The Senate finds that—

(1) the Tax Reform Act of 1986 repealed an existing tax provision providing for a $50 credit ($100 for joint returns) for individual contributions to political campaigns and certain political campaign organizations;

(2) in the intervening ten years, public confidence in the integrity of funding congressional campaigns in the United States has eroded;

(3) the American public perceives that there is a substantial reliance on political action committees (PACs) in Federal campaigns and that special interest funding of campaigns is undermining the democratic process;

(4) the American public is concerned that fundraising pressures may lead candidates to tailor their appeals to the most affluent and narrowly interested sectors of society, raising questions about the resulting quality of representation of other elements of society;

(5) the growth in PAC importance relative to other funding sources—including individuals giving directly to candidates—is clear, given that 27 percent of House and Senate candidates' receipts came from PACs in 1994 (up from 15.7 percent in 1974) and that in 1994, House candidates got 35 percent of their funds from PACs, and House incumbents received 46 percent;

(6) while citizens with common interests should be able to pool their resources in exercising their rights of free speech and association, and interest groups have an appropriate role to play, they should not be allowed to play a greater role relative to other sectors, particularly small individual contributors to local candidates, and therefore, the role of PACs should be reduced, and the role of small individual contributors to local candidates should be increased; and

(7) faith in our electoral system must be restored, and all individuals must feel that they have a voice in the process, and this can best be accomplished by encouraging small, individual contributors to become a more important part of the process through support of candidates seeking to represent them in Congress.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Congress and the President should include, as part of any campaign finance reform legislation, provisions which would allow individuals a credit against Federal taxes for contributions during the taxable year to Senate and House of Representatives candidates within the political jurisdiction in which the individual's principal residence is located; and

(2) the maximum credit should not exceed $100 for an individual for a taxable year ($200 in the case of a joint return).

WELLSTONE AMENDMENTS NOS. 4100–4101

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to the bill, S. 1219, supra; as follows:

AMENDMENT NO. 4100

On page 12, beginning on line 1, strike ''the lesser'' and all that follows through line 5 and insert ''$25,000''.

AMENDMENT NO. 4101

Beginning on page 14, strike line 14 and all that follows through page 30, line 14, and insert the following:

''(d) EXCEPTIONS FOR COMPLYING CANDIDATES RUNNING AGAINST NONCOMPLYING CANDIDATES.—

''(1) RESPONSE TO FUNDRAISING AND SPENDING BY NONELIGIBLE SENATE CANDIDATES.—

''(A) 75 PERCENT OF SPENDING LIMIT.—

''(i) IN GENERAL.—If any opponent of an eligible Senate candidate is a noneligible candidate who—

''(I) has received contributions; or

''(II) has made expenditures from a source described in subsection (a);

in an aggregate amount equal to 75 percent of the general election expenditure limit, primary election expenditure limit, or runoff election expenditure limit applicable to the eligible Senate candidate, the eligible Senate candidate shall be entitled to the benefits described in clause (ii).

''(ii) BENEFIT.—An eligible Senate candidate shall be entitled under clause (i) to—

''(I) mail an additional number of pieces of mail under section 3626(e) of title 39, United States Code, equal to the number of individuals in the voting age population (as certified under section 315(e)) of the candidate's State; and

''(II) receive an additional 10 minutes of free broadcast time under section 315(c) of the Communications Act of 1934.

''(B) 100 PERCENT OF SPENDING LIMIT.—

''(i) IN GENERAL.—If any opponent of an eligible Senate candidate is a noneligible candidate who—

''(I) has received contributions; or

''(II) has made expenditures from a source described in subsection (a);

in an aggregate amount equal to 100 percent of the general election expenditure limit, primary election expenditure limit, or runoff election expenditure limit applicable to the eligible Senate candidate, the eligible Senate candidate shall be entitled to the benefits described in clause (ii).

''(ii) BENEFITS.—An eligible Senate candidate shall be entitled under clause (i) to—

''(I) mail an additional number of pieces of mail under section 3626(e) of title 39, United States Code, equal to the number of individuals in the voting age population (as certified under section 315(e)) of the candidate's State; and

''(II) receive an additional 10 minutes of free broadcast time under section 315(c) of the Communications Act of 1934.

''(C) 133 PERCENT OF SPENDING LIMIT.—

''(i) IN GENERAL.—If any opponent of an eligible Senate candidate is a noneligible candidate who—

''(I) has received contributions; or

''(II) has made expenditures from a source described in subsection (a);

in an aggregate amount equal to 133 percent of the general election expenditure limit, primary election expenditure limit, or runoff election expenditure limit applicable to the eligible Senate candidate, the eligible Senate candidate shall be entitled to the benefit described in clause (ii).

''(ii) BENEFIT.—An eligible Senate candidate shall be entitled under clause (i) to receive an additional 10 minutes of free broadcast time under section 315(c) of the Communications Act of 1934.

''(2) REVOCATION OF ELIGIBILITY OF OPPONENT.—If the status of eligible Senate candidate of any opponent of an eligible Senate candidate is revoked under section 505(a), the general election expenditure limit applicable to the eligible Senate candidate shall be increased by 20 percent.

''(e) EXPENDITURES IN RESPONSE TO INDEPENDENT EXPENDITURES.—If an eligible Senate candidate is notified by the Commission under section 304(c)(4) that independent expenditures totaling $10,000 or more have been made in the same election in favor of another candidate or against the eligible candidate, the eligible candidate shall be permitted to spend an amount equal to the amount of the independent expenditures, and any such expenditures shall not be subject to any limit applicable under this title to the eligible candidate for the election.

''SEC. 503. BENEFITS THAT ELIGIBLE CANDIDATES ARE ENTITLED TO RECEIVE.

''An eligible Senate candidate shall be entitled to receive—

''(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

''(2) the free broadcast time provided under section 315(c) of the Communications Act of 1934; and

''(3) the reduced postage rates provided in section 3626(e) of title 39, United States Code.

''SEC. 504. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—Not later than 48 hours after an eligible candidate qualifies for a general election ballot, the Commission shall certify the candidate's eligibility for free broadcast time under section 315(c) of the Communications Act of 1934. The Commission shall revoke the certification if the Commission determines that a candidate fails to continue to meet the requirements of this title.

''(b) DETERMINATIONS BY COMMISSION.—A determination (including a certification under subsection (a)) made by the Commission under this title shall be final, except to the extent that the determination is subject to examination and audit by the Commission under section 505.

''SEC. 505. REVOCATION; MISUSE OF BENEFITS.

''(a) REVOCATION OF STATUS.—

''(1) IN GENERAL.—If the Commission determines that any eligible Senate candidate—

''(A) has received contributions in excess of 110 percent of—

''(i) the applicable primary election limit under this title;

''(ii) the applicable general election limit under this title; or

''(iii) the limitation on contributions from out-of-State residents under section 501(f); or

''(B) has expended personal funds in excess of 110 percent of the limit under section 502(a),

the Commission shall revoke the certification of the candidate as an eligible Senate candidate and notify the candidate of the revocation.

''(2) PAYMENT OF VALUE OF BENEFITS.—On receipt of notification of revocation of eligibility under paragraph (1), a candidate—

''(A) shall pay an amount equal to the value of the benefits received under this title; and

''(B) shall be ineligible for benefits available under section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) for the duration of the election cycle.

''(b) MISUSE OF BENEFITS.—If the Commission determines that any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title or that a candidate has violated any of the spending limits contained in this Act, the Commission shall so notify the candidate, and the candidate shall pay an amount equal to the value of the benefit.''.

(b) TRANSITION PERIOD.—Expenditures made before January 1, 1997, shall not be counted as expenditures for purposes of the limitations contained in the amendment made by subsection (a).

SEC. 102. FREE BROADCAST TIME.

(a) IN GENERAL.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in the third sentence of subsection (a) by striking ''within the meaning of this subsection'' and inserting ''within the meaning of this subsection and subsection (c)'';

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

(3) by inserting after subsection (b) the following:

''(c) FREE BROADCAST TIME.—

''(1) IN GENERAL.—Except as provided in paragraph (3), each eligible Senate candidate who has qualified for the general election ballot as a candidate of a major or minor party shall be entitled to receive from broadcasting stations within the candidate's State or an adjacent State a total of—

''(A) 30 minutes of free broadcast time; plus

''(B) such additional free broadcast time as the eligible Senate candidate may be entitled to under section 502(d) of the Federal Election Campaign Act of 1971.

''(2) TIME.—

''(A) PRIME TIME.—Unless a candidate elects otherwise, the broadcast time made available under this subsection shall be between 6:00 p.m. and 10:00 p.m. on any day that falls on Monday through Friday.

''(B) LENGTH OF BROADCAST.—Except as otherwise provided in this Act, a candidate may use such time as the candidate elects, but time may not be used in lengths of less than 30 seconds or more than 5 minutes.

''(C) MAXIMUM REQUIRED OF ANY ONE STATION.—A candidate may not request that more than 15 minutes of free broadcast time be aired by any one broadcasting station.

''(3) MORE THAN 2 CANDIDATES.—In the case of an election among more than 2 candidates described in paragraph (1), only 60 minutes of broadcast time shall be available for all such candidates, and broadcast time shall be allocated as follows:

''(A) MINOR PARTY CANDIDATES.—The amount of broadcast time that shall be provided to the candidate of a minor party shall be equal to 60 minutes multiplied by the percentage of the number of popular votes received by the candidate of that party in the preceding general election for the Senate in the State (or if subsection (e)(4)(B) applies, the percentage determined under that subsection).

''(B) MAJOR PARTY CANDIDATES.—The amount of broadcast time remaining after assignment of broadcast time to minor party candidates under clause (i) shall be allocated equally between the major party candidates.

''(4) ONLY 1 CANDIDATE.—In the case of an election in which only 1 candidate qualifies to be on the general election ballot, no time shall be required to be provided by a broadcasting station under this subsection.

''(5) EXEMPTION.—The Federal Election Commission shall by regulation exempt from the requirements of this subsection—

''(A) a licensee the signal of which is broadcast substantially nationwide; and

''(B) a licensee that establishes that the requirements of this subsection would impose a significant economic hardship on the licensee.''; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking ''and'' at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

''(2) the term 'eligible Senate candidate' means an eligible Senate candidate (within the meaning of section 501(a) of the Federal Election Campaign Act of 1971)'';

(D) by striking the period at the end of paragraph (3) (as redesignated by subparagraph (B)) and inserting a semicolon; and

(E) by adding at the end the following:

''(4) the term 'major party' means, with respect to an election for the United States Senate in a State, a political party whose candidate for the United States Senate in the preceding general election for the Senate in that State received, as a candidate of that party, 25 percent or more of the number of popular votes received by all candidates for the Senate;

''(5) the term 'minor party' means, with respect to an election for the United States Senate in a State, a political party—

''(A) whose candidate for the United States Senate in the preceding general election for the Senate in that State received 5 percent or more but less than 25 percent of the number of popular votes received by all candidates for the Senate; or

''(B) whose candidate for the United States Senate in the current general election for the Senate in that State has obtained the signatures of at least 5 percent of the State's registered voters, as determined by the chief voter registration official of the State, in support of a petition for an allocation of free broadcast time under this subsection; and

''(6) the term 'Senate election cycle' means, with respect to an election to a seat in the United States Senate, the 6-year period ending on the date of the general election for that seat.''.

(b) JURISDICTION OVER CHALLENGES TO BROADCAST MEDIA RATES AND FREE BROADCAST TIME.—

(1) IN GENERAL.—The United States Court of Federal Claims shall have exclusive jurisdiction over any action challenging the constitutionality of the broadcast media rates and free broadcast time required to be offered to political candidates under section 503 of the Federal Election Campaign Act of 1971 and section 315 of the Communications Act of 1934.

(2) REMEDY.—Money damages shall be the sole and exclusive remedy in an action under paragraph (1), and only an individual or entity that suffers actual financial injury shall have standing to maintain such an action.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 103. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by striking subsection (b) and inserting the following:

''(b) BROADCAST MEDIA RATES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the charges made for the use of a broadcasting station by a person who is a legally qualified candidate for public office in connection with the person's campaign for nomination for election, or election, to public office shall not exceed the charges made for comparable use of the station by other users of the station.

''(2) ELIGIBLE SENATE CANDIDATES.—In the case of an eligible Senate candidate (within the meaning of section 501(a) of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the 30-day period and 60-day period referred to in paragraph (1)(A) shall not exceed 50 percent of the lowest charge described in paragraph (1)(A).''.

(b) PREEMPTION; ACCESS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by section 102(a), is amended—

(1) by redesignating subsections (d) and (e) (as redesignated by section 102(a)(2)), as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

''(d) PREEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1)(A), of a broadcasting station by an eligible Senate candidate who has purchased and paid for such use pursuant to subsection (b)(2).

''(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.''.

(c) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking ''or repeated'';

(2) by inserting ''or cable system'' after ''broadcasting station''; and

(3) by striking ''his candidacy'' and inserting ''the candidacy of the candidate, under

the same terms, conditions, and business practices as apply to the most favored advertiser of the licensee''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 104. REDUCED POSTAGE RATES.

(a) IN GENERAL.—Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking ''and the National'' and inserting ''the National''; and

(ii) by inserting before the semicolon the following: '', and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;'';

(B) in subparagraph (B), by striking ''and'' after the semicolon;

(C) in subparagraph (C), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

''(D) the term 'principal campaign committee' has the meaning stated in section 301 of the Federal Election Campaign Act of 1971; and

''(E) the term 'eligible Senate candidate' means an eligible Senate candidate (within the meaning of section 501(a) of the Federal Election Campaign Act of 1971).''; and

(2) by adding after paragraph (2) the following:

''(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to the number of pieces of mail that is equal to—

''(A) 2 times the number of individuals in the voting age population (as certified under section 315(e) of the Federal Election Campaign Act of 1971) of the candidate's State; plus

''(B) such additional number as the eligible Senate candidate may be entitled to mail under section 502(d) of the Federal Election Campaign Act of 1971.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

FEINSTEIN AMENDMENTS NOS. 4102–4103

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted two amendments intended to be proposed by her to the bill, S. 1219, supra; as follows:

AMENDMENT NO. 4102

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Senate Campaign Spending Limit and Election Reform Act of 1995''.

SEC. 2. AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

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

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—SENATE ELECTION SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE ELECTION SPENDING LIMITS AND BENEFITS.

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

''TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

''SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

''(1) meets the primary and general election filing requirements of subsections (c) and (d);

''(2) meets the primary and runoff election expenditure limits of subsection (b);

''(3) meets the threshold contribution requirements of subsection (e); and

''(4) does not exceed the limitation on expenditures from personal funds under section 502(a).

''(b) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—

''(1) IN GENERAL.—The requirements of this subsection are met if—

''(A) the candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

''(i) 67 percent of the general election expenditure limit under section 502(b); or

''(ii) $2,750,000; and

''(B) the candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(b).

''(2) INDEXING.—The $2,750,000 amount under paragraph (1)(A)(ii) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 1995.

''(3) INCREASE BASED ON EXPENDITURES OF OPPONENT.—The limitations under paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, that are required to be reported to the Secretary of the Senate with respect to such period under section 304(c).

''(c) PRIMARY FILING REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate a certification that—

''(A) the candidate and the candidate's authorized committees—

''(i) will meet the primary and runoff election expenditure limits of subsection (b); and

''(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

''(B) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 502(a); and

''(C) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(b).

''(2) DEADLINE FOR FILING CERTIFICATION.—The certification under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

''(d) GENERAL ELECTION FILING REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

''(A) the candidate and the candidate's authorized committees—

''(i) met the primary and runoff election expenditure limits under subsection (b); and

''(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (b), whichever is applicable, reduced by any amounts transferred to this election cycle from a preceding election cycle;

''(B) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

''(C) the candidate and the authorized committees of the candidate—

''(i) except as otherwise provided by this title, will not make expenditures that exceed the general election expenditure limit under section 502(b);

''(ii) will not accept any contributions in violation of section 315;

''(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit under section 502(b), reduced by any amounts transferred to this election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

''(iv) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

''(v) will cooperate in the case of any audit and examination by the Commission; and

''(D) the candidate intends to make use of the benefits provided under section 503.

''(2) DEADLINE FOR FILING CERTIFICATION.—The certification under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date the candidate qualifies for the general election ballot under State law; or

''(B) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

''(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

''(A) 10 percent of the general election expenditure limit under section 502(b); or

''(B) $250,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'allowable contributions' means contributions that are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor; and

''(B) the term 'applicable period' means—

''(i) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on the date on which the certification under subsection (c)(2) is filed by the candidate; or

''(ii) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election.

''SEC. 502. LIMITATION ON EXPENDITURES.

''(a) LIMITATION ON USE OF PERSONAL FUNDS.—

''(1) IN GENERAL.—The aggregate amount of expenditures that may be made during an election cycle by an eligible Senate candidate or such candidate's authorized committees from the sources described in paragraph (2) shall not exceed the lesser of—

''(A) 10 percent of the general election expenditure limit under subsection (b); or

''(B) $250,000.

''(2) SOURCES.—A source is described in this subsection if it is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) personal loans incurred by the candidate and members of the candidate's immediate family.

''(b) GENERAL ELECTION EXPENDITURE LIMIT.—

''(1) IN GENERAL.—Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

''(A) $5,500,000; or

''(B) the greater of—

''(i) $950,000; or

''(ii) $400,000; plus

''(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

''(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) EXCEPTION.—In the case of an eligible Senate candidate in a State that has not more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

''(A) '80 cents' for '30 cents' in subclause (I); and

''(B) '70 cents' for '25 cents' in subclause (II).

''(3) INDEXING.—The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 501(b)(2).

''(4) INCREASE BASED ON EXPENDITURES OF OPPONENT.—The limitations under paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, that are required to be reported to the Secretary of the Senate with respect to such period under section 304(c).

''(c) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local taxes with respect to earnings on contributions raised.

''SEC. 503. BENEFITS ELIGIBLE CANDIDATES ENTITLED TO RECEIVE.

''An eligible Senate candidate shall be entitled to receive—

''(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

''(2) the free broadcast time provided under section 315(c) of such Act; and

''(3) the reduced postage rates provided in section 3626(e) of title 39, United States Code.

''SEC. 504. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—Not later than 48 hours after a candidate qualifies for a general election ballot, the Commission shall certify the candidate's eligibility for free broadcast time under section 315(b)(2) of the Communications Act of 1934. The Commission shall revoke such certification if it determines a candidate fails to continue to meet the requirements of this title.

''(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final, except to the extent that they are subject to examination and audit by the Commission under section 505.

''SEC. 505. REPAYMENTS; ADDITIONAL CIVIL PENALTIES.

''(a) EXCESS PAYMENTS; REVOCATION OF STATUS.—If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the value of the benefits received under this title.

''(b) MISUSE OF BENEFITS.—If the Commission determines that any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify the candidate and the candidate shall pay an amount equal to the value of such benefit.''.

SEC. 102. TRANSITION PROVISIONS.

(a) EXPENDITURES MADE PRIOR TO DATE OF ENACTMENT.—(1) Expenditures made by an eligible Senate candidate on or prior to the date of enactment of this title shall not be counted against the limits specified in section 502 of FECA, as amended by section 101.

(2) For purposes of this section, the term ''expenditure'' includes any direct or indirect payment or distribution or obligation to make payment or distribution of money.

(b) RELATIONSHIP TO OTHER TITLES.—The provisions of titles I through IV of the Federal Election Campaign Act of 1971 shall remain in effect with respect to Senate election campaigns affected by this title or the amendments made by this title except to the extent that those provisions are inconsistent with this title or the amendments made by this title.

SEC. 103. FREE BROADCAST TIME.

(a) IN GENERAL.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (a)—

(A) by striking ''within the meaning of this subsection'' and inserting ''within the meaning of this subsection and subsection (c)'';

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

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

''(c)(1) An eligible Senate candidate who has qualified for the general election ballot shall be entitled to receive a total of 30 minutes of free broadcast time from broadcasting stations within the State.

''(2) Unless a candidate elects otherwise, the broadcast time made available under this subsection shall be between 6:00 p.m. and 10:00 p.m. on any day that falls on Monday through Friday.

''(3) If—

''(A) a licensee's audience with respect to any broadcasting station is measured or rated by a recognized media rating service in more than 1 State; and

''(B) during the period beginning on the first day following the date of the last general election and ending on the date of the next general election there is an election to the United States Senate in more than 1 of such States,

the 30 minutes of broadcast time under this subsection shall be allocated equally among the States described in subparagraph (B).

''(4)(A) In the case of an election among more than 2 candidates, the broadcast time provided under paragraph (1) shall be allocated as follows:

''(i) The amount of broadcast time that shall be provided to the candidate of a minor party shall be equal to the number of minutes allocable to the State multiplied by the percentage of the number of popular votes received by the candidate of that party in the preceding general election for the Senate in the State (or if subsection (d)(4)(B) applies, the percentage determined under such subsection).

''(ii) The amount of broadcast time remaining after assignment of broadcast time to minor party candidates under clause (i) shall be allocated equally between the major party candidates.

''(B) In the case of an election where only 1 candidate qualifies to be on the general election ballot, no time shall be required to be provided by a licensee under this subsection.

''(5) The Federal Election Commission shall by regulation exempt from the requirements of this subsection—

''(A) a licensee whose signal is broadcast substantially nationwide; and

''(B) a licensee that establishes that such requirements would impose a significant economic hardship on the licensee.''; and

(2) in subsection (d), as redesignated—

(A) by striking ''and'' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(3) the term 'major party' means, with respect to an election for the United States Senate in a State, a political party whose candidate for the United States Senate in the preceding general election for the Senate in that State received, as a candidate of that party, 25 percent or more of the number of popular votes received by all candidates for the Senate;

''(4) the term 'minor party' means, with respect to an election for the United States Senate in a State, a political party—

''(A) whose candidate for the United States Senate in the preceding general election for the Senate in that State received 5 percent or more but less than 25 percent of the number of popular votes received by all candidates for the Senate; or

''(B) whose candidate for the United States Senate in the current general election for the Senate in that State has obtained the signatures of at least 5 percent of the State's registered voters, as determined by the chief voter registration official of the State, in

support of a petition for an allocation of free broadcast time under this subsection; and

''(5) the term 'Senate election cycle' means, with respect to an election to a seat in the United States Senate, the 2-year period ending on the date of the general election for that seat.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to general elections occurring after December 31, 1995 (and the election cycles relating thereto).

SEC. 104. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''(b) The changes'' and inserting ''(b)(1) The changes'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) in paragraph (1)(A), as redesignated—

(A) by striking ''forty-five'' and inserting ''30''; and

(B) by striking ''lowest unit charge of the station for the same class and amount of time for the same period'' and inserting ''lowest charge of the station for the same amount of time for the same period on the same date''; and

(4) by adding at the end the following new paragraph:

''(2) In the case of an eligible Senate candidate (as described in section 501(a) of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the 30-day period and 60-day period referred to in paragraph (1)(A) shall not exceed 50 percent of the lowest charge described in paragraph (1)(A).''.

(b) PREEMPTION; ACCESS.—Section 315 of such Act (47 U.S.C. 315), as amended by section 102(a), is amended—

(1) by redesignating subsections (d) and (e) as redesignated, as subsections (e) and (f), respectively; and

(2) by inserting immediately after subsection (c) the following subsection:

''(d)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1)(A), of a broadcasting station by an eligible Senate candidate who has purchased and paid for such use pursuant to subsection (b)(2).

''(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.''.

(c) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking ''or repeated'';

(2) by inserting ''or cable system'' after ''broadcasting station''; and

(3) by striking ''his candidacy'' and inserting ''the candidacy of such person, under the same terms, conditions, and business practices as apply to its most favored advertiser''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the general elections occurring after December 31, 1995 (and the election cycles relating thereto).

SEC. 105. REDUCED POSTAGE RATES.

(a) IN GENERAL.—Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking ''and the National'' and inserting ''the National''; and

(ii) by inserting before the semicolon the following: '', and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;'';

(B) in subparagraph (B), by striking ''and'' after the semicolon;

(C) in subparagraph (C), by striking the period and inserting a semicolon; and

(D) by adding after subparagraph (C) the following new subparagraphs:

''(D) the term 'principal campaign committee' has the meaning given such term in section 301 of the Federal Election Campaign Act of 1971; and

''(E) the term 'eligible Senate candidate' has the meaning given such term in section 501(a) of the Federal Election Campaign Act of 1971.''; and

(2) by adding after paragraph (2) the following new paragraph:

''(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to that number of pieces of mail equal to 2 times the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the State.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the general elections occurring after December 31, 1995 (and the election cycles relating thereto).

TITLE II—REDUCTION OF SPECIAL INTEREST INFLUENCE

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

SEC. 201. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

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

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

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

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

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

''(C) any local committee of a political party that—

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

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

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

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

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended—

(A) by inserting ''or'' after ''subject;'';

(B) by striking ''and their families; and'' and inserting ''and their families.''; and

(C) by striking subparagraph (C).

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

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

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

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

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

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

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—(1) For purposes of FECA, during any period beginning after the effective date in which the limitation under section 324 of that Act (as added by subsection (a)) is not in effect—

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

(B) it shall be unlawful for a multicandidate political committee, intermediary, or conduit (as that term is defined in section 315(a)(8) of FECA, as amended by section 231 of this Act), to make a contribution to a candidate for election, or nomination for election, to Federal office (or an authorized committee) to the extent that the making or accepting of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed 20 percent of the aggregate Federal election spending limits applicable to the candidate for the election cycle; and

(C) it shall be unlawful for a political committee, intermediary, or conduit, as that term is defined in section 315(a)(8) of FECA (as amended by section 231 of this Act), to make a contribution to a candidate for election, or a nomination for an election, to Federal office (or an authorized committee of such candidate) in excess of the amount an individual is allowed to give directly to a candidate or a candidate's authorized committee.

(2) A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (1)(B) shall return the amount of such excess contribution to the contributor.

Subtitle B—Contributions

SEC. 211. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

''(8) For the purposes of this subsection:

''(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate. If a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and the intended recipient.

''(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

''(i) the contributions made through the intermediary or conduit are in the form of a

check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

''(ii) the intermediary or conduit is—

''(I) a political committee with a connected organization, a political party, or an officer, employee, or agent of either;

''(II) a person whose activities are required to be reported under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or any successor Federal law requiring a person who is a lobbyist or foreign agent to report the activities of such person;

''(III) a person who is prohibited from making contributions under section 316 or a partnership; or

''(IV) an officer, employee, or agent of a person described in subclause (II) or (III) acting on behalf of such person.

''(C) The term 'contributions arranged to be made' includes—

''(i)(I) contributions delivered directly or indirectly to a particular candidate or the candidate's authorized committee or agent by the person who facilitated the contribution; and

''(II) contributions made directly or indirectly to a particular candidate or the candidate's authorized committee or agent that are provided at a fundraising event sponsored by an intermediary or conduit described in subparagraph (B);

(D) This paragraph shall not prohibit—

''(i) fundraising efforts for the benefit of a candidate that are conducted by another candidate or Federal officeholder; or

''(ii) the solicitation by an individual using the individual's resources and acting in the individual's own name of contributions from other persons in a manner not described in paragraphs (B) and (C).''.

Subtitle C—Additional Prohibitions on Contributions

SEC. 221. ALLOWABLE CONTRIBUTIONS FOR COMPLYING CANDIDATES.

For the purposes of this Act, in order for a candidate to be considered to be in compliance with the spending limits contained in this Act, not less than 60 percent of the total dollar amount of all contributions from individuals to a candidate or a candidate's authorized committee, not including any expenditures, contributions or loans made by the candidate, shall come from individuals legally residing in the candidate's State.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. CANDIDATE EXPENDITURES FROM PERSONAL FUNDS.

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

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

''(i) the candidate's personal funds;

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

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

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

''(2) Notwithstanding subsection (a), the limitations on contributions under subsection (a) shall be modified as provided under paragraph (3) with respect to other candidates for the same office who are not described in subparagraph (A), (B), or (C), if the candidate—

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

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

''(C) fails to file the declaration required by paragraph (1).

''(3) For purposes of paragraph (2)—

''(A) if a candidate described in paragraph (2)(B) expends funds in an amount exceeding $250,000, the limitation under subsection (a)(1)(A) shall be increased to $2,000; and

''(B) if a candidate described in paragraph (2)(B) expends funds in an amount exceeding $250,000, the limitation under subsection (a)(1)(A) shall be increased to $5,000.

''(4) If—

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

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

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

''(5) No increase described in paragraph (3) shall apply under paragraph (2) to noneligible Senate candidates in any election if eligible Senate candidates are participating in the same election campaign.

''(6) A candidate who—

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

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

shall file an amended declaration with the Commission and notify all other candidates for the same office not later than 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending a notice by certified mail, return receipt requested.''.

SEC. 302. RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR PERSONAL PURPOSES.

(a) RESTRICTIONS ON USE OF CAMPAIGN FUNDS.—Title III of FECA (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR PERSONAL PURPOSES

''SEC. 324. (a) An individual who receives contributions as a candidate for Federal office—

''(1) shall use such contributions only for legitimate and verifiable campaign expenses; and

''(2) shall not use such contributions for any inherently personal purpose.

''(b) As used in this subsection—

''(1) the term 'campaign expenses' means expenses attributable solely to bona fide campaign purposes; and

''(2) the term 'inherently personal purpose' means a purpose that, by its nature, confers a personal benefit, including a home mortgage payment, clothing purchase, noncampaign automobile expense, country club membership, vacation, or trip of a noncampaign nature, and any other inherently personal living expense as determined under the regulations promulgated pursuant to section 302(b) of the Senate Campaign Spending Limit and Election Reform Act of 1995.''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Federal Election Commission shall promulgate regulations to implement subsection (a). Such regulations shall apply to all contributions possessed by an individual at the time of implementation of this section.

SEC. 303. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Whenever'' and inserting ''Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever'';

(ii) by striking ''an expenditure'' and inserting ''a disbursement''; and

(iii) by striking ''direct''; and

(B) in paragraph (3), by inserting ''and permanent street address'' after ''name''; and

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

''(c) Any printed communication described in subsection (a) shall be—

''(1) of sufficient type size to be clearly readable by the recipient of the communication;

''(2) contained in a printed box set apart from the other contents of the communication; and

''(3) consist of a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement which—

''(A) states: 'I (name of the candidate), am a candidate for (the office the candidate is seeking) and I have approved this message';

''(B) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(C) is accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement: '_____ is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

SEC. 304. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of FECA (2 U.S.C. 432(g)) is amended by adding at the end the following new paragraph:

''(6)(A) The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may prescribe regulations under which persons required to file designations, statements, and reports under this Act—

''(i) are required to maintain and file them for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

''(ii) may maintain and file them in that manner if not required to do so under regulations prescribed under clause (i).

''(B) The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall prescribe regulations which allow persons to file designations, statements, and reports required by this Act through the use of facsimile machines.

''(C) In prescribing regulations under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulations. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

''(D) The Secretary of the Senate and the Clerk of the House of Representatives shall ensure that any computer or other system that they may develop and maintain to receive designations, statements, and reports in the forms required or permitted under this paragraph is compatible with any such system that the Commission may develop and maintain.''.

SEC. 305. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

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

''(2) Notwithstanding paragraph (1), the Commission may after all elections are completed conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under title VI or to an authorized committee of an eligible Senate candidate or an eligible House candidate subject to audit under section 522(a).''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of FECA (2 U.S.C. 438(b)) is amended by striking ''6 months'' and inserting ''12 months''.

SEC. 306. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6)(A) of title 39, United States Code, is amended to read as follows:

''(A) A Member of Congress shall not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that Office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that year or for election to any other Federal office.''.

SEC. 307. AUTHORITY TO SEEK INJUNCTION.

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

(1) by adding at the end the following new paragraph:

''(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

''(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

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

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

''(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

''(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found, or in which the violation is occurring, has occurred, or is about to occur.'';

(2) in paragraph (7), by striking ''(5) or (6)'' and inserting ''(5), (6), or (13)''; and

(3) in paragraph (11), by striking ''(6)'' and inserting ''(6) or (13)''.

SEC. 308 SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 309. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 310. REPORTING REQUIREMENTS.

(a) CONTRIBUTORS.—Section 302(c)(3) of FECA (2 U.S.C. 432(c)(3)) is amended by striking ''$200'' and inserting ''$50''.

(b) DISBURSEMENTS.—Section 302(c)(5) of FECA (2 U.S.C. 432(c)(5)) is amended by striking ''$200'' and inserting ''$50''.

SEC. 311. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act not later than 9 months after the effective date of this Act.

SEC. 312. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 4103

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Senate Campaign Spending Limit and Election Reform Act of 1995''.

SEC. 2. AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

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

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—SENATE ELECTION SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE ELECTION SPENDING LIMITS AND BENEFITS.

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

''TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

''SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

''(1) meets the primary and general election filing requirements of subsections (c) and (d);

''(2) meets the primary and runoff election expenditure limits of subsection (b);

''(3) meets the threshold contribution requirements of subsection (e); and

''(4) does not exceed the limitation on expenditures from personal funds under section 502(a).

''(b) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—

''(1) IN GENERAL.—The requirements of this subsection are met if—

''(A) the candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

''(i) 67 percent of the general election expenditure limit under section 502(b); or

''(ii) $2,750,000; and

''(B) the candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(b).

''(2) INDEXING.—The $2,750,000 amount under paragraph (1)(A)(ii) shall be increased

as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 1995.

''(3) INCREASE BASED ON EXPENDITURES OF OPPONENT.—The limitations under paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, that are required to be reported to the Secretary of the Senate with respect to such period under section 304(c).

''(c) PRIMARY FILING REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate a certification that—

''(A) the candidate and the candidate's authorized committees—

''(i) will meet the primary and runoff election expenditure limits of subsection (b); and

''(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

''(B) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 502(a); and

''(C) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(b).

''(2) DEADLINE FOR FILING CERTIFICATION.—The certification under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

''(d) GENERAL ELECTION FILING REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

''(A) the candidate and the candidate's authorized committees—

''(i) met the primary and runoff election expenditure limits under subsection (b); and

''(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (b), whichever is applicable, reduced by any amounts transferred to this election cycle from a preceding election cycle;

''(B) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

''(C) the candidate and the authorized committees of the candidate—

''(i) except as otherwise provided by this title, will not make expenditures that exceed the general election expenditure limit under section 502(b);

''(ii) will not accept any contributions in violation of section 315;

''(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit under section 502(b), reduced by any amounts transferred to this election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

''(iv) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

''(v) will cooperate in the case of any audit and examination by the Commission; and

''(D) the candidate intends to make use of the benefits provided under section 503.

''(2) DEADLINE FOR FILING CERTIFICATION.—The certification under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date the candidate qualifies for the general election ballot under State law; or

''(B) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

''(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

''(A) 10 percent of the general election expenditure limit under section 502(b); or

''(B) $250,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'allowable contributions' means contributions that are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor; and

''(B) the term 'applicable period' means—

''(i) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on the date on which the certification under subsection (c)(2) is filed by the candidate; or

''(ii) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election.

''SEC. 502. LIMITATION ON EXPENDITURES.

''(a) LIMITATION ON USE OF PERSONAL FUNDS.—

''(1) IN GENERAL.—The aggregate amount of expenditures that may be made during an election cycle by an eligible Senate candidate or such candidate's authorized committees from the sources described in paragraph (2) shall not exceed the lesser of—

''(A) 10 percent of the general election expenditure limit under subsection (b); or

''(B) $250,000.

''(2) SOURCES.—A source is described in this subsection if it is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) personal loans incurred by the candidate and members of the candidate's immediate family.

''(b) GENERAL ELECTION EXPENDITURE LIMIT.—

''(1) IN GENERAL.—Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

''(A) $5,500,000; or

''(B) the greater of—

''(i) $950,000; or

''(ii) $400,000; plus

''(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

''(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) EXCEPTION.—In the case of an eligible Senate candidate in a State that has not more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

''(A) '80 cents' for '30 cents' in subclause (I); and

''(B) '70 cents' for '25 cents' in subclause (II).

''(3) INDEXING.—The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 501(b)(2).

''(4) INCREASE BASED ON EXPENDITURES OF OPPONENT.—The limitations under paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, that are required to be reported to the Secretary of the Senate with respect to such period under section 304(c).

''(c) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local taxes with respect to earnings on contributions raised.

''SEC. 503. BENEFITS ELIGIBLE CANDIDATES ENTITLED TO RECEIVE.

''An eligible Senate candidate shall be entitled to receive—

''(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

''(2) the free broadcast time provided under section 315(c) of such Act; and

''(3) the reduced postage rates provided in section 3626(e) of title 39, United States Code.

''SEC. 504. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—Not later than 48 hours after a candidate qualifies for a general election ballot, the Commission shall certify the candidate's eligibility for free broadcast time under section 315(b)(2) of the Communications Act of 1934. The Commission shall revoke such certification if it determines a candidate fails to continue to meet the requirements of this title.

''(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final, except to the extent that they are subject to examination and audit by the Commission under section 505.

''SEC. 505. REPAYMENTS; ADDITIONAL CIVIL PENALTIES.

''(a) EXCESS PAYMENTS; REVOCATION OF STATUS.—If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the value of the benefits received under this title.

''(b) MISUSE OF BENEFITS.—If the Commission determines that any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify the candidate and the candidate shall pay an amount equal to the value of such benefit.''.

SEC. 102. TRANSITION PROVISIONS.

(a) EXPENDITURES MADE PRIOR TO DATE OF ENACTMENT.—(1) Expenditures made by an eligible Senate candidate on or prior to the date of enactment of this title shall not be counted against the limits specified in section 502 of FECA, as amended by section 101.

(2) For purposes of this section, the term ''expenditure'' includes any direct or indirect payment or distribution or obligation to make payment or distribution of money.

(b) RELATIONSHIP TO OTHER TITLES.—The provisions of titles I through IV of the Federal Election Campaign Act of 1971 shall remain in effect with respect to Senate election campaigns affected by this title or the amendments made by this title except to the extent that those provisions are inconsistent with this title or the amendments made by this title.

SEC. 103. FREE BROADCAST TIME.

(a) IN GENERAL.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (a)—

(A) by striking ''within the meaning of this subsection'' and inserting ''within the meaning of this subsection and subsection (c)'';

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

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

''(c)(1) An eligible Senate candidate who has qualified for the general election ballot shall be entitled to receive a total of 30 minutes of free broadcast time from broadcasting stations within the State.

''(2) Unless a candidate elects otherwise, the broadcast time made available under this subsection shall be between 6:00 p.m. and 10:00 p.m. on any day that falls on Monday through Friday.

''(3) If—

''(A) a licensee's audience with respect to any broadcasting station is measured or rated by a recognized media rating service in more than 1 State; and

''(B) during the period beginning on the first day following the date of the last general election and ending on the date of the next general election there is an election to the United States Senate in more than 1 of such States,

the 30 minutes of broadcast time under this subsection shall be allocated equally among the States described in subparagraph (B).

''(4)(A) In the case of an election among more than 2 candidates, the broadcast time provided under paragraph (1) shall be allocated as follows:

''(i) The amount of broadcast time that shall be provided to the candidate of a minor party shall be equal to the number of minutes allocable to the State multiplied by the percentage of the number of popular votes received by the candidate of that party in the preceding general election for the Senate in the State (or if subsection (d)(4)(B) applies, the percentage determined under such subsection).

''(ii) The amount of broadcast time remaining after assignment of broadcast time to minor party candidates under clause (i) shall be allocated equally between the major party candidates.

''(B) In the case of an election where only 1 candidate qualifies to be on the general election ballot, no time shall be required to be provided by a licensee under this subsection.

''(5) The Federal Election Commission shall by regulation exempt from the requirements of this subsection—

''(A) a licensee whose signal is broadcast substantially nationwide; and

''(B) a licensee that establishes that such requirements would impose a significant economic hardship on the licensee.''; and

(2) in subsection (d), as redesignated—

(A) by striking ''and'' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(3) the term 'major party' means, with respect to an election for the United States Senate in a State, a political party whose candidate for the United States Senate in the preceding general election for the Senate in that State received, as a candidate of that party, 25 percent or more of the number of popular votes received by all candidates for the Senate;

''(4) the term 'minor party' means, with respect to an election for the United States Senate in a State, a political party—

''(A) whose candidate for the United States Senate in the preceding general election for the Senate in that State received 5 percent or more but less than 25 percent of the number of popular votes received by all candidates for the Senate; or

''(B) whose candidate for the United States Senate in the current general election for the Senate in that State has obtained the signatures of at least 5 percent of the State's registered voters, as determined by the chief voter registration official of the State, in support of a petition for an allocation of free broadcast time under this subsection; and

''(5) the term 'Senate election cycle' means, with respect to an election to a seat in the United States Senate, the 2-year period ending on the date of the general election for that seat.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to general elections occurring after December 31, 1995 (and the election cycles relating thereto).

SEC. 104. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''(b) The changes'' and inserting ''(b)(1) The changes'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) in paragraph (1)(A), as redesignated—

(A) by striking ''forty-five'' and inserting ''30''; and

(B) by striking ''lowest unit charge of the station for the same class and amount of time for the same period'' and inserting ''lowest charge of the station for the same amount of time for the same period on the same date''; and

(4) by adding at the end the following new paragraph:

''(2) In the case of an eligible Senate candidate (as described in section 501(a) of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the 30-day period and 60-day period referred to in paragraph (1)(A) shall not exceed 50 percent of the lowest charge described in paragraph (1)(A).''.

(b) PREEMPTION; ACCESS.—Section 315 of such Act (47 U.S.C. 315), as amended by section 102(a), is amended—

(1) by redesignating subsections (d) and (e) as redesignated, as subsections (e) and (f), respectively; and

(2) by inserting immediately after subsection (c) the following subsection:

''(d)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1)(A), of a broadcasting station by an eligible Senate candidate who has purchased and paid for such use pursuant to subsection (b)(2).

''(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.''.

(c) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking ''or repeated'';

(2) by inserting ''or cable system'' after ''broadcasting station''; and

(3) by striking ''his candidacy'' and inserting ''the candidacy of such person, under the same terms, conditions, and business practices as apply to its most favored advertiser''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the general elections occurring after December 31, 1995 (and the election cycles relating thereto).

SEC. 105. REDUCED POSTAGE RATES.

(a) IN GENERAL.—Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking ''and the National'' and inserting ''the National''; and

(ii) by inserting before the semicolon the following: '', and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;'';

(B) in subparagraph (B), by striking ''and'' after the semicolon;

(C) in subparagraph (C), by striking the period and inserting a semicolon; and

(D) by adding after subparagraph (C) the following new subparagraphs:

''(D) the term 'principal campaign committee' has the meaning given such term in section 301 of the Federal Election Campaign Act of 1971; and

''(E) the term 'eligible Senate candidate' has the meaning given such term in section 501(a) of the Federal Election Campaign Act of 1971.''; and

(2) by adding after paragraph (2) the following new paragraph:

''(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to that number of pieces of mail equal to 2 times the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the State.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the general elections occurring after December 31, 1995 (and the election cycles relating thereto).

SEC. 106. CONTRIBUTION LIMIT FOR ELIGIBLE SENATE CANDIDATES.

Section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (A) by inserting ''except as provided in subparagraph (B),'' before ''to'';

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

''(B) if the general election expenditure, primary election expenditure limit, or runoff election expenditure limit applicable to an eligible Senate candidate has been increased under section 502(d), to the eligible Senate candidate and the authorized political committees of the canidate with respect to any election for the office of United States Senator, which, in the aggregate, exceed $2,000;''.

TITLE II—REDUCTION OF SPECIAL INTEREST INFLUENCE

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

SEC. 201. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

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

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

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

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

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

''(C) any local committee of a political party that—

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

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

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

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

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended—

(A) by inserting ''or'' after ''subject;'';

(B) by striking ''and their families; and'' and inserting ''and their families.''; and

(C) by striking subparagraph (C).

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

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

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

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

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

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

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—(1) For purposes of FECA, during any period beginning after the effective date in which the limitation under section 324 of that Act (as added by subsection (a)) is not in effect—

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

(B) it shall be unlawful for a multicandidate political committee, intermediary, or conduit (as that term is defined in section 315(a)(8) of FECA, as amended by section 231 of this Act), to make a contribution to a candidate for election, or nomination for election, to Federal office (or an authorized committee) to the extent that the making or accepting of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed 20 percent of the aggregate Federal election spending limits applicable to the candidate for the election cycle; and

(C) it shall be unlawful for a political committee, intermediary, or conduit, as that term is defined in section 315(a)(8) of FECA (as amended by section 231 of this Act), to make a contribution to a candidate for election, or a nomination for an election, to Federal office (or an authorized committee of such candidate) in excess of the amount an individual is allowed to give directly to a candidate or a candidate's authorized committee.

(2) A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (1)(B) shall return the amount of such excess contribution to the contributor.

Subtitle B—Contributions

SEC. 211. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

''(8) For the purposes of this subsection:

''(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate. If a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and the intended recipient.

''(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

''(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

''(ii) the intermediary or conduit is—

''(I) a political committee with a connected organization, a political party, or an officer, employee, or agent of either;

''(II) a person whose activities are required to be reported under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or any successor Federal law requiring a person who is a lobbyist or foreign agent to report the activities of such person;

''(III) a person who is prohibited from making contributions under section 316 or a partnership; or

''(IV) an officer, employee, or agent of a person described in subclause (II) or (III) acting on behalf of such person.

''(C) The term 'contributions arranged to be made' includes—

''(i)(I) contributions delivered directly or indirectly to a particular candidate or the candidate's authorized committee or agent by the person who facilitated the contribution; and

''(II) contributions made directly or indirectly to a particular candidate or the candidate's authorized committee or agent that are provided at a fundraising event sponsored by an intermediary or conduit described in subparagraph (B);

''(D) This paragraph shall not prohibit—

''(i) fundraising efforts for the benefit of a candidate that are conducted by another candidate or Federal officeholder; or

''(ii) the solicitation by an individual using the individual's resources and acting in the individual's own name of contributions from other persons in a manner not described in paragraphs (B) and (C).''.

Subtitle C—Additional Prohibitions on Contributions

SEC. 221. ALLOWABLE CONTRIBUTIONS FOR COMPLYING CANDIDATES.

For the purposes of this Act, in order for a candidate to be considered to be in compliance with the spending limits contained in this Act, not less than 60 percent of the total dollar amount of all contributions from individuals to a candidate or a candidate's authorized committee, not including any expenditures, contributions or loans made by the candidate, shall come from individuals legally residing in the candidate's State.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR PERSONAL PURPOSES.

(a) RESTRICTIONS ON USE OF CAMPAIGN FUNDS.—Title III of FECA (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR PERSONAL PURPOSES

''SEC. 324. (a) An individual who receives contributions as a candidate for Federal office—

''(1) shall use such contributions only for legitimate and verifiable campaign expenses; and

''(2) shall not use such contributions for any inherently personal purpose.

''(b) As used in this subsection—

''(1) the term 'campaign expenses' means expenses attributable solely to bona fide campaign purposes; and

''(2) the term 'inherently personal purpose' means a purpose that, by its nature, confers a personal benefit, including a home mortgage payment, clothing purchase, noncampaign automobile expense, country club membership, vacation, or trip of a noncampaign nature, and any other inherently personal living expense as determined under the regulations promulgated pursuant to section 302(b) of the Senate Campaign Spending Limit and Election Reform Act of 1995.''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Federal Election Commission shall promulgate regulations to implement subsection (a). Such regulations shall apply to all contributions possessed by an individual at the time of implementation of this section.

SEC. 302. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Whenever'' and inserting ''Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever'';

(ii) by striking ''an expenditure'' and inserting ''a disbursement''; and

(iii) by striking ''direct''; and

(B) in paragraph (3), by inserting ''and permanent street address'' after ''name''; and

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

''(c) Any printed communication described in subsection (a) shall be—

''(1) of sufficient type size to be clearly readable by the recipient of the communication;

''(2) contained in a printed box set apart from the other contents of the communication; and

''(3) consist of a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to

the audio statement under paragraph (1), a written statement which—

''(A) states: 'I (name of the candidate), am a candidate for (the office the candidate is seeking) and I have approved this message';

''(B) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(C) is accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement: '_____ is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

SEC. 303. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of FECA (2 U.S.C. 432(g)) is amended by adding at the end the following new paragraph:

''(6)(A) The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may prescribe regulations under which persons required to file designations, statements, and reports under this Act—

''(i) are required to maintain and file them for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

''(ii) may maintain and file them in that manner if not required to do so under regulations prescribed under clause (i).

''(B) The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall prescribe regulations which allow persons to file designations, statements, and reports required by this Act through the use of facsimile machines.

''(C) In prescribing regulations under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulations. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

''(D) The Secretary of the Senate and the Clerk of the House of Representatives shall ensure that any computer or other system that they may develop and maintain to receive designations, statements, and reports in the forms required or permitted under this paragraph is compatible with any such system that the Commission may develop and maintain.''.

SEC. 304. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

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

''(2) Notwithstanding paragraph (1), the Commission may after all elections are completed conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under title VI or to an authorized committee of an eligible Senate candidate or an eligible House candidate subject to audit under section 522(a).''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of FECA (2 U.S.C. 438(b)) is amended by striking ''6 months'' and inserting ''12 months''.

SEC. 305. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6)(A) of title 39, United States Code, is amended to read as follows:

''(A) A Member of Congress shall not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that Office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that year or for election to any other Federal office.''.

SEC. 306. AUTHORITY TO SEEK INJUNCTION.

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

(1) by adding at the end the following new paragraph:

''(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

''(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

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

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

''(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

''(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found, or in which the violation is occurring, has occurred, or is about to occur.'';

(2) in paragraph (7), by striking ''(5) or (6)'' and inserting ''(5), (6), or (13)''; and

(3) in paragraph (11), by striking ''(6)'' and inserting ''(6) or (13)''.

SEC. 307 SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 308. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 309. REPORTING REQUIREMENTS.

(a) CONTRIBUTORS.—Section 302(c)(3) of FECA (2 U.S.C. 432(c)(3)) is amended by striking ''$200'' and inserting ''$50''.

(b) DISBURSEMENTS.—Section 302(c)(5) of FECA (2 U.S.C. 432(c)(5)) is amended by striking ''$200'' and inserting ''$50''.

SEC. 310. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act not later than 9 months after the effective date of this Act.

SEC. 311. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act.

KERREY AMENDMENTS NOS. 4104–4105

(Ordered to lie on the table.)

Mr. KERREY submitted two amendments intended to be proposed by him to the bill, S. 1219, supra; as follows:

AMENDMENT NO. 4104

Beginning on page 20, strike line 10 and all that follows through page 21, line 2, and insert the following:

''(2) PAYMENT OF VALUE OF BENEFITS.—On receipt of notification of revocation of eligibility under paragraph (1), a candidate—

''(A) shall pay an amount equal to 5 times the value of the benefits received under this title; and

''(B) shall be ineligible for benefits available under section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) for the duration of the election cycle.

''(b) MISUSE OF BENEFITS.—If the Commission determines that any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title or that a candidate has violated any of the spending limits contained in this Act, the Commission shall so notify the candidate, and, on receipt of notification, the candidate shall pay an amount equal to 5 times the value of the benefit.''.

AMENDMENT NO. 4105

On page 28, between lines 14 and 15, insert the following:

SEC. 104. RESPONSES TO INDEPENDENT EXPENDITURES.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) (as amended by section 103) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following:

''(d) RESPONSES TO INDEPENDENT EXPENDITURES.—An eligible Senate candidate who has been notified by the Federal Election Commission under section 304(c)(4) of the Federal Campaign Act of 1971 that independent expenditures totaling $10,000 or more have been made in the same election in favor of another candidate or against the eligible Senate candidate shall be entitled to receive free broadcast time from the broadcasting stations to whom the expenditures were made, in an amount of time equal to that purchased by the person making the expenditures.''.

CONRAD AMENDMENTS NOS. 4106–4107

(Ordered to lie on the table.)

Mr. CONRAD submitted two amendments intended to be proposed by him to the bill, S. 1219, supra; as follows:

AMENDMENT NO. 4106

Beginning on page 31, strike line 3 and all that follows through page 35, line 10, and insert the following:

SUBTITLE A—LIMITATION ON CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES

SEC. 201. LIMITATION ON CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES.

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

"SEC. 324. LIMITATION ON CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES.

''Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make a contribution to a candidate or candidate's authorized committee.''.

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Section 301 of FECA (2 U.S.C. 431) (as amended by section 212(d)(2)) is amended—

(A) by striking paragraph (4) and inserting the following:

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

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

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

''(C) any local committee of a political party that—

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

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

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

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

''(E) a small donor multicandidate political committee.''; and

(B) by adding at the end the following:

''(22) The term 'small donor multicandidate political committee' means a committee, club, association, or other group of persons, or a separate segregated fund established under section 316(b), that—

''(A) limits to $200 the amount of contributions that the committee will accept from any individual in a calendar year; and

''(B) makes contributions to more than 1 candidate in a calendar year.''.

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended—

(A) by inserting ''or'' after ''subject;'';

(B) by striking ''and their families; and'' and inserting ''and their families.''; and

(C) by striking subparagraph (C).

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

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

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

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

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

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

AMENDMENT NO. 4107

Beginning on page 31, strike line 3 and all that follows through page 35, line 10, and insert the following:

SUBTITLE A—LIMITATION ON CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES

SEC. 201. LIMITATION ON CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES.

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

"SEC. 324. LIMITATION ON CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES.

''Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make a contribution to a candidate or candidate's authorized committee.''.

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Section 301 of FECA (2 U.S.C. 431) (as amended by section 212(d)(2)) is amended—

(A) by striking paragraph (4) and inserting the following:

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

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

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

''(C) any local committee of a political party that—

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

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

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

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

''(E) a small donor multicandidate political committee.''; and

(B) by adding at the end the following:

''(22) The term 'small donor multicandidate political committee' means a committee, club, association, or other group of persons, or a separate segregated fund established under section 316(b), that—

''(A) limits to $100 the amount of contributions that the committee will accept from any individual in a calendar year; and

''(B) makes contributions to more than 1 candidate in a calendar year.''.

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended—

(A) by inserting ''or'' after ''subject;'';

(B) by striking ''and their families; and'' and inserting ''and their families.''; and

(C) by striking subparagraph (C).

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

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

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

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

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

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

BROWN AMENDMENTS NOS. 4108–4109

(Ordered to lie on the table.)

Mr. BROWN submitted two amendments intended to be proposed by him to the bill, S. 1219, supra; as follows:

AMENDMENT NO. 4108

At the appropriate place in the bill, insert the following:

''At 2 U.S.C. §441b(b)(2) after 'in connection with any election to any of the offices referred to in this section,', insert: 'including activities and communications advocating or opposing any issues clearly identified with a candidate or party'.''

AMENDMENT NO. 4109

Insert the following new paragraph in Section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(b));

(8)(A) It is unlawful for any labor organization as defined in Section 441b(b)(1) of title 2 to use union dues or anything of value required for membership in such organization, for activities described in subparagraphs (A) and (B) of paragraph (b)(2), without each member's express written consent. Such labor organization shall retain records of such permission for a period of at least ten years.

(B) Activities include, but are not limited to, any communication supporting or opposing any clearly identified candidate for public elective office or supporting or opposing any issues clearly identified with or closely connected to a candidate or political party.

(C) Any person who knowingly and wilfully violates subsection (A) shall be fined in an amount of $5,000 per violation not to exceed a total of $100,000.

MOSELEY-BRAUN AMENDMENT NO. 4110

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted an amendment intended to be proposed by her to the bill, S. 1219, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3 . LIMITATION ON THE AMOUNT OF PERSONAL FUNDS THAT A CANDIDATE FOR FEDERAL OFFICE MAY EXPEND DURING AN ELECTION CYCLE.

Title III of FECA (2 U.S.C. 431 et seq.) (as amended by section 212(d) is amended by adding at the end the following:

"SEC. 326. LIMITATION ON THE AMOUNT OF PERSONAL FUNDS THAT A CANDIDATE FOR FEDERAL OFFICE MAY EXPEND DURING AN ELECTION CYCLE.

''(A) IN GENERAL.—The aggregate amount of expenditures that may be made during an

election cycle by a candidate or the candidate's authorized committees from sources described in subsection (a) shall not exceed $1,000,000.

''(b) SOURCES.—A source is described in this subsection if the source is—

''(1) personal funds of the candidate and members of the candidate's immediate family; or

''(2) personal loans incurred by the candidate and members of the candidate's immediate family.''.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

MOSELEY-BRAUN (AND LOTT) AMENDMENT NO. 4111

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN (for herself and Mr. LOTT) submitted an amendment intended to be proposed by them to the bill (S. 1745) to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 223. COMPUTER-ASSISTED EDUCATION AND TRAINING.

Of the amount authorized to be appropriated under section 201(4), $10,000,000 shall be available under program element 0601103D for computer-assisted education and training at the Defense Advanced Research Projects Agency.

FORD (AND OTHERS) AMENDMENT NO. 4112

(Ordered to lie on the table.)

Mr. FORD (for himself, Mrs. BOXER, Mr. CONRAD, Mr. CRAIG, Mr. DASCHLE, Mr. DORGAN, Mr. EXON, Mr. GORTON, Mr. HATCH, Mr. INHOFE, Mr. LEVIN, Mr. LOTT, Mrs. MURRAY, Mr. PRESSLER, Mr. ROBB, and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle F of title X, insert the following:

SEC. . TECHNICAL AMENDMENT.

Paragraph (3) of section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended by striking ''2000 and such number equals or exceeds 15'' and inserting ''1000 or such number equals or exceeds 10''.

FORD (AND BROWN) AMENDMENT NO. 4113

(Ordered to lie on the table.)

Mr. FORD (for himself and Mr. BROWN) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle B of title I, add the following:

SEC. 113. DEMILITARIZATION OF ASSEMBLED CHEMICAL MUNITIONS.

(a) PILOT PROGRAM.—The Secretary of Defense shall conduct a pilot program to identify and demonstrate feasible alternatives to incineration for the demilitarization of assembled chemical munitions.

(b) PROGRAM REQUIREMENTS.—(1) The Secretary of Defense shall designate an executive agent to carry out the pilot program required to be conducted under subsection (a).

(2) The executive agent shall—

(A) be an officer or executive of the United States Government;

(B) be accountable to the Secretary of Defense; and

(C) not be, or have been, in direct or immediate control of the chemical weapon stockpile demilitarization program established by 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) or the alternative disposal process program carried out under sections 174 and 175 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 50 U.S.C. 1521 note).

(3) The executive agent may—

(A) carry out the pilot program directly;

(B) enter into a contract with a private entity to carry out the pilot program; or

(C) transfer funds to another department or agency of the Federal Government in order to provide for such department or agency to carry out the pilot program.

(4) A department or agency that carries out the pilot program under paragraph (3)(C) may not, for purposes of the pilot program, contract with or competitively select the organization within the Army that exercises direct or immediate management control over either program referred to in paragraph (2)(C).

(5) The pilot program shall terminate not later than September 30, 2000.

(c) ANNUAL REPORT.—Not later than December 15 of each year in which the Secretary carries out the pilot program, the Secretary shall submit to Congress a report on the activities under the pilot program during the preceding fiscal year.

(d) EVALUATION AND REPORT.—Not later than December 31, 2000, the Secretary of Defense shall—

(1) evaluate each demilitarization alternative identified and demonstrated under the pilot program to determine whether that alternative—

(A) is as safe and cost efficient as incineration for disposing of assembled chemical munitions; and

(B) meets the requirements of section 1412 of the Department of Defense Authorization Act, 1986; and

(2) submit to Congress a report containing the evaluation.

(e) LIMITATION ON LONG LEAD CONTRACTING.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), the Secretary may not enter into any contract for the purchase of long lead materials for the construction of an incinerator at any site in Kentucky or Colorado until the executive agent designated for the pilot program submits an application for such permits as are necessary under the law of the State of Kentucky, or the law of the State of Colorado, as the case may be, for the construction at that site of a plant for demilitarization of assembled chemical munitions by means of an alternative to incineration.

(2) The Secretary may enter into a contract described in paragraph (1) beginning 60 days after the date on which the Secretary submits to Congress the certification of the executive agent that there exists no alternative technology as safe and cost efficient as incineration for demilitarizing chemical munitions at non-bulk sites.

(f) ASSEMBLED CHEMICAL MUNITION DEFINED.—For the purpose of this section, the term ''assembled chemical munition'' means an entire chemical munition, including component parts, chemical agent, propellant, and explosive.

(g) FUNDING.—(1) Of the amount authorized to be appropriated under section 107, $50,000,000 shall be available for the pilot program under this section. Such funds may not be derived from funds to be made available under the chemical demilitarization program for the alternative technologies research and development program at bulk sites.

(2) Funds made available for the pilot program pursuant to paragraph (1) shall be made available to the executive agent for use for the pilot program.

(3) No funds authorized to be appropriated by section 107 may be obligated until funds are made available to the executive agent under paragraph (2).

FORD AMENDMENT NO. 4114

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

In the table in section 2101(a), strike out the item relating to Fort Campbell, Kentucky, and insert in lieu thereof the following:

Kentucky	Fort Campbell.	$67,600,000

Strike out the amount set forth as the total amount at the end of the table in section 2101(a), and insert in lieu thereof ''$363,050,000''.

In section 2104(a), in the matter preceding paragraph (1), strike out ''$1,894,297,000'' and insert in lieu thereof ''$1,900,897,000''.

In section 2104(a)(1), strike out ''$356,450,000'' and insert in lieu thereof ''$363,050,000''.

In section 2502, strike out ''$197,000,000'' and insert in lieu thereof ''$179,600,000''.

In section 2601(1)(A), strike out ''$79,628,000'' and insert in lieu thereof ''$90,428,000''.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEVENS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings regarding security in cyberspace.

This hearing will take place on Tuesday, June 25, 1996, in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel S. Gelber of the subcommittee staff at 224–9157.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Wednesday, July 10, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1877, the Environmental Improvement Timber Contract Extension Act, a bill to ensure the proper stewardship of publicly owned assets in the Tongass National Forest in the State of Alaska, a fair return to the United States for public

timber in the Tongass, and a proper balance among multiple-use interests in the Tongass to enhance forest health, sustainable harvest, and the general economic health and growth in southeast Alaska and the United States.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

ADDITIONAL STATEMENTS

CBO'S ESTIMATED BUDGETARY EFFECTS OF H.R. 3286

● Mr. ROTH. Mr. President, I ask that the letter submitted to me by June E. O'Neill, Director of the Congressional Budget Office, regarding CBO's estimate of H.R. 3286, the Adoption Promoting and Stability Act of 1996, be printed in the RECORD.

The letter follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 21, 1996.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has estimated the budgetary effects of Titles, I, II, and IV of H.R. 3286, the Adoption Promotion and Stability Act of 1996, as reported by the Committee on Finance on June 13, 1996. Because H.R. 3286 would affect revenues, the bill would be subject to the pay-as-you go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

The attached table displays the estimated federal budgetary effects of Titles I, II, and IV of H.R. 3286. Title I would establish a new tax credit for adoption expenses that would reduce tax payments beginning in 1997. Title IV would repeal the deduction for bad debt reserves of thrift institutions and reform the income forecast method of determining depreciation deductions, effective beginning with the 1996 tax year. The revenue estimates for Titles I and IV of the bill have been provided by the Joint Committee on Taxation. The bill would result in net revenue increases of $79 million in 1996, $147 million in 1997, and $171 million in 2002, which would be partially offset by net revenue losses in the intervening years. Over the 1996-2002 period, the net revenue increase would total $117 million.

CBO estimates that the provisions of Title II that would remove barriers to interethnic adoptions would have a negligible effect on federal outlays in the foster care and adoption assistance programs. Although state governments or other entities that receive federal funds for adoption or foster care placement could pay penalties for failing to follow the provisions of Title II, the penalties are sufficiently large that states would comply with the new provisions, and the penalties collected would be negligible.

Titles I and IV contain no intergovernmental mandates, as defined in Public Law 104–4, and would impose no direct costs on state, local, or tribal governments. These titles do, however, contain private-sector mandates, as described in the attached private sector mandate statement. Section 4 of the Unfunded Mandates Reform Act of 1995 excludes from the application of that act legislative provisions that establish or enforce statutory rights that prohibit discrimination on the basis of race, color, or national origin. CBO has determined that the provisions in Title II fit within that exclusion.

Should you require additional information on this estimate, we will be pleased to provide it. The staff contacts for H.R. 3286 are Justin Latus (for federal costs), Stephanie Weiner (for federal revenues), and Karen McVey (for state, local, and tribal issues).

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Attachments.

ESTIMATED BUDGETARY EFFECTS OF H.R. 3286

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Direct Spending							
Title II—Interethnic adoptions:							
Estimated budget authority	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Revenues							
Title I—Credit for adoption assistance	—	−33	−329	−351	−375	−342	−108
Title IV—Revenue offsets	79	180	245	293	291	288	279
Net increase or decrease (−) in revenues	79	147	−84	−58	−84	−54	171
Deficit							
Net increase or decrease (−) in the deficit	−79	−147	84	58	84	54	−171

Note: Revenue estimates provided by the Joint Committee on Taxation.
[1] Indicates less than $500,000.

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in revenues	79	147	−84

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF PRIVATE SECTOR MANDATES

1. Bill number: H.R. 3286.

2. Bill title: Adoption Promotion and Stability Act of 1996.

3. Bill status: As reported by the Senate Committee on Finance, on June 13, 1996.

4. Bill purpose: The purpose of the bill is to defray adoption costs and promote the adoption of minority children. In addition, the bill would repeal the deduction for bad debt reserves of thrift institutions and reform the income forecast method of accounting.

5. Private sector mandates contained in the bill: H.R. 3286 contains mandates as defined in Public Law 104–4 that would affect taxes paid by private sector entities. In particular, the bill would repeal the deduction for bad debt reserves of thrift institutions and reform the income forecast method of accounting. In addition to these mandates, the bill includes a new credit for adoption expenses that would reduce tax payments.

6. Estimated direct cost to the private sector: The Joint Committee on Taxation (JCT) estimates that the direct private sector costs of the tax increases in H.R. 3286 would be no less than the amounts that appear in the following table.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Repeal the deduction for bad debt reserves for thrift institutions	47	111	216	280	277
Reform income forecast method of accounting	32	69	29	13	14

In addition to these mandates, the bill also provides for a reduction in taxes. At this point, it is unclear to CBO whether under Public Law 104–4 this tax reduction should be viewed as an offset to the direct costs of the mandates in the bill. JCT estimates that the savings associated with the tax reduction in H.R. 3286 would be as displayed in the following table.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Credit for adoption expenses		−33	−329	−351	−375

7. Appropriations or other Federal financial assistance: None.

8. Previous CBO estimates: On May 2, 1996, CBO estimates the private sector impact of H.R. 3286 as ordered reported by the House Committee on Ways and Means on May 1, 1996. The estimates differ because both the revenue increases and the specific parameters of the credit for adoption expenses in the Finance Committee's bill are different from those in the Ways and Means Committee's bill.

9. Estimate prepared by: Daniel Mont (non-tax items) and Stephanie Weiner.

10. Estimate approved by: Joseph R. Antos, Assistant Director for Health and Human Resources.●

RENOMINATION OF ALAN GREENSPAN

● Mr. KOHL. Mr. President, I supported Alan Greenspan's renomination

to Chair the Federal Reserve Board for a third term.

Any decision of such importance to the American people deserves careful consideration. But now that we have had a constructive debate, I am pleased that the Senate moved forward with this long-delayed process.

As some of you know, Dr. Greenspan's impressive career includes three decades of work with a private sector economic consulting firm, during which time he held the positions of both chairman and president of the company. Other distinguished achievements include chairmanship of President Ford's Council of Economic Advisers, membership on President Reagan's Economic Policy Advisory Board and consulting work for the Congressional Budget Office.

And as Chairman of the Federal Reserve Board for the past 8 years, Dr. Greenspan has won the respect and confidence of Republican and Democrats alike and consistently steered American monetary policy on a prudent and responsible course.

Mr. President, the economy is strong and growing. Inflation is under control, and mortgage rates have averaged 7.8 percent, the lowest since Lyndon Johnson was in the White House. Much of this success is due to the constancy and apolitical management of our country's monetary policy. And while I will support reforms of Fed management to ensure that taxpayer funds are used responsibly, I will not support efforts to subject the Federal Reserve to political influence.

Considering his past record and looking to the future, Alan Greenspan deserves reappointment. He is the best candidate for the job, and I am confident that he will continue providing vital leadership toward our common goal of keeping the economy robust.

I supported his renomination and am pleased that the majority of my colleagues opted to do the same.●

ANNIVERSARY OF THE FULBRIGHT PROGRAM

● Mr. ROCKEFELLER. Mr. President, a very special advisor brought to my attention an article that I ask to place in the RECORD. My counsellor on matters of foreign policy is not only the highly distinguished former chairman of the Senate Foreign Relations Committee and Senator from Illinois, Senator Charles Percy, he also is my one and only father-in-law. I continue to be indebted to him for both his sage advice and the familial bond we share.

Recently, former Senator Percy shared the following article that appeared on June 14, 1996 in The Christian Science Monitor. Authored by former Vice-President Walter Mondale, who serves as the current U.S. Ambassador to Japan, it commemorates the 50th anniversary of the Fulbright Program.

I want to draw the attention of my colleagues and other readers to this fine essay on the value of this unique international exchange program. With the Fulbright Program's emphasis on excellence in scholarship and studies, this effort creates and nurtures relations between America's bright, curious, and energetic citizens and their counterparts in other countries. It breaks through the barriers that otherwise cause ignorance, prejudice, misunderstandings, and the dangers of war and other violence. There is simply no substitute for the opportunity of individuals around the world to learn from one another.

The Fulbright Program is not a luxury for America. It is a necessary part of an effective foreign policy for the world's economic leader and superpower. As we celebrate its anniversary, this article reminds us that its future will be the course for Americans to continue promoting peace and the ties that benefit our own country along with the rest of the world.

The article follows:

[From the Christian Science Monitor]

THE GRAND VISION OF THE FULBRIGHT PROGRAM

(By Walter Mondale)

Since becoming ambassador to Japan three years ago, I have directly experienced the enormous benefits of people-to-people exchange. It is a process I now consider one of the vital tools of American international policy. My experience in Japan has elevated me from just a believer in international exchange to a true believer.

The Fulbright Program, which turns 50 this year, is the flagship of scholarly exchange programs. Its universal renown attests to its extraordinary long-term impact on international relations.

Congress established the program in 1946 ''to increase mutual understanding between the people of the United States and the people of other countries.'' My friend J. William Fulbright (D) of Arkansas, a strong-willed senator of rare vision, introduced the legislation two weeks after the nuclear age blasted its imprint on history at Hiroshima. At the time he called it ''a modest program with an immodest aim.''

Over the past several years, we have taken special note of many 50th anniversaries, often in a spirit of somber commemoration: the attack on Pearl Harbor, the Battle of Iwo Jima, the Battle of Okinawa, and the atomic bombings of Hiroshima and Nagasaki. The first half of the 20th century was battered by two world wars, and as the curtain rose on the second half, a war-weary US went to battle once again in Asia while the world drew itself into two armed camps.

Appalled by war's tragic human cost, Bill Fulbright's ''immodest aim'' was no less than ''the humanizing of international relations . . . to the point that men can learn to live in peace—eventually even to cooperate in constructive activities rather than compete in a mindless contest of mutual destruction. . . .'' During this 50th-anniversary year of Fulbright's program, as we celebrate the global reach of his vision, we properly hail his ''immodest'' achievement.

In its early years in Japan, the program focuses on bringing outstanding students of the postwar generation of young Japanese to experience US social institutions and democracy. The results are found everywhere: United Nations Undersecretary-General Yasushi Akashi was a Fulbrighter. So were seven current members of the Diet, the presidents of two of Japan's largest banks, and more than 5,000 others who have carried their experience of American life back to Japanese colleges, government offices, businesses, and civic organizations.

The US and Japan reap great benefits from our harmonious bilateral relations, and we share a common stake in global security and stability. Our relationship is solid. But our societies are so profoundly different in so many basic areas that it requires great effort for us to understand each other.

As in so many endeavors, those who acquire the tools early achieve the most success. The history professor from Kysuhu University who as a young scholar spent a year in Columbus, Ohio, teaches his students with deeper insights than one who has not had that experience. The recent New York University graduate living for a year with a family near Osaka will return to New York to pursue a law career that will take a much different direction than had she never experienced Japan. Such seemingly commonplace events, multiplied many times over, bring extraordinary benefits to our relations.

The Fulbright Program is enormously popular in Japan. When Senator Fulbright died last year, hundreds of former Fulbrighters gathered for an elegant memorial service, and virtually every newspaper ran an appreciative story lauding the educational and cultural benefits bestowed on so many Japanese.

In recent years, the proportion of American Fulbrighters relative to that of Japanese has grown considerably; so has the Japanese financial contribution. The Japanese government now funds the bi-national program at approximately twice the level of the US. And Japanese alumni continue to make a generous annual donation, which is devoted to bringing recent US college graduates to Japan.

There are many ways to study abroad but the Fulbright Program stands alone. Practically everyone in Japan knows about it, and what it has meant to this country. Its marvelous reputation has been earned not simply by the scholastic achievements of its outstanding participants, but also because Fulbrighters see themselves as students, lecturers, or researchers abroad who are part of a noble, larger purpose.

Fulbright once said, ''Man's struggle to be rational about himself, about his relationship to his own society and the other peoples and nations involves a constant search for understanding among all peoples and cultures—a search that can only be effective when learning is pursued on a worldwide basis.''

Some say that the cold war's end has drained the urgency from international exchanges. It's simply not so. The need to educate citizens who have international experience and who can communicate and establish relationships across borders is more compelling than ever.

In the US, we have entered what US Information Agency director Joseph Duffey calls ''an era of frugal diplomacy.'' Our government must consider with care the cost-effectiveness of what it does. Judged by that standard, there are few programs that serve our long-term international-relations goals as fully and effectively—yet as inexpensively—as the Fulbright Program.

As Americans with a stake in our relations with the rest of the world, and particularly with Japan, we will be well served if our political leaders continue their support of Bill Fulbright's vision.

(Former Vice President Walter Mondale is the US ambassador to Japan.)●

CLYDE M. DANGERFIELD, A TRIBUTE

Mr. HOLLINGS. Mr. President, I would like to say a few words about a

man from my home State who, in his work and his life, set an example for us all. Clyde M. Dangerfield died on June 19 at the age of 81. He served 35 years in the South Carolina House of Representatives, and was responsible for improving the lives of citizens all over Charleston County. His concern, persistence, and integrity made him one of the finest public servants South Carolina has known. He was a good friend, a credit to his county, and I can say, without exaggeration, that the State is a better place because of him. Mr. President, I ask to have printed in the RECORD two articles from Clyde Dangerfield's local paper, the Post and Courier.

The articles follow:

[From the Post and Courier, June 22, 1996]

CLYDE M. DANGERFIELD

When Clyde M. Dangerfield retired from the House of Representatives in 1988, he was number one in seniority. It had been 35 years since he first was appointed to fill a vacancy in the Charleston County Legislative Delegation and had gone on to win election 17 times. While his 24-year chairmanship of the House Labor, Commerce and Industry Committee set a longevity record, his chief interest was the area's transportation system. Before his death this week, he lived to see his major dreams realized.

Relatively early in his public career, he was named chairman of the Charleston County Legislative Delegation's Roads and Bridges Committee. It became his prime focus and highway improvements his chief cause. The scope of his work was expanded when highway funding became keyed to long-range regional transportation planning. Mr. Dangerfield was named chairman of the Charleston Area Transportation Study (CHATS) Policy Committee from its inception in the late 1960s until he retired.

His career spanned major changes in the South Carolina political landscape, from the days when lawmakers were elected countywide and Democrats were the only elected officials, to the advent of the two-party system and single-member election districts. A long-time resident of the Isle of Palms, his East Cooper area had become a Republican stronghold before he stepped aside. Unlike many of his colleagues who switched parties, he remained a Democrat and withstood a strong Republican Challenge before he retired.

Herbert U. Fielding credits Mr. Dangerfield with being part of a coalition that helped him become, in 1970, the first black legislator from Charleston since Reconstruction. After that victory he remembers learning the legislative ropes from Mr. Dangerfield in the rides back and forth to Columbia. ''He taught most of us—all of us—me in particular.''

Mr. Fielding also noted that Mr. Dangerfield never sought the political center stage. In fact, Mr. Fielding remembered that Mr. Dangerfield ''very seldom took the podium in the House—he'd push me up.'' But few knew better than Mr. Dangerfield how to get things done.

Every member of the delegation who served with Mr. Dangerfield can tell stories of being taken from one end of the county to the other to check on requests for road repavings, particularly in the days when county lawmakers had the last word on such local requests. But he never lost sight of the larger projects, particularly the James Island Bridge and the Isle of Palms Connector, which were the source of much delay and frustration. The ribbons were cut on both, and the latter named in his honor several years before his death.

It was Clyde Dangerfield's ability to work behind the scenes and his persistence that were key to his success, according to Robert B. Scarborough, the former highway commissioner and legislator who was his closest ally. He can recall more than one project now in place because Clyde Dangerfield refused to give up.

None is more notable than the $38 million, state-of-the-art, fixed-span bridge that bears his name and links the East Cooper island communities to the mainland. It took Hurricane Hugo to convince some island residents of the danger of relying solely on one means of exit off the islands. When the Clyde M. Dangerfield Bridge was dedicated, Isle of Palms Mayor Carmen Bunch was quoted as saying, ''This opens a new avenue to us all. We will never be kept from our homes again.'' That is only one of many debts of gratitude this community owes to Clyde M. Dangerfield's determined leadership.

[From the Post and Courier, June 23, 1996]

DANGERFIELD: A LIFE OF QUIET INTEGRITY

(By Elsa McDowell)

Somewhere on the bridge that bears his name, Clyde Dangerfield's heart beat its last on Wednesday.

The connector that he had envisioned as a lifeline to the mainland for the Isle of Palms and Sullivan's Island wasn't short enough to get his 81-year-old heart to the hospital before full cardiac arrest.

Minutes before, he had finished his daily swim in the pool behind his Isle of Palms house. He was climbing out of the shallow end when he called to his wife Betty.

He couldn't breathe.

It was a scene Rep. Clyde Dangerfield might have described in his years campaigning for the connector.

He'd have said it plainly, an honest reflection of his concern: Without a connector, someone on the Isle of Palms suffering from severe heart failure wouldn't stand a chance. With it, he might.

Clyde Dangerfield Jr.'s voice catches at the image. His father worked hard for the connector—much the same way he worked for poor people in rural Charleston County.

''I remember when I was 8 or 9. On Sundays, he would say, 'Come on, son, Let's go check on some roads.' ''

ROADS AND ROADS

Clyde Jr., pad and pen in hand, would climb on a pillow in the front seat of the big green 1954 Chrysler and they would head to the boonies. In 1953, Dangerfield was first elected to serve the whole county and that's what he did.

''Daddy would give me odometer readings and I'd write them down. Each county was given so many miles of roads and Daddy wanted to make sure it was divided fairly.''

When he came upon roads that needed paving, they made their first stop: A country store.

''He'd walk in not knowing one of the 10 people sitting there. He'd leave knowing all 10,'' Clyde says.

He'd also leave with the name and address of the street's unofficial ringleader—their next stop.

''Would you like this road paved?'' ''Of course.''

Then he'd pull out some forms. Get signatures from everyone on the street. He'd take care of it.

Oh, one more thing. Include voter registration numbers.

Clyde smiles. They didn't have to be registered; but Dangerfield knew politics. He'd have new supporters and citizens would have a voice in their government.

Sure enough, rural voters helped send Dangerfield to the House for 35 years. And since his death Wednesday, the stream of mourners has included simple people who sign with an ''x'' and government leaders who live in the headlines.

Clyde Dangerfield Jr.'s immense pride in his father isn't because of politics. It's not because he established and ran Suburban Gas and Appliance Co.

THE MAN

Clyde says his father ''provided the definition for the word 'integrity.' Every night, his six children saw him get on his knees and pray. I never heard him say a cuss word and I never heard him raise his voice to my mother.''

His son can't think of anyone who didn't like his father.

It wouldn't be someone who was jealous. Clyde Dangerfield didn't enjoy the limelight. He didn't seek headlines.

It wouldn't be a political enemy. Clyde Dangerfield was a Democrat, but embraced issues Republicans appreciate as well.

''He believed in negotiating,'' Clyde says. To him, there was no such thing as a win-lose situation. It had to be win-win.

It wouldn't be constituents. They'd have to know he was trying to serve them.

Dangerfield grew up hard. One of 10 children of a dirt farmer in Oakley, he finished Berkeley County schools when he was 21. He needed time off to tend crops.

He was blind in his left eye because of a childhood baseball accident. The horse-and-buggy ride to Charleston took a day and a half. Too late.

Dangerfield was moving slowly through Clemson—hog farming for money—when the war started and he joined the Army.

Afterward he moved to the Isle of Palms and got involved right away. He was a founder of the First United Methodist Church there.

When his house caught fire, he had to rely on Sullivan's Island firefighters for help. So in the 1950s, Dangerfield helped establish a department for the Isle of Palms.

And then there's his family. A wife, six children and 10 grandchildren who don't just think—they know—that Clyde Dangerfield was all they love and respect.●

ORDERS FOR TUESDAY, JUNE 25, 1996

Mr. MCCAIN. I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Tuesday, June 25; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate immediately resume consideration of S. 1219, the campaign finance reform bill, with the time between 9:30 a.m. and 12:30 p.m. on Tuesday equally divided between the two leaders or their designees for debate only.

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

Mr. MCCAIN. Mr. President, I further ask unanimous consent that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. in order to accommodate respective party conferences.

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

PROGRAM

Mr. MCCAIN. For the information of all Senators, under the previous order there will be a rollcall vote on Tuesday at 2:15 p.m. on the motion to invoke cloture on the campaign finance reform bill. If cloture is invoked, the Senate would be expected to continue consideration of S. 1219. If cloture is not invoked, the Senate will resume consideration of the Defense authorization bill, or possibly any other items cleared for action. Additional rollcall votes will therefore occur during Tuesday's session. A cloture motion was filed this evening on the defense bill, with that vote to occur on Wednesday. Under the provisions of rule XXII, first-degree amendments to the DOD bill must be filed by 12:30 on Tuesday.

ORDER FOR ADJOURNMENT

Mr. MCCAIN. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of Senator KENNEDY.

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

The Senator from Massachusetts is recognized.

TRIBUTE TO GABRIEL LEWIS OF PANAMA

Mr. KENNEDY. Mr. President, I was distressed to learn recently that a serious illness has required a valiant champion of human rights and democracy and a great friend of the United States to withdraw from his high position as Foreign Minister of the Republic of Panama. Foreign Minister Gabriel Lewis is well known to many of us in Congress and he is especially warmly remembered for his determined, persuasive, and eloquent opposition to the dictatorship of Manuel Noriega in Panama.

Few, if any, individuals were more responsible for the return of democracy and respect for human rights in Panama than Mr. Lewis. He championed the cause of his fellow Panamanians in a way that makes him a profile in courage for our time.

The President of Panama has recently appointed Mr. Lewis to be his senior counsel with cabinet rank. I know that all friends of Mr. Lewis in the United States and many other countries wish him a speedy recovery. We need his continuing leadership to advance the close ties between our two countries, and to enhance the cause of democracy throughout the Americas.

MINIMUM WAGE

Mr. KENNEDY. Mr. President, 58 years ago today, on the eve of his signing into law the first Federal minimum wage, President Franklin Roosevelt gave a fireside chat. He warned the American people that they would hear ''Calamity howling business executives with incomes of $1,000 a day, claim that the new minimum wage of $11 a week will have a disastrous effect on all American industry.'' It was not true then and it is not true today.

The minimum wage will not hurt business, cause job loss, or cause inflation. It will, however, provide a pay raise for 112 million hard-working Americans who deserve a living wage. Tomorrow, Senator DASCHLE, I, and others will seek to add the minimum wage as an amendment to the DOD authorization bill. This is not the course we would prefer to take, but the Republican leadership of the Senate leaves us no choice.

More than a year ago, I joined Senator DASCHLE in introducing S. 413, a bill that would have raised the minimum wage by 45 cents in July 1995 and again this July for a total raise of 90 cents, bringing the minimum wage up to $5.15 an hour. We could not get a hearing on S. 413 in the Labor Committee, so on July 31, I offered a sense-of-the-Senate resolution calling on the Senate to consider the minimum wage increase before the end of the year. The resolution was defeated 48 to 49.

In October, unable to have so much as a hearing on the minimum wage, we tried again. Senator KERRY, my colleague, offered a sense-of-the-Senate resolution again, which was blocked by a Republican procedural maneuver. But we got a majority in favor, 51 to 48. We finally got a hearing in December, but no markup was scheduled. Finally, with the real value of the minimum wage continuing to fall and no relief for low-wage workers in sight, we offered an amendment to raise the minimum wage on the parks bill this past April and filed cloture; 55 Senators voted for cloture and 45 against.

It is clear from that vote, and the one last October, that a majority of Senators want to see the minimum wage increased, but they have been frustrated by the Republican leadership. Time after time, we have tried to bring up this critical legislation, but the Republican leadership has been willing to tie up the Senate for 10 days at a time to prevent it. Then on May 23, the House passed a minimum wage increase by a huge margin, 266 to 162. That bill came over from the House, and the majority leader—then Bob Dole, and now Senator LOTT—has refused to allow its consideration as a clean bill.

This is now our last opportunity to have the minimum wage increase considered before the day it is supposed to take effect, July 4. If the Senate does not act now, it will be turning its back on 12 million Americans, who are counting on the Congress to do the right thing for them and their families.

Tomorrow, June 25, marks the 58th anniversary of Franklin Roosevelt's signing of the first minimum wage bill. The minimum wage in the bill President Roosevelt signed established the wage at 25 cents an hour. In 1938, as today, Republicans were opposed to the minimum wage. But, ultimately, the good sense of the Congress prevailed.

It is entirely fitting that, tomorrow, Senator DASCHLE, our Democratic leader, will seek, once again, to bring the minimum wage increase to the floor, and I hope the Republican leadership will not block that effort. If it does, we will not give up. We will seek to offer the minimum wage to every bill on the Senate floor and, ultimately, I believe we will prevail, as Franklin Roosevelt did 58 years ago.

HEALTH CARE REFORM

Mr. KENNEDY. Mr. President, I will address the Senate for a few moments this evening on an issue that is before the Senate, and really before the country, and that is a question of where we are in our health care debate and discussion.

I thought this evening I would just make some brief comments to follow those of last Friday about what some of the dangers are with medical savings accounts and, in particular, what has been the record of the Golden Rule Insurance Co., which is the principal insurance company that sells medical savings accounts at the present time. I will review, briefly, what the record of that company has been over the period of the last couple of years because there have been those who have questioned whether we have been giving a fair and accurate reflection of this insurance company.

I will include in the RECORD, Mr. President, the Indianapolis Star article of June 22, just a few days ago. This is the Indianapolis Star, the home newspaper for the Golden Rule Insurance Co. I think for those that are familiar with the Indianapolis Star, there is no one here that would suggest that that was considered to be a liberal newspaper, or even a moderate newspaper. It has been one of the newspapers that have been part of the Pullian family and has prided itself in supporting very conservative candidates, with a very conservative editorial policy. This is the hometown newspaper. This is not the Democrats, who are opposed, or Republicans who are opposed to medical savings accounts. This is their hometown newspaper, blowing the whistle, so to speak, on the Golden Rule Insurance Co.

I ask unanimous consent that this article be printed in the RECORD.

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

[From the Indianapolis Star, June 22, 1996]

GOLDEN RULE HAS A KEEN INTEREST IN INSURANCE BILL

INCLUSION OF TAX-FREE MEDICAL SAVINGS ACCOUNTS WOULD BE A SIGNIFICANT AID TO THE FIRM'S PROFITABILITY

(By Larry MacIntyre)

If you ran an insurance business and discovered that fewer and fewer people were

buying your policies, you'd probably welcome a federal law that would have the effect of paying some families a $2,000 or more bonus to buy them.

A law like that could turn sinking sales into skyrocketing sales almost overnight.

In a sense, that is what's at stake for the Indianapolis-based Golden Rule Insurance Co. as it watches the White House and Congressional Republicans haggle over putting tax-free medical savings accounts—known as MSAs—into a health-insurance reform bill jointly sponsored by Sens. Ted Kennedy, D–Mass., and Nancy Kassebaum, R–Kan.

The bill is aimed at making it easier for employees to keep health insurance when they change jobs. Until this month, President Clinton had vowed to veto it if it included MSAs, a concept that Golden Rule's former chairman, Pat Rooney, has been lobbying for tirelessly for years.

Congressional Republicans, who received more than $1 million in campaign contributions from Golden Rule and its executives before the last election, are touting MSAs as a way to bring free-market forces to bear on rising health-care costs.

Opponents of MSAs predict the device will shrink the amount of money needed for health insurance pools by instead giving it to people who stay healthy—or at least don't visit the doctor. Kennedy says MSAs will drive insurance premiums ''through the roof,'' and he singled out Golden Rule as being the ''worst abuser'' of the current system.

The prospect of MSAs appeared to be at a stalemate until two weeks ago, when the White House signaled it would be willing to include a trial program for small businesses. Now, Clinton's aides and Congressional staffers are trying to agree on how big a population would be served by the trial program.

FUTURE IN QUESTION

The answers they come up with will determine the future of Golden Rule, which is seeing steadily declining sales of individual health-insurance policies in the face of mounting competition from managed-care plans.

The company's profitability is also being squeezed as it shifts into the highly competitive group health-insurance market, which is now dominated by managed-care plans.

In its required annual report to the state, Golden Rule cited reduced revenue from health policies as the reason its net gain after taxes fell to $25.8 million in 1995—down 29 percent from the previous year.

Company officials did not return phone calls from The Indianapolis Star and The Indianapolis News seeking comment.

One reason managed-care plans are growing in popularity is that, unlike holders of Golden Rule's traditional fee-for-service policies, users of managed-care plans don't have to pay a $500 or $1,000 deductible out of pocket before the policy kicks in. Most managed-care policies provide what is known as first-dollar coverage.

The attraction of medical savings accounts is that they go one step better. People who stay healthy would get money back.

The plan pushed by Congressional Republicans calls for a three-year test. It would allow self-employed individuals and employers with 100 or fewer workers to establish tax-exempt MSAs of up to $2,000 per individual or $4,000 per family.

The catch is that money in the MSA would be tax exempt only if a companion health-insurance policy for catastrophic illness is also purchased. Deductibles for these policies could be as high as $5,000 for individuals and $7,500 for families. Choose own doctors

MSA holders could choose their own doctors and spend as much or as little as necessary from the account. At the end of the year, any money left in the MSA could be either rolled over or paid to the employee as taxable income.

At the end of the three-year test, Congress would vote on whether to expand MSAs to the rest of the nation's workers.

A RAND Corp. study published in the Journal of the American Medical Association last month estimated that 57 percent of the nation's families would choose MSAs over traditional fee-for-service policies or managed care.

If that estimate were to hold true, it would translate into a potential market of more than 50 million new customers for Golden Rule and other insurers offering catastrophic-care policies.

Last year, Blue Cross & Blue Shield of Ohio analyzed a year's worth of health claims for 38,729 family policyholders and determined that 68 percent would have qualified for money back if they had MSAs.

Assuming they had all started with $3,000 in their MSAs, their average payback would have been $2,039.

But the Ohio insurer isn't a supporter of MSAs. In fact, John Burry Jr., its chairman and chief executive officer, is one of the most outspoken and active opponents of MSAs.

Burry says the Ohio study—which he presented to the House Ways and Means Committee last year—show that MSAs have the potential to bankrupt the nation's health-care system.

''They are tailor-made for identifying healthy persons who may be profitably insured. It makes no sense for a sick person to utilize an MSA,'' Burry said in testimony to the committee.

The reason is that all the money that healthy people would get back from their MSAs—more than $50 million in the Ohio group—represents money that under current health plans is being paid into the insurance pool for their group coverage.

$50 MILLION SHORTFALL

If that money were taken out of their pool, it would create a shortfall of $50 million needed to cover the health expenses of the 32 percent of families that didn't stay healthy.

Some of those families spent in excess of $300,000 each for treatment of cancer, preterm infants or coronary problems.

While the unhealthy families represented less than a third of the study group, they accounted for 84 percent of the $159.3 million health-care costs. But under an MSA plan, the study calculated there would have been only $109 million available to cover those health costs.

Thus, the study concluded, employers would ultimately have to pay higher premiums, or sick people would have to pay more of their own costs to make up that $50 million shortfall.

Extend that economic model across the entire nation, says Burris, and the shortfall could reach $80 billion a year.

Burris' arguments have not dampened the enthusiasm among Congressional Republicans.

''MSAs deserve to become the law of the land because they represent a commonsensical, sound policy for health care,'' says Sen. Dan Coats, R-Ind. Coats is a Republican conferee pushing to keep MSAs in the health-care bill.

Supporters of MSAs range from the American Medical Association to Rush Limbaugh.

The most ardent opponent of MSAs in the Senate has been Ted Kennedy, who recently singled out Golden Rule for criticism in his written response explaining why he would not support the MSA amendment to his bill.

''It is no accident that the leading proponents of medical savings accounts are insurance companies like Golden Rule, which have been the worst abusers of the current system,'' he wrote, ''They have given millions of dollars to political candidates to try to get this business opportunity into law.''

Last fall, the nonpartisan American Academy of Actuaries, which studies insurance policy issues, also chimed in with a call for caution on MSAs.

Its report concluded: ''The greatest savings will be for the employees who have little or no health care expenditures. The greatest losses will be for the employees with substantial health care expenses. Those with high expenditures are primarily older employees and pregnant women.''

Mr. President, in the last Congress, health care reform became a highly partisan issue—and no progress was made. In this Congress, we have an opportunity to avoid the failures of the past by moving to address some of these problems on a bipartisan basis, even in this election year. The Kassebaum-Kennedy bill passed the Senate by a vote of 100 to 0. It had 66 cosponsors—with almost equal numbers from both parties. If we could send it to the President today, it would be signed by him tomorrow.

But the House Republican leadership is insisting that any health reform must be their way or no way. This nonnegotiable approach is an insult to millions of Americans who want insurance reform. It is time for the Republican leadership to stopped trying to turn a bipartisan bill that the American people need into a partisan proposal that will never be signed into law.

The Kassebaum-Kennedy insurance reform bill eliminates many of the worst abuses of the current system. It will benefit an estimated 25 million Americans a year. Today, millions of Americans are forced to pass up jobs that would improve their standard of living or offer them greater opportunities, because they are afraid they will lose their health insurance or face unacceptable exclusions for preexisting conditions. Many other Americans abandon the goal of starting their own business, because health insurance would be unavailable to them or members of their families. Still other Americans lose their health insurance because they become sick or lose their job or change their job, even when they have paid their insurance premiums for many years.

The Kassebaum-Kennedy bill addresses each of these problems. Insurance companies are limited in their power to impose exclusions for preexisting conditions. No exclusion can last for more than 12 months. Once persons have been covered for 12 months, no new exclusion can be imposed as long as there is no gap in coverage, even if they change their job, lose their job, or change insurance companies.

No workers wishing to participate in an insurance plan offered by their employer can be turned down or made to pay higher premiums because they are in poor health. If someone no longer has access to on-the-job insurance because they have lost their job or gone to work for an employer who does not

offer coverage, they cannot be denied individual insurance coverage or face exclusions for preexisting conditions when they buy a policy. The same protection is provided for children who exceed the maximum age when they can still be covered under their parents' plan.

The Kassebaum-Kennedy bill will not solve all the problems of the current system. But it will make a significant difference in increased health security for millions of Americans.

The only opposition to the Kassebaum-Kennedy bill came from those who profit from the abuses in the current system. That is why it passed the Senate unanimously. An amendment by Senators Dole and Roth that added assistance for small business, strengthened antifraud provisions—and included other useful proposals was also adopted with overwhelming bipartisan support.

But now the bill is stalled, because some Republicans insist on adding a partisan poison bill—medical savings accounts. Such accounts are a bad idea that will make our insurance system worse instead of better. They are too controversial to be included in any consensus bill.

A compromise is possible if our Republican friends are willing to have a legitimate test of the idea first, without imposing it full-blown on the country. But the so-called compromise now being offered on medical savings accounts is nothing of this kind. It is a capitulation to House Republicans, who are more interested in creating an issue and serving a special interest constituency than in passing a needed health reform bill.

Discussions are ongoing to see whether a genuine compromise can be reached. If not, we should simply pass the bipartisan bill already unanimously approved by the Senate, and consider medical savings accounts on separate legislation.

Most people do not understand what a medical savings account is, or why special interest groups are so anxious to see them included in this bill. Medical savings accounts have two parts. The first is a catastrophic, high-deductible insurance policy that requires people to incur substantial medical costs out of their own pocket before insurance kicks in. Supporters of medical savings accounts usually mean policies with deductibles of about $1,500 to $2,000 per person. There is nothing that keeps businesses and individuals from buying such policies today.

The second part of a medical savings account is a tax-free savings account that is established by an individual or an employer to pay for part of the costs that the insurance does not cover. In theory, the lower premium cost for such a policy will make savings available to put in these accounts. Proponents of medical savings accounts often present this part of the plan as if the premium savings will cover almost the whole cost of the deductible. But that's not necessarily the case.

Medical savings accounts sound too good to be true—and they are. The American Academy of Actuaries and the Urban Institute estimate that the savings will be only a fraction of the deductible—leaving families exposed to high costs they simply cannot pay.

Last week, I challenged the supporters of medical savings accounts to answer some simple questions, so that the American people can understand what the flawed Republican proposal really means. Those questions have still not been answered, because the Republicans know that their medical savings account plan cannot stand the truth in advertising test. Here's what their plan provides.

First, the Republican plan allows deductibles as high as $5,000 per individual and $7,500 per family. A family needing medical care must spend $7,500 out of their own pocket before their insurance pays a dime. I ask my Republican friends how many families can afford to pay this much for medical care, and why in the world would you give a special tax break for a policy providing such minimal protection?

Medical savings accounts are described by the advocates as providing catastrophic protection. Once you hit the cap, they say you have complete protection. Actually, almost all conventional insurance policies already have a feature like this, called a stop-loss, which caps the policyholder's out-of-pocket spending for covered services. Even among policies offered by small businesses, which are typically less generous than those provided by large companies, 90 percent have a stop-loss. And for virtually all of these plans, the stop-loss is less than $2,000.

Contrast that to the Republican plan. Protection does not even start until you have spent $5,000, and there is no stop-loss. None whatsoever. The plan allows the insurer to charge a 30-percent copayment for charges in excess of the deductible. A $40,000 doctor and hospital bill is not unusual for a significant illness or surgery. A person needing such care would owe $15,500 for bills the policy would not pay. Under the conventional plan, their costs would be limited to $2,000 or less.

Can the Republicans explain to the American people why their plan has no stop-loss provision? Can they describe the logic that says it is all right to make a family pay $7,500 before their insurance covers them at all—and then leave them exposed to unlimited additional expenses even after they have paid the first $7,500? When you ask these questions, the Republicans have no answer.

The Republicans claim that people can cover these huge gaps in their insurance protection out of their medical savings accounts. Perhaps the wealthy, who get the bulk of the tax breaks under this plan, will be able to afford high medical costs—but how are working families to set aside the $5,000, $10,000, $20,000, or more that they would need for protection in the event of a serious illness?

There is nothing in the Republican plan that requires employers to contribute even one thin dime to a medical savings account for their employees. I've asked the Republican sponsors of this provision if their plan requires employers to make any contribution to the medical savings accounts of their employees, but there has been no answer—because a truthful answer is too embarrassing.

The Republican plan has other basic flaws. Today, most insurance companies have fee schedules limiting the amount that doctors and hospitals can charge for covered services. These fee schedules generally pay less—sometimes only half as much—as the actual charges. But providers generally accept these reduced fees as payment in full.

Under a medical savings account there is no such protection. In fact, patients could find themselves in the situation of having spent $9,000 on physician and hospital care and still not have met their $5,000 deductible, because the charges the patient has to pay are higher than the insurance company's fee schedule. No wonder some doctors and hospitals love the idea of medical savings accounts.

The driving force behind medical savings accounts is the Golden Rule Insurance Co. It made more than $1 million in campaign contributions before the last election alone. In October 1994, Golden Rule delivered $416,000 in soft money to the GOP. Only two other companies gave more to Republicans during the last election cycle. Golden Rule has contributed lavishly to NEWT GINGRICH's GOPAC political action fund. No one should be under any illusions. If it were not for Golden Rule, its chairman, Patrick Rooney, and its lavish contributions, medical savings accounts would not be an issue before this Congress—and it would not be the poison pill that threatens to sink health reform legislation again.

Why does the Golden Rule Insurance Co. want this legislation? The answer is simple. Golden Rule profits by abusing the current system. They make their money by insuring the healthy and avoiding those who need coverage the most. The company is notorious for offering policies with inadequate coverage, for dropping people when they get sick, for excluding parts of the body most likely to result in an illness, and for invoking exclusions for preexisting conditions when costly claims are filed.

Insurance reform that forces companies like Golden Rule to compete fairly by providing good services at a reasonable price would put them out of business. As the Indianapolis Star said on Saturday, ''[MSAs] will determine the future of Golden Rule, which is seeing steadily declining sales of individual health insurance policies * * * In its required annual report to the State, Golden Rule cited reduced revenue

from health policies as the reason its net gain after taxes fell to $25.8 million in 1995—down 29% from the previous year.''

Golden Rule knows that its future depends on a multibillion dollar tax giveaway in the form of medical savings accounts. That is why their Republican friends in Congress are trying to force this partisan special interest proposal into the health reform bill—even at the risk of sinking the bill.

Let's look at the dishonor roll of Golden Rule policies. Like the Republican plan, MSA policies sound good until you read the fine print. Here is a policy offered by Golden Rule in Massachusetts through Americans for Tax Reform. It has no coverage for prenatal care or postnatal care. It has no coverage for most preventive services. It does not cover an emergency room visit unless you are admitted to the hospital. It does not even cover outpatient physician services, except for outpatient surgery. It does not cover outpatient prescription drugs. It does not even cover diagnostic tests unless the patient is hospitalized within 3 days.

Here is another Golden Rule policy, from Virginia. It has all the exclusions in the Massachusetts policy and adds even more gaps. There is no coverage for mental health. There is no coverage for substance abuse. There is no coverage for pregnancy and delivery—none at all. All routine and preventive care is excluded.

But even worse than the things Golden Rule explicitly does not cover is the things that it will not cover for you if they think you might get sick—or if you actually do. Here is what the policy says on page 6 of the Massachusetts policy under the heading ''pre-existing conditions.'' It says ''Pre-existing conditions will not be covered during the first 12 months after an individual becomes a covered person.'' This sounds reasonable. But listen to the fine print. ''This exclusion will not apply to conditions which are both: (a) fully disclosed to Golden Rule in the individual's application; and (b) not excluded or limited by our underwriters.''

What does this mean? It means that if, in the judgment of Golden Rule, you have not disclosed a pre-existing condition, they are not obligated to cover it after 12 months, and they reserve the option to exclude a condition from coverage forever—not just for 12 months. What does that mean in practice? It means that the protection Golden Rule promises is often a sham.

Let me read some of the cases of consumers who bought Golden Rule policies, faithfully paid their premiums, and then were told their insurance did not cover them, just when they needed it the most.

Daniel Brokaw of Roanoke, VA, was covered under a Golden Rule policy, although the policy excluded any coverage for care related to Mr. Brokaw's Tourette's disorder. Golden Rule also refused to cover Mr. Brokaw's 4-year-old son, even with a similar exclusion, because he occasionally shook his fist. Golden Rule canceled even this limited coverage when Mr. Brokaw submitted a claim for a broken arm.

Louise Mampe of suburban Chicago was diagnosed with breast cancer after having been covered by Golden Rule for 11 months. Golden Rule denied payment for $60,000 of bills and canceled her policy, saying that the breast cancer was a pre-existing condition. Mrs. Mampe had felt a ''bump'' but did not get treatment for years because she did not think it was anything serious—she had been getting similar bumps for years. Golden Rule wrote to Mrs. Mampe's widowed husband, Howard, that ''Obviously, Mrs. Mampe was the author of her own misfortune.'' Pat Rooney, head of Golden Rule, himself stated that, ''If my sister applied for her own insurance and she knew that she had felt a lump in her breast, she is not an insurable risk.''

Gwendolyn Hughes of Utah had claims relating to injuries suffered in an automobile accident denied because she had failed to list a digestive problem on her Golden Rule insurance application.

James Clark of Keithville, LA, was forced to pay for his heart by-pass surgery after Golden Rule denied his claim, saying he had not disclosed cholesterol and triglyceride levels on his insurance application.

Linda Shafer of Ramsey, IN, had her Golden Rule policy canceled after she was diagnosed with Parkinson's. The Golden Rule underwriter said Ms. Shafer failed to disclose on her application that her hands sometimes shook. Ms. Shafer said she thought this was due to the stress of going through a divorce, not ''a disorder of the nervous system such as epilepsy, convulsion, frequent headaches or mental or nervous disorders'' as listed on the application. ''Since I am not in the medical profession and could not diagnose my symptoms, I didn't even consider that I had any type of nervous disorder,'' she wrote.

Sharon Tate of Kansas City, MO, had her claim for removal of a sinus cyst denied because Golden Rule said she had to have known about the problem before taking out her policy. A court ruled against Golden Rule when it found that the company's doctor had not even looked at Ms. Tate's x-ray, although that was supposedly the justification for the claim denial.

Ana Painter of Chesterfield, IL, had her hospital bill relating to stem-cell infusion treatment for malignant ovarian cancer rejected on grounds that the treatment was ''experimental.'' Golden Rule filed a suit against Ms. Painter 5 days later—without even waiting for her to appeal the decision—asking for a legal ruling that the company did not have to pay the bill. Ms. Painter had to retain a lawyer.

James Anderle of Milwaukee, WI, had his claim for medical bills resulting from a stroke denied by Golden Rule. Golden Rule claimed Mr. Anderle had a pre-existing condition—the flu.

Carol Schreul of Aurora, IL, suffered a brain tumor, resulting in medical bills of $39,000. Golden Rule refused to pay, claiming that Ms. Schreul misrepresented her health status by listing her weight as 190 pounds when it was actually 210.

Harry Baglayan had his claim for the $49,000 in costs for heart by-pass rejected. Golden Rule argued that Mr. Baglayan had failed to disclose that he had nausea four months earlier, a pre-existing condition.

Golden Rule has adamantly opposed insurance reforms, because they know they cannot compete on a level playing field where these abusive practices are outlawed. In Vermont, they vigorously and tenaciously opposed insurance reform—and then pulled out of the State when reform was finally enacted. Golden Rule refuses to give information on their experience with MSA's that they currently offer—and it's no wonder, given what turned up in Vermont.

Here is how the State insurance commissioner described what they found when Golden Rule turned over its policies to the Blue Cross plan, which assumed responsibility for Golden Rule policyholders when it pulled out of the State.

What are the tools of an aggressive underwriter [like Golden Rule]? The first is the initial application form filled out by the consumer. Let me briefly review its scope. Item 15 of the application asks for information about health status over a 10 year period. The questions asked are very broad and refer to any disorder that the applicant may have had. How many of us have not had a headache or diarrhea or a bad stomach ache over the past ten years?

Another tool used more aggressively by Golden Rule than by other insurers is the exclusion. This is a limitation placed on the policy to exclude coverage for a particular individual, condition, disease, etc. When Golden Rule withdrew from Vermont, most of its insured elected to become members of Blue Cross and Blue Shield of Vermont under the safety net program I discussed earlier. As a result, the safety-net program allows unique access to information about the Golden Rule Policies.

Of the approximately 5,000 Vermont Golden Rule policyholders who joined the safety-net, approximately 25 percent had some type of exclusion under their Golden Rule policies. In the initial study done by Blue Cross and Blue Shield, 1,024 Golden Rule policies have 1,245 separate exclusions added to their policies.

Blue Cross and Blue Shield also compiled a list of more than 81 exclusions used by Golden Rule. These include the exclusion of whole body parts, such as arms, backs, breasts, knees, legs, hands, skin.

A particularly disturbing practice of Golden Rule was to selectively underwrite newborn children of individuals holding individual rather than family policies. After providing the 30 day coverage of newborn children mandated by Vermont law, Golden Rule would only extend coverage if the newborn was healthy.

Mr. President, I ask that the full text of this letter be entered in the RECORD.

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

STATE OF VERMONT,
DEPARTMENT OF BANKING,
INSURANCE AND SECURITIES.

[Memorandum]

To: John D. Dingell, Chairman, Subcommittee on Oversight and Investigations.
From: Thomas R. Van Cooper, Director of Insurance Regulation.
Date: June 27, 1994.
Subject: Vermont Health Care Reform Initiatives.

INTRODUCTION

Good morning. My name is Thomas Van Cooper. I am the Director of Insurance Regulation for the state of Vermont. I want to thank you, Mr. Chairman and members of the subcommittee, for the opportunity to discuss Vermont's health insurance reforms. In particular, the requirements that health insurers use community rating and that they guarantee acceptance of all applicants, in the small group (1–49 employees) market as of July 1, 1992, and in the individual market as of July 1, 1993. I understand that the committee is interested in Golden Rule Insurance Company. Many of the issues surrounding Golden Rule, regarding both its conduct and its positions on health insurance, can probably be best addressed by reviewing more generally the issues Vermont faced in its individual and small group markets.

An important finance issue that Vermont confronted in its effort to obtain health care reform involved the impact of insurers employing aggressive underwriting techniques that either explicitly excluded some Vermonters from the marketplace or effectively did so by pricing such individuals out of the marketplace. The cost of care for individuals forced out of the marketplace is borne by other taxpayers and insureds, whether through tax based social programs or by less easily identified shifts of uninsured and underinsured costs to the private insurance marketplace. Since Vermont had a social contract to provide health care to all citizens regardless of their ability to pay, it needed a fair insurance mechanism for financing health care.

* * * * *

Did insurers leave the state as a result of the reforms? Sure, some chose to leave, including Golden Rule. However, other insurers took their place, recognizing the opportunity to do business and make a fair profit in Vermont. Today Vermont has 17 carriers competing in the small group market and 9 carriers in the individual market. Now that may not sound like a lot, but Vermont only has 560,000 citizens and in fact, we now have more carriers actively competing for business than before the reform measures. More significantly, we now have much more capacity, since every one of these carriers will take all comers. I have attached a list of the companies doing business and some of the prices for products they are selling. See Attachment D.

In sum, the reforms in Vermont have been a success. The consumer can have confidence in a stable and rationale marketplace in which coverage is guaranteed and available at a fair price. In fact, prices are low, and competition among insurers for business is high. During the legislative debate, the HIAA and Golden Rule rolled out their actuaries and experts to explain why the reforms would not work. But rather than fall prey to the numbers game in which one actuary battles another, we relied on common sense and looked to the definition of insurance for guidance. Insurance is not about risk avoidance. It is about the pooling of risk.

GOLDEN RULE

Before discussing Golden Rule and its behavior in Vermont, I want to state that the company did not violate any Vermont laws by its conduct. I believe that its underwriting practices, however, were instrumental in creating the support that led to the passage of reform legislation in Vermont that rendered its type of underwriting illegal.

What are the tools of an aggressive underwriter? The first is the initial application form filled out by a consumer. I have attached a copy of a Golden Rule form. See Attachment E. Let me briefly review its scope. Item 15 of the application asks for information about health status over a ten-year period. The questions asked are very broad and refer to any disorder that the applicant may have had. How many of us have not had a headache or diarrhea or a bad stomach ache over the past ten years?

Another tool used more extensively by Golden Rule than by other insurers is the exclusion. This is a limitation placed on the policy to exclude coverage for a particular individual, condition, disease, etc. When Golden Rule withdrew from Vermont, most of its insureds elected to become members of Blue Cross and Blue Shield of Vermont under the safety-net program I discussed earlier. As a result, the safety-net program allows unique access to information about Golden Rule policies.

Of the approximately 5,000 Vermont Golden Rule coverage policyholders who joined the safety-net, approximately 25 percent of them had some type of exclusion under their Golden Rule policies. In an initial study done by Blue Cross and Blue Shield, 1,024 Golden Rule policyholders had 1,245 separate exclusions added to their policies. I have attached some examples of these policy exclusions. See Attachment F. I will review a few of them.

Subscriber B applied for health insurance from Golden Rule on September 18, 1991. The subscriber had been treated by a physician in June of 1991 for bumps on the skin that were determined to be fatty deposits of no concern. Golden Rule excluded any loss incurred resulting from any form of tumor or tumorous growth, including complications therefrom or operation therefor. The exclusion was in force at the time Golden Rule terminated coverage on November 1, 1992.

Subscriber C also treated with aspiration of fluid in benign cysts located in breasts. Golden Rule excluded any loss incurred resulting from any disease or disorder of the breasts, including complications therefor. This included any reconstructive surgery or complications of reconstruction surgery. The exclusion was in force at the time Golden Rule terminated coverage on July 19, 1993.

Subscriber F applied for health insurance from Golden Rule on January 15, 1992. The subscriber, a self-employed commercial painting contractor, indicated no experience with back problems. Golden Rule excluded any loss incurred resulting from any injury to, disease or disorder of the spinal column, including vertebrae, intervertebral discs, spinal cord, nerves, surrounding ligaments and muscles, including complications therefrom or operation therefor. The exclusion was in force at the time Golden Rule terminated coverage on March 1, 1993.

Blue Cross and Blue Shield also compiled a list of more than 81 exclusions used by Golden Rule. These include the exclusion of whole body parts, such as arms, backs, breasts, hips, knees, legs, hands, skin, testes and so on. I think the list speaks for itself. See Attachment G.

A particularly disturbing practice of Golden Rule was to selectively underwrite newborn children of individuals holding individual rather than family policies. After providing the 30 day coverage of newborn children mandated by Vermont law, Golden Rule would only extend coverage if the newborn was healthy.

SUMMARY

Community rating and guarantee issuance represent good social policy, good insurance policy and good business policy. The Vermont legislature quickly saw through the self-interested doomsday prophesies of the commercial industry about radical price increases and the destruction of Vermont's insurance market, and instead recognized that there was no reason insurers could not make a fair profit playing on a level playing field, where they could compete on the quality of service they provided and the management of costs rather than the avoidance of risk. Vermont consumers need no longer worry about whether they will be able to have access to this essential product.

Mr. KENNEDY. Mr. President, these shameful practices are not unique to Vermont. In Kentucky, consumer complaints against Golden Rule were twice as high as against other companies. In New Hampshire, where no systematic survey was done, a State legislator reported his son had a foot injury as a small child and Golden Rule's coverage of him as a young adult excludes everything on the right leg before the knee. In Florida, the insurance department reported that Golden Rule's rate increases exceeded those of other carriers by a wide margin. People were insured at a low rate when they were healthy, and then their premiums were raised through the roof when they became sick. And Consumer Reports ranked Golden Rule near the bottom in a nationwide survey of insurance companies.

No wonder Golden Rule wants medical savings accounts. They can only compete when the rules of the game are rigged against consumers. They can only profit by perverting insurance into a method of taking premium dollars from the healthy and avoiding paying benefits to the sick. The American public is coming to understand why a company like Golden Rule favors medical savings accounts, and why they have no place in legislation that is designed to make health insurance work better for consumers, not worse.

I have placed into the RECORD editorials from a number of leading newspapers around the country pointing out the dangers of medical savings accounts and urging the passage of a bipartisan insurance reform bill without this poison pill. The editorials included the Washington Post, May 8, 1996, ''Dubious Crusade for Medical Savings Accounts''; the Los Angeles Times, June 6, 1996, ''U.S. Deserves This Health Reform''; the New York Times, May 30, 1996, ''Mr. Dole's Health-Care Task''; the Dallas Morning News, April 21, 1996, ''No Cure-All, Medical savings accounts present a flawed solution''; the Baltimore Sun, April 25, 1996, ''Another Chance for health care reform''; the Washington Post, June 3, 1996, ''Senator Dole's Final Business''; the News Tribune (Tacoma, WA), June 13, 1996, Stick to Basics in New Health Bill''; the San Francisco Chronicle, June 10, 1996, ''Health Care Reform/Key Test for Dole''; the Harrisburg Patriot, April 3, 1996, ''Too Much Reform''; the Columbus Dispatch, June 12, 1996, '''Clean'

Health Bill; Get Rid of Those Two Killer Amendments''.

Today, I would like to place additional editorials in the RECORD demonstrating the broad public opposition to MSA's and the desire for people across the country for passage of a clean, bipartisan insurance reform bill.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Seattle Times, June 17, 1996]

POINTLESS STALEMATE HALTS HEALTH-INSURANCE REFORM

The near demise of the Kennedy-Kassebaum health-insurance bill shows how little Congress now cares about solving the real-life problems of millions of working Americans.

The Kennedy-Kassebaum bill, a modest piece of legislation, would allow people moving from one job to another the right to transfer their insurance coverage and provide more protection for individuals with pre-existing medical conditions. It is an incremental step toward broadening and stabilizing health care access.

At one time, the bill's enactment was cheered on by both Democrats and Republicans. President Clinton endorsed the bill in his State of the Union address. The Senate passed it unanimously; the House's version sailed through too.

Now, this plan is about to be sacrificed to politics of the crassest sort. Both Sens. Edward Kennedy and Nancy Kassebaum were adamant from the beginning that their bill would win passage only if it were limited to the noncontroversial portability and pre-existing provisions. And yet, both Senate and House versions were eventually loaded with dubious amendments.

After weeks of negotiations, most of those add-ons have been stripped off. Now, medical savings accounts (MSAs) allowed in the House version but not in the Senate bill remain the heart of the controversy.

Kennedy, a strong opponent of the MSA concept, will agree only to a pilot program to test the impact of MSAs on health-insurance rates. The Republicans, however, insist on making MSAs available immediately to roughly 30 million Americans working in small businesses, with all others becoming eligible in 2000 unless Congress votes to stop the expansion. The Clinton administration opposes immediate, broad MSA implementation.

The MSA issue is highly controversial and has nothing to do with insurance reform. Some claim these tax-free savings accounts will help control overall health-care spending. Others argue MSAs would siphon healthy people out of the traditional insurance market, thereby leaving sicker people with higher insurance premiums.

Congress will have every opportunity to wrestle with MSAs in coming months; the issue could even pop up in the presidential campaign. If MSAs are good innovations, Congress can pass them on a separate track.

There is absolutely no reason to hold the Kennedy-Kassebaum bill hostage to MSAs. Let a good, widely supported insurance-reform measure pass standing alone.

[From the St. Louis Post-Dispatch, June 1, 1996]

REVIVE THE HEALTH INSURANCE DEBATE

President Bill Clinton's promise to put health insurance issues back on the national agenda, perhaps during his re-election campaign, is welcome. Since Congress killed his initial health-care proposal, the president has shied away from the issue even though the ranks of uninsured Americans have eclipsed the 40-million mark.

Voter concern about health costs is high, judging from findings of a Louis Harris survey commissioned by the Robert Wood Johnson Foundation. The survey included separate polls in 15 cities, including St. Louis, as well as a national poll.

Though giving managed care high marks for containing medical costs, 90 percent of St. Louisians predict nevertheless that their own out-of-pocket costs for medical expenses will continue to rise. Moreover, they expect taxpayers to pay more than they do now to cover medical costs for the elderly and the indigent. Another 44 percent express worry about being hit with expensive medical bills that their health insurance won't cover.

Overall, the views of the 300 St. Louis households in the survey mirrored those of the 605 households in the national sample. St. Louisians did have more misgivings about health care in some key areas. Only 40 percent, compared to 48 percent in the national sample, felt that managed care would improve the quality of health care. Another 45 percent reported worrying that they won't be able to pay for nursing-home care when they or a family member needed it, compared with 38 percent in the national sample.

Some of these numbers suggest that Congress is tackling the wrong health-insurance issues. The Kennedy-Kassebaum bill to protect health benefits of workers who change jobs or face a serious illness is a good one. A House bill also includes these provisions, along with the misguided plan to give Americans the choice of opening so-called medical savings accounts to cover some of their health expenses.

In fact, these accounts generally would give tax breaks to wealthy Americans, who need them least; moreover, the accounts would do nothing to help the uninsured, notwithstanding claims by GOP leaders. If many working Americans are too poor to buy health insurance, what makes the party think these workers would be able to put aside money for a medical savings account?

The Harris poll results show that voters deserve some plausible answers to this question. They also deserve to know what each party intends to do not only to protect the health benefits of the insured but to extend benefits to those who are not.

[From the Pittsburgh Post-Gazette, May 7, 1996]

MODEST OR REVOLUTIONARY? THE KENNEDY-KASSEBAUM HEALTH LEGISLATION MAY BE BOTH

Depending on who is doing the talking, the Kennedy-Kassebaum health reform proposal is either so minimalist it is meaningless, or so enormous it's revolutionary.

Both assertions may be true.

On the face of it, the bill makes it legally possible for people to change jobs or lose their job and still maintain health coverage. The bill, separate versions of which have passed the House and Senate, ensures that workers who change jobs will not have to wait around for years before being covered under their new employers' insurer.

Gone would be exclusions based on pre-existing medical conditions. Also, workers who lose their jobs or move to new jobs without health benefits would be guaranteed the opportunity to purchase an individual policy through their previous insurer.

The bill does not cap premiums, however, so it is possible that the individual coverage that is legally available may be financially out of reach, particularly for people with a pre-existing condition.

The Kennedy-Kassebaum tinkering could free millions of people who are currently in job-lock because of their dependence on health coverage. And it opens up the insurance pool to millions more who are now closed out due to some illness. But because of the costs involved, it seems unlikely that it would have much of an impact on the 40 million Americans without coverage.

That's why many analysts consider it all but insignificant.

Those who believe the contrary, that this proposal is revolutionary, do not think the bill itself will turn the world upside down. Rather, they believe that it will lead inexorably to massive government involvement in writing the rules for health care.

In their scenario, throwing coverage open to sick people will learn to sharply higher premiums and result in a public backlash. Voters will turn up the heat on Congress to further regulate the insurance market. What started out as a piecemeal reform will, in the long-run, lead to systemic change.

We do not imagine that the 100 senators who voted in favor of the bill foresee revolution as a consequence. But even if that analysis is on target, it does not argue against the proposal.

Everyone agrees that being sick should not preclude an individual from obtaining health coverage. Indeed, sick people have the most immediate need for insurance. If it is impossible for the nation's health-care system to extend coverage to that group, then there is something deeply wrong with the system.

If the bill sponsored by Kansas Republican Nancy Kassebaum and Massachusetts Democrat Edward M. Kennedy plugs the hole, great. If it exposes a more widespread problem. Congress should be grateful for the knowledge and then move to fix it.

All that said, and despite the massive bipartisan support for the bill, it is not a sure thing. The conference committee must first deal with three potential deal-breakers.

The House version includes tax-exemption for Medical Savings Accounts, which are sort of a health-care IRA, and for a cap on medical malpractice awards. If these measures find their way into the final bill, President Clinton has threatened a veto. The Senate version includes a requirement to raise the caps on mental health treatment to provide the same lifetime limits as other forms of treatment. Many in the business community fear the cost ramifications of this proposal.

We have mixed feelings about the three proposals—thumbs down on Medical Savings Accounts, proceed cautiously with malpractice reform, thumbs up for treatment parity—but we don't believe any of them should be allowed to block passage of the more modest first step originally promised by Kennedy-Kassebaum.

Whether it's a revolution or a tentative first step, it's the most Congress has been able to manage and the least the American public deserves.

[From the New York Times, June 22, 1996]

WHITE HOUSE WAFFLING ON HEALTH

The White House and Congressional Republicans are negotiating over the G.O.P.'s demand to include medical savings accounts as part of healthcare reform. The White House once threatened to veto a bill that included these accounts. But now it is merely quibbling over details. The Administration needs to regain its sense of principle. The fight over medical savings accounts goes to the heart of the health-care debate. No one can say for sure what damage the accounts would cause. But they threaten to divide rich from poor, healthy from sick, young from old.

The Republicans propose to permit families who buy catastrophic coverage—policies with high deductibles—to make tax-free deposits to a savings account. The account

would be used to pay routine bills. Savings could be withdrawn after age 59½ and taxed as ordinary income.

Proponents say the accounts would discourage waste because initial outlays would come from personal savings. The accounts would also provide coverage without herding people into managed care or government coverage. But critics point out that the accounts will appeal mostly to wealthy people because they can afford steep deductibles, and healthy people because they can expect to save money on a tax-free basis. The accounts would encourage healthy people to split off from traditional coverage, leaving the chronically ill to buy coverage at sky-high rates.

Yet good health can be transitory, giving holders of medical savings accounts a false security. Once they become ill, they may regret having given up traditional coverage. Indeed, they may try to manipulate the system by hopping back into traditional coverage when they expect large bills. The better alternative is for all Americans to buy coverage together, creating a vast pool of customers that will guarantee affordable premiums for everyone regardless of medical condition.

The Administration understands the problem, but wants to walk into November having signed a health-care bill. It is covering its tracks by saying that all it is negotiating is a pilot program. But the Republicans plan to offer the accounts to tens of millions of employees at small businesses. After three years, Congress will be asked to make the accounts permanent and universal.

It is thus highly likely that today's experiment will become tomorrow's permanent program. The vast majority of Americans are healthy. Because they will profit from a medical savings account, at least in the short term, they will resist any effort by Congress to strip them of their tax-free benefit. A true test of the savings accounts would be limited in size and require at least six years—enough time to observe what happens when sizable numbers of account-holders become chronically ill. A valid test would also experiment with different formulations in order to test what plan works best.

In 1993, the White House stood for the principle of covering every American through common insurance pools. That was a fine principle, even if the legislation it proposed proved to be a medical monstrosity and a political albatross. Now the Administration seems to be heading in the opposite direction, where fortunate individuals take care of themselves and leave others to do as best they can.

Mr. KENNEDY. The Seattle Times stated on June 17,

There is absolutely no reason to hold the Kennedy-Kassebaum bill hostage to MSAs. Let a good widely supported insurance reform measure pass standing alone.

The St. Louis Post-Dispatch said on June 1,

The Kennedy-Kassebaum bill to protect health benefits of workers who change jobs or face a serious illness is a good one. A House bill also includes these provisions, along with the misguided plan to give Americans the choice of opening so-called medical savings accounts to cover some of their health expenses. In fact, these accounts would give tax breaks to wealthy Americans, who need them least; moreover, the accounts would do nothing to help the uninsured, notwithstanding claims by GOP leaders. If many working Americans are too poor to buy health insurance, what makes the party think these workers would be able to put aside money for a medical savings account?

The Pittsburgh Post-Gazette said on May 7,

Thumbs down on Medical Savings accounts . . . [They] should not be allowed to block passage of . . . Kennedy-Kassebaum.''

The Star-Ledger of Newark, NJ, said on May 29,

Kennedy-Kassebaum was supposed to guarantee that workers can take their employee health benefits with them when they are downsized, out-sourced, or otherwise put out of a job. Since then, a horde of amendments have been added . . . Some are bad, such as the proposal for medical savings accounts, a new tax shelter for the wealthy. None of them . . . should have been tagged on to the Kennedy-Kassebaum bill, and you have to wonder whether some of those supporting these add-ons might not be out to sink the measure under the weight of the amendments.

The St. Petersburg Times said on June 11,

Dole claims to support the major provisions of the Kassebaum-Kennedy legislation . . . However, Dole and other Republicans have insisted on weighing the bill down with a provision that would create tax-deductible Medical Savings Accounts—a radical plan to subsidize wealthy taxpayers that could threaten the solvency of insurance plans for less affluent Americans.

And just last Saturday, the New York Times wrote,

The fight over medical savings accounts goes to the heart of the health care debate. No one can say for sure what damage the accounts would cause. But they are threatening to divide rich from poor, healthy from sick, young from old.

These editorials are just a sampling of commentary around the Nation. There is no clamor for medical savings accounts, except from the special interests who see yet another opportunity to profit at the expense of people who need medical care. Indeed, responsible voices throughout the country urge rejection of this dangerous and untested idea. It is time for Republicans to stop playing special interest politics with health insurance reform. The Kassebaum-Kennedy bill passed by a bipartisan vote of 100 to 0. It should not be blocked because some Republicans want to line the pockets of their campaign contributors. Health insurance reform is too important to become just another election year casualty of extremist Republican political tactics.

Mr. President, the MSA's are a golden lifeboat for Golden Rule's sinking ship. If we have ever had a classic bailout for private special interests, this is it. This is not what I am saying here tonight. It is what the hometown newspaper of Golden Rule, a conservative newspaper, has described it as, and in the meantime, the Republican leadership is refusing to let us get what has been agreed on, a bipartisan program signed by the President of the United States into law, because we are being held hostage to Golden Rule Insurance Co. That is the fact of the matter. Of course, they want their hand in the Federal Treasury. Of course, they want the American taxpayers to bail them out. Who would not, with declining sales in this market, and you can understand why they have declining sales.

It is time for Republicans to stop playing special interest politics with health insurance reform. The Kassebaum-Kennedy bill passed by a bipartisan vote of 100 to nothing. It should not be blocked because some Republicans want to line their pockets with campaign contributions. Health insurance reform is too important to become just another election year issue.

Mr. President, I hope that we are going to be able to see that this legislation is passed. We welcome the opportunity, as we did last Friday and this evening, to point out the flaws both of the companies that have been receiving and would receive the benefits from this effective tax giveaway.

The Joint Economic Committee estimated that if there was going to be a million Americans who were going to participate in this program, the costs to the Federal Treasury in 10 years is $3 billion—for 1 million people. And you have 120 million Americans who are working and you have their family members. The Republican proposals would include all the companies with employees of less than 100, some 47 million working, a third of all Americans, in a program that is untested, untried. You can imagine what that would mean in terms of opening up the Federal Treasury.

There is no justification, there is no rationale, there is no reason, there is no meaning to deny 25 million Americans who have these preexisting conditions the protection that they need and their families deserve. We have a responsibility to do it. We have developed bipartisan legislation. Release the hold that these insurance companies have on the Republican leadership and let us do something decent for the American people and for hard-working families across this country.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate is adjourned until 9:30 a.m., Tuesday, June 25.

Thereupon, at 6:58 p.m., the Senate adjourned until Tuesday, June 25, 1996, at 9:30 a.m.