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Senate

The Senate met at 10 a.m. and was called to order by the Honorable SUSAN M. COLLINS, a Senator from the State of Maine.

PRAYER

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

Loving Father, You have taught us that the opposite of love is not hatred but indifference. Forgive us for indifference to the needs of the people around us. Here in the Senate, where debate over issues is the order of the day, it is a temptation to think of those with whom we disagree as adversaries, sometimes as political enemies. The very people who may need our prayers sometimes are neglected in our intercessory prayers because of their position on our cherished proposals. Often we become so intent on defeating political enemies that we forget they are fellow Americans, sisters and brothers in Your family, people You have placed on our agenda to affirm and encourage.

So may debate be to expose truth, creative compromise to maximize solutions, and caring relationships to enable an ambience of mutual support. Help each Senator, officer of the Senate, and Senate staff adopt the motto: ''I may not agree with you, but I really care about you.'' Amen.

PLEDGE OF ALLEGIANCE

The Honorable SUSAN M. COLLINS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 26, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SUSAN M. COLLINS, a Senator from the State of Maine, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Ms. COLLINS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each, with the following exceptions: The Senator from West Virginia, Mr. BYRD, or his designee, from 10 a.m. to 11 a.m.; the Senator from Wyoming, Mr. THOMAS, or his designee, from 11 a.m. to 12 noon.

Who yields time?

Mr. BYRD. Madam President, I yield such time as he may consume to the distinguished Senator from North Dakota, Mr. CONRAD.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

FORMULATION OF THE BUDGET

Mr. CONRAD. Madam President, I thank my outstanding colleague from West Virginia, Senator BYRD.

I rise today to discuss a matter of great importance to this body and I believe to the country that has to do with the formulation of a budget for the United States for the coming year.

Last week, the chairman of the Senate Budget Committee told me he does not intend to hold a markup in the Budget Committee to craft a budget resolution for this year.

All of the Democrats on the Budget Committee have written the chairman asking him to hold a markup. Today I again publicly ask the chairman of the Senate Budget Committee to allow the Budget Committee to do its work. Never in our history have we failed to have the Budget Committee write a budget resolution for the country—never. There is no reason not to try this year.

I understand we have an unusual circumstance because the Budget Committee is divided equally between Democrats and Republicans. That has never happened before either. I do not think any of us can know what would happen if we met as a committee, if we debated, deliberated, and voted; it is amazing what can happen when we listen to each other.

I just had the experience of the staff of the Senate Budget Committee, the staff of the chairman, totally misrepresenting the plan I have proposed—totally misrepresenting it. It is clear to me they are not doing that on purpose because I know they are people of good will and they are honest people. I know that. I know they are not misrepresenting it willfully. They are misrepresenting it because they do not understand it. They are misrepresenting it because we have not had a full chance to hear each other. That is why we have committees. That is why we have held hearing after hearing on the questions of how should we craft a budget for the country for the coming year. That is precisely what the Budget Committee has done.

The result is there is no group of Senators that has spent more time analyzing what the budget should be. There is no group of Senators that has more fully considered the question of the revenue base, the question of what the spending ought to look like going forward, what we ought to do in terms of paying down national debt.

I think it would be a profound mistake for us to miss the chance to have the Budget Committee do what it was designed to do, which is to make the work of the larger body easier because of the concentration of effort of the members of the committee on the responsibility they have.

As I sat last week and heard my colleagues on the other side taking my budget proposal and completely misrepresenting it, I realized even more clearly why it is essential that we have a markup in the Budget Committee because that is one place where 22 Senators can sit across the table from each other and debate, discuss, explain, and vote.

If we just come out here on the floor, it is going to be chaos. Trying to write a budget for the United States out here on the floor of the Senate will be utterly chaotic. It is not the responsible thing to do.

The chairman says we are deadlocked. How do we know? We have never tried. We have never debated, discussed, or voted. That is the role of a committee. I do not think anybody can say where it would end.

Last week our colleagues were saying that my plan has more debt reduction in it than there is debt available to be retired. That is just not the case. The plan I have offered saves every penny of the Social Security surplus for Social Security. It saves every penny of the Medicare surplus for Medicare. That is a principle I think most people would endorse. We ought not raid the trust funds.

Then with what is left, my plan takes a third for a tax cut—$900 billion—takes a third for high-priority domestic needs, such as improving education, providing a prescription drug benefit, strengthening national defense, dealing with the agricultural crisis, and then with the final third, it starts to address our long-term problem with the retirement of the baby boom generation by dealing with our long-term debt, the debt that is going to face us when the baby boomers start to retire and the requirements and the liabilities of Social Security and Medicare escalate dramatically.

What my friends on the other side of the aisle have done is to take the money we have set aside for Social Security and Medicare and say that since that money is not needed immediately, all of that will go for paying down the publicly held debt. And that is the case. That is exactly how the President's plan works with respect to the $2 trillion of publicly held debt he wants to pay down. He is getting that money from the Social Security trust fund because that money is not needed right now. So all of that money is available to pay down the publicly held debt.

That is the way my plan functions in part as well, although I set aside all of the Social Security trust fund and all of the Medicare trust fund. The President sets aside just part of the Social Security trust fund and none of the Medicare trust fund. The total for paydown of the publicly held debt under my plan is $2.9 trillion.

We just had testimony from the man who managed the very successful debt buydown program under the Clinton administration, Mr. Gary Gensler, that there is that much debt available to pay off. And in fact, it is very clear there is that amount of debt to pay off because just in terms of debt that is maturing in this next 10-year period, there is $2.6 trillion. The President's people have said they can only pay off $2 trillion. It is just not true. I don't know a nicer way to say it. It is just not true. There is $2.6 trillion that matures during this 10-year period alone. Clearly, you can pay all that. We have done a detailed cashflow analysis, saving all the Social Security trust fund, all the Medicare trust fund.

People have said, well, you have a cash buildup problem in the Federal coffers if you reserve all of the money for Social Security and Medicare. It is just not true. We have done a detailed year-by-year cashflow analysis, and it shows very clearly there is absolutely no cash buildup problem until the year 2010. And who knows, there may not be a cash buildup problem then because we are all operating off a 10-year forecast—a 10-year forecast—that the forecasting agencies say themselves there is only a 10-percent chance it will come true. That is the forecasting agencies, the people who made the projection, saying to us: We want to alert you; there is only a 10-percent chance this projection is going to come true; there is a 45-percent chance there will be more money; there is a 45-percent chance there will be less money.

How would you bet, based on what has happened in the last 6 weeks with the national economy? Do you think that forecast which was made 8 weeks ago is going to be on the high side or the low side? I know where I would be betting. I certainly would not be betting the farm that that number is going to come true.

That is unwise. There is not a company in America that would decide to make 10-year commitments of all its nontrust fund money—all of it—based on a forecast, a forecast that has only a 10-percent chance of coming true. It is just not wise. It is not prudent. It is certainly not conservative.

After my plan sets aside all of the Social Security surplus and all of the Medicare surplus, as I said, it then divides the rest in equal thirds—a third for a tax cut, a third for high-priority domestic needs, and a third for our long-term debt. That is where the confusion has come from with the other side. They think anything that has to do with debt must be the publicly held debt. Thus, they are taking the money I have set aside for Social Security and Medicare, which will go to paying down publicly held debt because that money is not needed for the other purpose at the present time, and adding it to the $900 billion we have set aside in our plan to deal with long-term debt. They have assumed that means we are trying to pay off $3.8 trillion of publicly held debt.

It is just not the case. It is not what the plan does, not what the plan says, and obviously we know there is only $3.4 trillion of publicly held debt that is currently on the books of the United States. We are not trying to pay off debt we do not have; we are trying to pay off debt we do have. We do have $3.4 trillion of debt today, publicly held debt. That is not the only debt we have because in addition to that, we have the gross debt. The gross debt of the United States as we sit here today is $5.6 trillion. And at the end of this 10-year period, if we follow the President's plan, it will be $7.1 trillion. Gross debt is going up as the publicly held debt comes down.

How can that be? That can be because what is happening here is a transfer. As the publicly held debt gets paid down, it is getting paid down under the President's plan and any other plan by the surpluses of the Social Security trust fund. And guess what happens. That money from the Social Security trust fund—under the President's plan, $2 trillion of it—is being used to pay down publicly held debt. So the Social Security trust fund has money in surplus at the present time. Part of that money is being used to pay down the publicly held debt. Guess what happens. The general fund of the United States that is receiving that money to pay down debt now has an IOU to the Social Security trust fund for the same amount. It is similar to taking one credit card and paying off your other credit cards and thinking you are debt free. We are not debt free. The gross debt of the United States is growing.

What my plan intends to do is not only address that short-term debt, the publicly held debt, and pay that down, but also to address our long-term debt crisis that is going to get much worse—not because of projections, not because of the forecasts, but because of what we all know is true: The baby boomers have been born, they are living, and they are going to retire. That process starts right beyond this 10-year period when we are all talking about these big surpluses. If we really honestly account for things, if we do it the way any company accounts for things, we do not have a surplus.

All this talk about surpluses. Well, I hate to rain on the parade, but there really is no surplus. If we were really being straight in the accounting systems, we would find we do not have a surplus because we have these long-term liabilities that we do not account for in the Federal system, and they are real; they are here to stay. We can just kind of forget about them and wish them away or put them off until tomorrow, but the hard reality is they are there, and they are growing. During this period when we are all talking about surpluses and we are all talking about paying down the debt, the gross debt of the United States is actually growing—$5.6 trillion today. It is going to be $7.1 trillion at the end of this 10-year period. Those are not KENT CONRAD's numbers; those are the numbers that are right in the President's

book he sent us, the budget blueprint. It says very clearly that gross national debt is growing.

The distinction between this publicly held debt and gross debt is the following: The publicly held debt is held outside government hands. The economists argue that is where you should pay attention because it is that debt of government which is competition with other debt. That is debt that is in the public marketplace. That is debt that has to be financed by somebody. That is the debt that is in competition with other, private sector players who are seeking to finance what they do—whether it is build a building, build an Internet highway, or build new housing. That is why economists say: Pay attention to the publicly held debt.

It is also true that this other debt, the gross debt of the United States, has exactly the same legal claim on our government as the publicly held debt. Just because the Social Security Administration holds the bonds and says, Federal Government, you have to pay us back, that is no different than a German bondholder, holding that bond, saying, we want to be paid back. Both of them constitute legal claims against this government. Both of them require our attention. So far the President only talks about the publicly held debt. He says he is paying off as much of it as can be done. We disagree on that point. We think we can pay off much more of the publicly held debt than he asserts. We think the hearing before the Budget Committee last week demonstrated that quite clearly, that there is more publicly held debt to be paid off than the President asserts.

The much larger point is the President is not addressing this long-term debt, this gross debt that is growing every day. He is doing nothing in terms of setting aside money to deal with that long-term debt.

That is why the plan I have proposed uses 70 percent of these projected surpluses—70 percent—for debt, both short term and long term. The President's proposal reserves about 35 percent of these projected surpluses for debt. The plan that I have proposed on behalf of Democrats pays down about twice as much debt as the President's plan. He has a much bigger tax cut; we have a much smaller tax cut. Our tax cut is about half as big as his because we are paying down twice as much debt. That is the biggest difference.

There are also some differences in spending, although they are more modest differences than the difference between what we are doing on the debt and what he is doing with respect to tax cuts. The big difference is, we are more aggressive at paying down debt; he is more aggressive with the tax cut. He says it is the people's money. He is exactly right; it is the people's money, but it is also the people's debt. Don't make a mistake about this. We are the ones who are going to have to pay this debt. It is the people's Social Security and it is the people's Medicare and it is the people's defense.

This is not a question of the government versus the people—not at all. The truth is, this is the people's money. I don't think any of us ever forget that. This is the people's money. It is also the people's debt. And that debt will come due just as certainly as we are standing on this floor today. If we have failed to be responsible about getting ready for when that debt comes due, all of us who are here now who make the fateful decisions are going to be held to account. It will be our names in the book of history as to what was done at the critical time in our Nation's economic future. It is our responsibility to be good stewards of the people's money.

I end by urging the chairman of the Senate Budget Committee to have a markup in the committee to establish a budget for the country for the coming year. We have that responsibility. The suggestion that we are deadlocked before we even start misses the point. We are often deadlocked before we debate and discuss and vote. That is why we have debate, discussion, and votes—to break deadlocks.

I hope very much that the Budget Committee will meet its responsibility and attempt to write a budget resolution. That is our obligation. I hope we will meet it.

I thank the Chair.

Mr. BYRD. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. BYRD. I congratulate the Senator on his very illuminating remarks. I heard his talk about the gross debt, which really doesn't get mentioned very often as far as I can tell, and his discussion about the publicly held debt. I think this is very useful knowledge.

This is the people's money, as we hear. I take it that the interest we pay on the debt is also the people's money, am I correct?

Mr. CONRAD. The Senator is exactly correct. And of course that money we are using to pay interest on this debt can't be used for any other purpose. It can't be used for a tax cut; it can't be used to build a road; it can't be used to build a bridge; it can't be used to build a school; it can't be used to pay a teacher. It is money down a rathole, but it has to be paid.

Mr. BYRD. It can't be used to buy even a pencil.

How much money are we talking about in interest on the debt? We are talking about the people's money. The interest that is being paid on the debt is the people's money, as well. That comes out of the pockets of the taxpayers.

Does the Senator have information at his fingertips as to the amount of the people's money we pay in interest on the debt annually?

Mr. CONRAD. The gross interest that we are paying a year would be over $300 billion. If you think about that, that is a stunning amount of money. The gross interest is over $300 billion.

Perhaps one of the staff people has the budget book in front of them and can tell us a precise number.

While we are waiting for that—the point is very clear. Although you owe $5.6 trillion, which is the gross debt of the United States, interest on the publicly held debt is what gets all of the attention. The press and our colleagues and our President have all focused on the publicly held debt. That is $3.4 trillion as we sit here today—$3.4 trillion. But that is the debt the Federal Government owes people who are outside the government. That is what we owe to bondholders. That is what we owe to kids who have a savings bond. That is what we owe to people who buy Treasury bills. That is what we owe to people who are holding instruments in other countries, who have loaned money to the United States. That is the publicly held debt, $3.4 trillion.

But the gross debt includes the debt of the general fund to trust funds, money we have borrowed over time to trust funds to use for other purposes. We have borrowed hundreds of billions of dollars from the Social Security trust fund. We are paying interest on that, too. That is part of the gross debt, and that has to be paid just as certainly as this publicly held debt. It has the same legal position as the publicly held debt and it, of course, is much larger. As I said, that is $5.6 trillion of gross debt that the Nation has today.

Mr. BYRD. Madam President, will the Senator yield further?

Mr. CONRAD. I am happy to yield.

Mr. BYRD. What is the rate of interest that the people are paying on the debt? I know it varies. Generally speaking, is there a figure we can use?

Mr. CONRAD. Generally speaking, we are paying between 5 percent and 6 percent on the debt of the United States.

Mr. BYRD. Is that the people's money?

Mr. CONRAD. That is the people's money, the people's money that we are paying to service the people's debt.

Again, I wish to be very clear. I agree with the President absolutely when he says it is the people's money—absolutely that is true. It also happens to be the people's debt. It also happens to be the people's Social Security and the people's national defense and the people's education.

The thing that worries me the most—I have been reading David Stockman's book, ''The Triumph Of Politics.'' I hope every Member of this body will read that book before we vote on the budget. It goes back to 1981 when we had a massive tax cut, massive increase in spending for defense, and we put this country in a deficit ditch from which it took us 17 years to get out. We exploded the national debt, quadrupled the national debt.

That could happen again. Back in the 1980s we had time to recover. This time there is no time to recover because this time the baby boomers start to retire in 11 years. Back in the 1980s we had 17 years to get well. It took tax increases, it took spending cuts, it took tremendous political will to change the fiscal

course of the country, to get us back on track. But, make no mistake, this time there is no time to get well because the baby boomers start to retire in 11 years. If we get it wrong this time, that debt will eat our country alive.

I wish every Member could have heard the briefing we got from the Comptroller General of the United States, who warned us, who alerted us to where we are headed with debt. Yes, we have a surplus now. That surplus is temporary, and we are headed for big debt. We can either dig the hole deeper before we start filling it in—which is a very attractive thing to do because that means we all get to vote for a massive tax cut. I am advocating a tax cut, about half as big as the President's. But I think we all should be alert to what we are facing.

Mr. BYRD. Madam President, will the distinguished Senator yield further?

Mr. CONRAD. Yes.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. How much of this money, the people's money—the people of the United States—how much of that money that is being paid for interest on the debt is going into the pockets of foreign holders of these securities? What percent?

Mr. CONRAD. I do not recall the exact percentage that foreign debt holders have. It is interesting; I looked at those numbers last week, but as I am getting older, my mind retains things less well. Although I look young, I am aging rapidly.

Mr. BYRD. Is it not sufficient to say that a considerable amount of this money, which the Senator and I would probably agree is something like 40 percent—40 percent of these securities are held by foreign countries——

Mr. CONRAD. The Japanese and Germans and the Belgians—the Belgians have a lot of this debt.

Mr. BYRD. The Japanese are foremost; Great Britain is second.

Mr. CONRAD. Yes.

Mr. BYRD. I believe China is fourth or fifth or sixth; China.

This is the people's money, isn't it, that we are talking about? The Senator is trying to reduce that interest on the debt by reducing the debt. We are talking about the people's money. He is trying to save the people the people's money.

And a lot of it is going overseas. The interest that is paid on the debt, 40 percent of it, is not of securities held by Americans but by peoples overseas. Is that what we are saying?

Mr. CONRAD. That is exactly, in part, what we are saying. This debt is real. It is there. It is growing. We are paying interest on it.

One of the things we learned in the 1980s is it really works to reduce deficits and reduce debt. Alan Greenspan alerted us to this and Secretary Rubin alerted us to this, by saying: Look, when you are paying down debt instead of building debt, you take pressure off of interest rates because it means the Federal Government is borrowing less money. When we borrow less money, that means there are fewer people in there competing for the funds to loan. That means interest rates are lower. That means the economy is stronger. That means our competitive position in the world is better. That means we have stronger economic growth.

In fact, I remember Secretary Bentsen saying for every 1 percent we are able to reduce interest rates, that lifted the economy by over $100 billion because of the debt burden taken off the economy.

That is a bigger assistance to the American economy and American taxpayers than any tax cut we are contemplating around here.

Mr. BYRD. That is a real tax cut, isn't it? The equivalent of a real tax cut?

Mr. CONRAD. It is a real tax cut. It is a real cut in costs for Americans. It is a real lift to the economy. It is something that puts us in a much stronger competitive position. It puts us in a much stronger position when the baby boomers start to collect on their Medicare and Social Security because the country is then in a stronger financial position to deal with those liabilities.

Mr. BYRD. And that is a tax cut that is across the board, isn't it? It is across the board; it benefits everybody.

Mr. CONRAD. It benefits every taxpayer.

Mr. BYRD. Madam President, will the distinguished Senator yield further for a question?

Mr. CONRAD. I am happy to yield.

Mr. BYRD. Our time is short. We are about to use all of our hour. Let me ask the distinguished ranking member of the Budget Committee this question. First of all, I assume the Budget chairman's mark will include budget instructions. When does the ranking member expect to receive from the distinguished Budget Committee chairman information concerning the resolution that the chairman intends to send to the Senate without its being marked up by the Budget Committee?

Mr. CONRAD. The chairman of the committee has not told me that. After I asked him last week to reconsider the decision not to hold up a markup, he told me he would give me a final answer today. I still retain some hope that he will permit a markup in the committee.

Mr. BYRD. Yes. I hope so also.

I ask the distinguished ranking member of the Budget Committee, inasmuch as the budget resolution will contain instructions, the distinguished ranking member asked this Senator to move to strike those instructions; am I correct?

Mr. CONRAD. That is correct.

Mr. BYRD. If the resolution were marked up in committee, I assume the same motion would be available there.

Mr. CONRAD. It would. It would require a simple majority in the committee. When we get out here on the floor, as the Senator well knows, we have a different situation.

Mr. BYRD. I believe that the motion to strike even on the floor would require only a majority vote.

Mr. CONRAD. That is correct; on a motion to strike. As the Senator knows, we may face a series of different parliamentary circumstances both in the committee and on the floor, and the test, based on the parliamentary circumstance we face, may be different in the committee rather than on the floor. On the motion to strike, the Senator is correct.

Mr. BYRD. Let me ask this question: The committee is required to report the Budget Committee resolution no later than April 1, which will fall on a Sunday. So it would be April 2. Does the Senator contemplate that on April 2 it is the plan, as having been announced I think by the majority leader, that the Senate would proceed to the consideration of that budget resolution on that day or does the ranking member contemplate that the committee chairman might give us an extra day by not reporting the matter to the Senate, or at least by helping us to get consent to delay that for a day so we can study the resolution?

Mr. CONRAD. First of all, I am still retaining some hope that the chairman of the committee will go to markup in the committee. I really believe that is the right thing to do. Failing that, the Senator is exactly right. The Budget Committee is discharged on April 1, so we could have a budget resolution on the floor on April 2.

I hope that in the spirit of comity and bipartisanship we are permitted some time to review what the Budget Committee chairman will offer before we are expected to debate it and discuss it on the floor of the Senate, amend it, and vote on it—we would have an opportunity to review it.

Mr. BYRD. If the plan of the majority in the Senate is to complete action on the budget resolution by the end of next week, that would mean, would it not, that the Senate would have completed action on the budget prior to the submission of the budget by the President to the Senate, which I understand now is going to be on April 9, the first day of the 2-week Easter break?

If that is the case, what are the disadvantages to Members of the Senate as they act on a Budget Committee resolution without any knowledge other than what we have seen in this blueprint, which I hold here in my hand, of the President's—this is the outline, ''A Blueprint For New Beginnings''—outline of his budget?

We don't have any idea, of course, what the President is going to recommend in filling out this bare skeleton outline, what kind of a position—I realize it was 1993 when the Senate acted on a budget resolution prior to the submission of the budget by the

President. That was a far different situation. What are some of the differences between the situation then and the situation now?

Let me preface that question by saying that last week the very distinguished chairman of the Budget Committee, for whom I have a very high regard, came to the floor and, in response to a statement I made on the floor, indicated that the budget resolution in 1993 was reported to the Senate and was acted upon by the Senate before the President of the United States had submitted his budget to the Senate.

That is one of the things about which I and others have been complaining. That is what is going to happen now.

The schedule, as I understand it, is that we are going to be acting on the budget resolution. It will be reported from the committee without a markup in committee, and, after the 50 hours have run their course, the Senate will act on the Budget Committee resolution. I complained about that.

The distinguished Senator from North Dakota pointed to the fact that the Senate had acted on the budget resolution in 1993 prior to the submission to the Senate and to the House of the President's budget. But there were very important differences. One was that in 1993 the Budget Committee marked up its resolution in committee before that resolution was sent to the floor. That is a very important difference.

The distinguished chairman of the committee, Mr. DOMENICI, said last week that we should consider the 1993 action on the budget resolution, prior to the submission to Congress by the President of his budget, to be a role model.

But I add, if that is going to be the role model, we should also have a markup prior to the committee reporting that budget resolution to the Senate, because the Budget Committee reported the resolution in 1993 to the Senate, did it not? If that process is going to be the role model, why not include that? I think it should be included.

What does the ranking member have to say about that, and what are some of other differences that confronted the Senate at that time with what we are going to be facing here?

Mr. CONRAD. The Senator may recall, I was here in 1993, as was the Senator from West Virginia. The Senator from West Virginia, as always, was in a critical role in the Appropriations Committee. I was serving on the Budget Committee.

There are a series of differences from 1993. First of all, the budget outline we had from that President was far more detailed than the budget outline we have from this President.

Mr. BYRD. That is correct.

Mr. CONRAD. We had a good deal of detail from that administration with respect to their recommendations to us on how much money we should spend on various items—what the tax base of the Federal Government should be; what we should be doing with respect to the deficits.

There was really a rather detailed outline that is, frankly, missing from what we have been sent so far this year.

When you think about it, it is really a very odd circumstance. Not only did we have a full markup in the Budget Committee at that time, so that when it got to the full Senate they had guidance, they had a blueprint for the administration that had substantial detail, and they had full detail from the Senate Budget Committee.

What they are proposing this year is little detail from the President and no help from the Senate Budget Committee: Let's just put the budget of the United States out here. It is going to be chaotic because you don't have substantial guidance from the President; you have none from the Senate Budget Committee. There is going to be a free-for-all out here.

When they say 1993 should be a role model for what we should do now, there is no comparison. There is no ''there'' there.

Mr. BYRD. Madam President, will the Senator yield?

Mr. CONRAD. I am happy to yield.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. This is a 10-year plan that we are being told will be encompassed in the budget resolution of this year. Was that a 10-year plan in 1993?

Mr. CONRAD. No. That was a 5-year plan. That was a 5-year plan; this is a 10-year plan. And, of course, that means the whole basis for the plan is even more uncertain.

Now, I tell you, I used to have to project the revenue for my State. That was one of my jobs. I had to do it for 30 months—30 months. That was very difficult to do. The truth is, nobody can foretell 10 years into the future. There isn't a soul who knows what is going to happen—what we are going to face in terms of international conflict, what we are going to face in terms of natural disaster, what we are going to face in terms of a health threat, what we are going to face in terms of what this human genome research is going to mean to medical costs. There isn't a soul who can tell us today what we are going to face in terms of international threats, in terms of requirements for our military.

There isn't a soul who knows, with any certainty, what is going to happen for 10 years. Yet we have people who are betting the entire farm—I am from North Dakota. That is a phrase we use. We talk about betting the farm. You don't bet the farm in a cavalier way. And that is what is happening. We are betting the farm on a 10-year forecast that the forecasting agency itself says has only a 10-percent chance of coming true.

Mr. BYRD. Madam President, will the Senator yield further?

Mr. CONRAD. Yes.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. The Senate will be contemplating, in the consideration of the budget resolution this year, a massive tax cut. As one who had an important role in writing the Budget Reform Act of 1974, I had no inkling—young men dream dreams and old men have visions—I never had any dream or a vision at that point that we would ever use the Budget Committee resolution, that process, for increasing or for cutting taxes.

The idea was to bring about a resolution that would contemplate income and outgo in such a way that we would balance the budgets. We would have control over spending, control over outgo, and manage the income and the outgo in such a way that we would balance the budget. We never contemplated using that process—which is a beartrap because of its limitations on time for debate and on amendments—we never contemplated it would be used in the manner that it is being used and has been used more recently. The idea was to manage our affairs in such a way that we would keep our budgets balanced. We would balance the budgets.

That is not the case. The budget resolution, the budget process is going to be used now to bring about a huge tax cut. That is not going to balance the budget. That was not contemplated when we wrote that law. But is that not another major difference between the actions that were taken in 1993 with reference to the budget resolution and the actions that are being contemplated now?

Mr. CONRAD. Well, the Senator is quite right. What is being contemplated now is to use this special process that avoids the rules of the Senate called reconciliation. The reconciliation process was designed to reduce deficits. That is the whole purpose it was put in place. That was back in the time when we had massive red ink, running huge deficits, again, because of what happened in the 1980s, which I am very much fearful we could repeat this year. So a special provision was put in place back at the time that the Senator has addressed, a special procedure that avoided the rules of the Senate, that circumvented the rules of the Senate; and it was designed for one reason, which was to reduce deficits. And now it is being used to expand debt. It is standing the whole purpose for reconciliation on its head.

I conclude by saying we are talking about coming to the floor to do a budget resolution before we ever receive the President's budget. This is the point the Senator from West Virginia was making. We have received an outline from the President. It does not have much detail in it—a lot of pages but not much detail about where the money is supposed to go. We have not yet received the President's budget. Yet we are talking about the Senate passing the budget resolution for the

year before ever seeing the President's budget.

It makes no sense at all. It makes no sense. It seems to me we should spend that week—instead of debating a budget when we have never seen the President's recommendations—to provide for a stimulus package so that we are dealing with the immediate weakness in the economy and then come back to this longer term plan that the President proposes after we have seen the President's budget.

Mr. BYRD. Madam President, will the Senator yield to me, finally?

Mr. CONRAD. Yes.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Would the Senator take the few remaining minutes under my control and sum up the points that have been made here this morning as to the differences between what the Senate was confronted with in 1993 and what we are being confronted with today anent the budget resolution and the budget process? There are several items. Will the Senator sum them up?

Madam President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. BYRD. I thank the Chair.

Mr. CONRAD. Madam President, I would be happy to try to sum up by saying, first of all, the chairman of the Senate Budget Committee told us last week he does not intend to mark up the budget in the Budget Committee. We urge him to reconsider. We urge him to have a public markup in which there is debate, discussion, and votes so that the Budget Committee meets its obligation and responsibility.

No. 2, when talking about 1993—because some have said, well, this is what happened in 1993; that we did not have the budget from the President before we wrote a budget resolution on the floor of the Senate—the differences are quite clear. In 1993, the Senate Budget Committee marked up fully a budget. No. 2, we had a good deal more detail from the President in 1993 in terms of functional totals, in terms of what each of the areas should get or what kind of cuts they could expect.

We do not have that this time. So now, in 2001, we do not have the Budget Committee doing a markup. At least that is what the chairman so far has said. We hope he will reconsider. We do not have the level of detail we had in 1993. So what is about to happen is really quite remarkable. We are going to have the Senate write a budget resolution without ever seeing the President's budget and without the Budget Committee ever doing its job to write a budget and to mark it up.

I thank the Chair and yield the floor.

Mr. BYRD. I thank the distinguished ranking member of the Senate Budget Committee. I assume that consumes all of the time on this side.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator's time has expired. Under the previous order, the Senator from Wyoming, Mr. THOMAS, or his designee is recognized for 1 hour.

SCHEDULE

Mr. THOMAS. Mr. President, today the Senate will be in a period of morning business until 12 noon. Following morning business, the Senate will resume consideration of the campaign finance reform bill, with Senator WELLSTONE to be recognized to offer an amendment. At 2 p.m. the Senate will begin consideration of S.J. Res. 4, a constitutional amendment regarding election contributions and expenditures. Debate will continue for up to 4 hours, with the vote scheduled at 6 p.m. Any votes ordered in relation to the amendments to the campaign finance reform bill will be stacked to follow the 6 p.m. vote this evening.

I thank the Chair.

LEGISLATIVE ISSUES

Mr. THOMAS. Mr. President, we have been consumed over the last week, and will be for the remainder of this week, with campaign finance reform, an issue that has been about for some time and has been stressed by a number of Members of the Senate. I have indicated before that, certainly, it is an important issue. However, it is time we complete that issue, as there are many others that probably are of more importance to most people than that of campaign finance reform. Nevertheless, that is the commitment.

It has been an interesting debate. It will continue to be an interesting debate. I am hopeful we will come up with some kind of a proposition when it is over and not have wasted the entire 2 weeks discussing the various aspects of it.

This evening we will hear the introduction of the Hagel proposal, of which I am an original cosponsor. It is an important issue to be debated, one that deals with campaign finance reform more clearly than does the floor bill, which is the McCain-Feingold approach. One has to make a decision as to whether or not they want the Federal Government to be managing elections or whether, under the Constitution, elections should be comprised primarily of freedom of speech and an opportunity for people to participate. In terms of elections, it would be wrong if we found ourselves in a position of seeking to limit the opportunities for people to express themselves.

The Hagel bill, which he will discuss in great detail, deals with the most important aspect of campaign finance reform; that is, disclosure. Whenever dollars are given to a candidate for the purpose of election, they are disclosed, disclosed immediately so voters can then determine for themselves whether they think that is a legitimate expenditure or not.

The bill also provides for an increase in the level of hard money that goes to candidates. That was set in law in the 1970s. It has not been changed since that time. Obviously, the amount of money represented in the 1970s through inflation is not nearly as expansive as it is today. It changes that. It also puts a limit on soft money.

I am hopeful that when the bill comes forward we will be able to discuss an alternative which I believe is a more reasonable alternative than the one that has been discussed. Then we can move on to some items of dire importance: Obviously, taxes—giving people an opportunity to keep more of their own money. When we find American taxpayers paying more today than they have ever paid in history as a percentage of gross national product, paying more now than they did in World War II, that doesn't seem appropriate. Where should the money go? It should go back to the people who have paid it in.

We will also be discussing the economy, an issue that needs to be talked about immediately. We will be talking about the opportunity of tax relief to assist in strengthening the economy. I am sure we will be talking more clearly about the idea of putting some money back into the economy more immediately, some $60 billion that is in surplus of this year's needs for the budget and could be placed back into the economy in some method or other.

Those are topics that need to be debated.

We say education is an issue that means more to people than any other individual subject. We ought to be talking about that. We ought to be talking about the Elementary and Secondary Education Act. We ought to be debating whether or not Federal dollars for education ought to be designated in terms of where they go by the Federal Government, or should they be sent to local and State governments to decide for themselves where their needs are.

I am from Wyoming. Certainly, the needs in Chugwater, WY, are different from those in Pittsburgh, PA. We ought to have the opportunity and the flexibility to send those dollars there.

Certainly, we need to be discussing preserving Social Security as we have in the past, making sure those dollars are there. We need to be talking about paying down the debt, which we have an opportunity to do now. We ought to be discussing doing something with health care to provide more availability for people all over the country.

There are many topics we ought to be debating, and hopefully we will be able to move to those. One of them, of course, is energy and the environment. We now find ourselves in a position of facing great difficulty with energy, made more visible and accentuated by the problems existing in California.

The California problems are not necessarily typical of energy concerns throughout the country. Indeed, many of them have been brought on by some unusual efforts in terms of electric reregulation in which California chose to

put limits on the cost of retail electricity but not wholesale. We can imagine that that is not a workable situation, and it has caused many problems, not only in California but throughout the West as well.

We will be talking about energy, and we should be. Often when we discuss energy, we also have to talk about the environment, although the environment is an issue that we need to be concerned with all of the time, in my judgment. One of the reasons energy and the environment are of particular importance to me and to others in the West is the fact that the Federal Government is a principal owner of lands in the western United States.

I brought this visual display to show what Federal land ownership is in each State. Most people are surprised by the percentage. In my State of Wyoming, nearly half of the land belongs to the Federal Government. Some States, of course, are even higher than that. In Alaska, almost 68 percent of the land is owned by the Federal Government. In Nevada, almost 85 percent is owned by the Federal Government.

So the kinds of regulations that are put into place, the kinds of issues that arise in terms of the environment and the usage of public lands, become very important to us. That, of course, is not the only aspect of the environment, but it is one that is very important and, frankly, quite difficult.

The point I want to make is, as we go about a number of the problems that we have before us, and a number of the opportunities to solve them, unfortunately, we find ourselves with environmental groups and many Members of the Senate making the case, let's either protect the environment or ruin it by using it. I suggest to you that those are not the only two alternatives. You can access the lands; you can use the lands as multiple-use lands, yet continue to protect the environment.

In Wyoming we think we have done that pretty well. We have had mining, oil production, hunting, fishing, and we have had access to the lands for more than 100 years now. We are pretty proud of the environment we have there. So this idea that is often out here that you have to choose between the opportunity to have multiple use and the opportunity to protect the environment is wrong.

Certainly, protecting the resources is a high priority for most everyone. I happen to be chairman of the parks subcommittee. Certainly, regarding our national parks, the basic, No. 1 issue is to protect the resource and, 2, to let the owners, the American people, enjoy those resources. That is really the purpose of having a park.

We find ourselves, from time to time, in conflict with that, in that protecting the resources, to some people, means we should not let anybody have access to enjoy those resources. One of the issues is to allow access. We have seen a great deal about that lately.

One of the things that prompts me to visit about it this morning is, Members of this Senate have been, in the last few days, getting up and saying this administration is anti-environment because they have changed some of the regulations that were put in place in the last administration. Well, I think it was a legitimate, reasonable thing for a new administration to do, to look at those literally hundreds of regulations that were put in the day before the administration left, to see if indeed they are reasonable and consistent with the efforts of the new administration. I think that is not unusual at all.

We also now have the issue of energy. Of course, much of the energy comes from land. Whether it be coal, oil, natural gas, hydro or water, it comes from various uses of the land. I think we find ourselves now with a real issue as to what is the best way to preserve the environment and to be able to meet the needs of domestic energy production. That is kind of where we are.

The complaints about this administration are not valid. I think they are totally political, and we ought to really examine them in terms of where they are. One of the reasons we are having problems, of course, is that we have let ourselves, over the last year, go along without an energy policy, without a decision on a national level on what we want to do with respect to energy—what kinds of energy we want to promote. But more importantly, do we want to let ourselves get into the position of becoming totally dependent on foreign imports—in this case, OPEC? That is basically what we have allowed ourselves to do.

The prediction is that we will have 60-percent dependency on foreign oil within the next couple of years. We are now 55- or 56-percent dependent. When OPEC decides, as they recently did, to reduce production, we find ourselves going to the gas pump with higher prices or, even worse, finding ourselves without the kind of energy we need to continue to have the economy that we have now and want to have in the future.

So I think one of the things that is happening that is very helpful is that this administration, with the leadership of the President, has assigned Vice President DICK CHENEY to a work group to define where we need to be in terms of energy and in terms of the economy in the future. They are due to have a report in about 6 weeks or a month from now which will put us in the position of having a national policy on energy for the first time in many years. Hopefully, that will give us some direction as to how we can resolve that.

There are lots of alternatives, of course, in energy policy. We need to talk about the diversity of energy—not all natural gas. We also have coal, our largest resource. In the budget, we have some opportunities to research some more in coal, to make it a cleaner fuel so it is a fuel for stationary electric production. We can use something in hydro, one of the renewables that in the last administration there were efforts made to reduce, to tear down some of the dams that are there that provide those kinds of resources. So there are a lot of things that can be done.

We are talking more about the opportunity for nuclear power, which is one of the cleanest opportunities for electric generation, of course. First of all, we need to find a place to store nuclear waste. We have been fighting over that for a number of years. We need to finally make a determination. Despite the fact that we have spent billions of dollars already at the Yucca Mountain storage site in Nevada, we haven't resolved that completely. There is an opportunity for renewables—sun and wind. We can do more with that. We need research to make those things more economical and more well placed.

Also, of course, one of the things we need to do is look at ourselves in terms of conservation and areas where we can do a better job of using energy so that we can reduce demand, as demand continues to go up—in the case of California, very sharply—and production does not go up. You know you have a wreck coming when that sort of thing happens.

So we are looking forward to that kind of an opportunity.

Beyond that, of course, I suggest that all of us are in the position of wanting to protect the environment. Obviously, we want to protect our lands. We are very pleased with the lands. We have talked for a number of months now in Wyoming about what we want our State to look like in 15, 20 years. We called it Vision 20/20, which is an opportunity to get an idea where we want to go.

One of the things we want to have, of course, is open space. That has been a very vital part of the West and of Wyoming. We also want to have fish and wildlife—again, a vital part of what we want to do. In order to do that, we have to protect the environment. We are prepared to do that, and, at the same time, we want to be able to produce many of the things that need to be done to provide power and energy for this country.

We have recently heard—I am sorry to hear this—accusations that this administration is turning around some of the useful things that have been done over the last 8 years. I am here to tell you that not all those things have been based on facts. Not all of them have been based on research. This idea that the administration is a ''charm offensive'' turned into a ''harm offensive'' is a ridiculous statement to make. It doesn't have any basis in fact at all.

Talking about CO_2, for example, CO_2 was included in regulations put out just as this administration went out. CO_2 is not included and identified as a pollutant. Do we want to work at doing something? Of course, we do. CO_2 also has a lot to do with the ability to generate electricity. In the Agriculture

Committee we are looking for tradeoffs, where you can use timber, grasslands to absorb CO_2, and some of the things we can do there. But to suggest that is a terrific environmental problem is simply not supported by facts.

The same thing is basically true of arsenic. The new Administrator of the EPA delayed the recommendations that were put in on arsenic. Why? Because there wasn't sufficient study, there weren't sufficient scientific bases. Furthermore, under the original plan, there were another 2 years to establish that level. She has assured that there will be a level. But this one was not scientifically put into place in terms of water projects for communities throughout the country.

This idea that it is setting back 8 years of progress is ridiculous. We ought to be working together to find a way for our communities to have a good water supply and at the same time be affordable. I think we can do that.

Another one of our friends said George Bush has declared war on the environment. That is a ridiculous idea. No one is declaring war on the environment. The environment is something all of us want to protect. The question is how do we do that and at the same time let people enjoy the resources.

We have had an interesting debate about the roadless areas in the Federal lands of the West. The Forest Service put out a regulation on roadless areas. I happened to attend some of the meetings. They called for local meetings. Not even the local Forest Service people knew what they were talking about.

We have national forest plans. New plans are developed every 10 years. The Forest Service goes through a very complex system of setting up a forest plan designed to deal with forests differently because they are, indeed, different. This was an idea that came from the Department of Agriculture deciding that all forests should be dealt with in the same way.

It does not work. It does not work that way. Do we want roads everywhere? Of course not, and there is no need to have them everywhere. But we do have to have some if people are going to have access. The environmentalists claim it is just the timber people. I heard from a lot of folks, including disabled veterans, who said: How are we going to enjoy these public lands if we don't have access to them?

I agree with them. Limit the roads? Of course. Roadless does not seem to work.

In Yellowstone Park, the people have an opportunity to see Yellowstone Park in the wintertime and they can see it with snow machines. The park did not manage them at all. They sat and watched it for years, and all of a sudden, they decided the parks cannot have this happen and wanted to discontinue allowing snow machines. We have suggested, rather than that, to take a look at those snow machines. Get EPA to do their job and set some standards for emissions and noise and then the park can say: Look, if you want to come to the park, you have to have a machine that meets these standards. It can be done, and the manufacturers say they can do it. It is a good idea. People can have access.

Instead, this past administration said: We are tired of it; we are going to do away with it, without even making an effort. If there are too many there, manage them. They are talking now about west Yellowstone where too many of them pile up at the gate, and the park ranger is getting a sore throat, or something. We should not do that. There is a way to manage them.

Agencies seem to have a hard time figuring out how to manage it. When there is a problem, everybody else manages it and changes it. We can do that. Access is something that I think is important.

All I am suggesting and hoping is that this administration will seek some reasonable approaches to the things that need to be done.

The Clean Water Act—do we like clean water? Of course, everybody likes clean water. This EPA last year came up with the clean water action plan that had about 100 different proposals in it, some of which were not authorized under the law, and sought to put those into place. This administration is taking another look at them and, indeed, they should. We can find ways to have clean water and allow the lands to be used.

Those are the kinds of changes this administration is seeking to make that are being called ''a war on the environment.''

I do not think we can come to reasonable decisions in this body if Members take far-end positions such as if you are for the environment, you cannot be for using it. That is what we find ourselves faced with. That is not a workable answer. I am hopeful we can move toward finding solutions that are, indeed, useful and at the same time, of course, protect the environment.

Getting back to carbon monoxide, this was largely a product of the Kyoto agreement sometime back, signed by the United States as a treaty and brought to this body. We unanimously decided not to consider it. Now we find complaints because CO_2 changes have been made and it was not even considered as part of the Kyoto agreement. Do we want to have clean air? Of course.

These are some issues we need to look at in a balanced way, with good science and not just political decisions. We can consider ways to preserve those resources and at the same time utilize them.

These are the issues which we ought to be talking about. I am distressed, frankly, when I hear on this floor statements such as ''going from charm to harm''; ''going to destroy the environment''; ''declared war on the environment.'' That is not a fair presentation. It is not a logical presentation. I hope we can, indeed, look at some responsible answers rather than looking for a political issue for the next election.

Mr. President, I will shortly be joined by the Senator from Alaska. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VIOLENCE IN SCHOOLS

Mr. THOMAS. Mr. President, I will address an issue that I ran into last weekend at home regarding some of the tragedies that have happened and continue to happen in high schools. We had a threat in one of our schools. Fortunately, it was dealt with before anything tragic happened as in Columbine and some of the other schools.

One of the judges indicated he thought it would be useful, and I tend to agree with him, if we could find a way to get one of the agencies—perhaps the FBI or Education, including someone in psychiatry and others—to try to come up with a plan that schools can put into effect to try to avoid the problem of terrorism, shootings and guns and, more importantly perhaps, describe a better system. It seems in many cases the young people who sought to carry out these deeds had indicated they were going to do that prior thereto. I believe his view was not all communities and not all schools are prepared to deal with those threats.

Perhaps it would be useful if, indeed, we had some assistance putting together a combination of educators, law enforcement, psychologists and a program that could be put into place in a school to try to avoid tragedies of violence; and also, when there was some evidence of it, in this case even a note written of people this student intended to deal with; and then if it does happen, what you do when those things occur. I imagine there are techniques which could be applied, more professional techniques than most schools are capable of on their own.

I suggest, perhaps some Federal agencies, there could be some kind of meeting of the involved people to come up with what they think are the most useful techniques for dealing with this kind of violence in communities and high schools and in detecting it and doing something about it, in dealing with it, if it does happen, and to provide that kind of leadership to communities and to the very school districts throughout the country that would be interested in that type of assistance.

I don't think it is particularly a legislative question, but to encourage the

administration and, as I said, particularly the Department of Education, or perhaps the law enforcement department, to try to come up with some things that could be used by communities so we can avoid, whenever possible, the kinds of things that have happened around the country, and I suppose will continue to be a threat. I think it will be worthwhile.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

THE ENERGY CRISIS

Mr. MURKOWSKI. Mr. President, over the last several days I have had an opportunity to respond to inquiries regarding the energy crisis in this country and specifically the bill Senator BREAUX and I introduced. It covers many of the questions surrounding the adequacy of energy in this country.

We have attempted to focus, first, on the reality that we are in an energy crisis. I wonder when the media and some of the people in this country are going to figure out the reality of this. The issue is not about oil. It is not about ANWR. We have a 303-page bill, and it seems as though everybody wants to focus in on one segment, and that segment calls for increasing our supply of oil from ANWR in my State of Alaska.

It is not just about oil. It is about a terrible energy shortage in this country. It is about our national security. It is about our economy. And it is, indeed, about the recognition that if we do not take some immediate action, this crisis is going to get worse.

I am amused at some of my colleagues. It seems to be focusing in, somewhat, on a partisan basis. To suggest somehow the crisis is being overblown by our President, that by drawing attention, we are compounding the problem, befuddles me. The reality is that what we have seen, over an extended period of time, at least the last 8 years or thereabouts, is a failure to recognize our demand has been increasing and our supply has been relatively stagnant.

To some extent, we have seen that in the crisis in California. We saw an experiment in deregulation fail. We saw an effort to cap, if you will, the price of retail power in California. The results of that effort are associated with the bankruptcy, for all practical purposes, of California's two main utilities as a consequence of the inability to pass on the true cost of that high-priced power that came from outside the State of California, that California absolutely had to have to meet its demand. Those costs, unfortunately, were not able to be passed on to the consumer.

Now we see the utilities basically bankrupt. We see situations where the State is stepping in and guaranteeing the price of power. I wonder if there is any difference between the California consumer ratepayer and taxpayer. They are all the same. But the burden is being shifted now to the taxpayer as the State takes an increasingly dependent role in ensuring that California generates power and has enough power coming in. When we talk about talking down the economy, I wonder if we are not being a little unrealistic.

If we look at what happened in reporting fourth quarter earnings of the Fortune 500, we find that many of these reports have the notation that increased energy costs is one of the reasons for the projections not being what they anticipated.

We also have what we call the phenomena of NIMB—not in my backyard. In other words, we want power-generating capacity but we don't want it in our backyard. Where are you going to put it?

It reminds me very much of the situation with regard to nuclear energy. Nuclear energy in this country provides about 20 percent of the power generated in our electric grid. Yet nobody wants to take the nuclear waste. We have expended $6 billion to $7 billion out in Nevada at a place called Yucca Mountain, which was designed to be a permanent repository for our high-level waste. The State doesn't want it. The delegation doesn't want it.

Are there other alternatives? The answer is yes. What are they? Technology.

It is kind of interesting to look at the French. Nearly 30 years ago at the time of the Yom Kippur War in the Mideast, in 1973, the French decided they wouldn't be held hostage again by the Mideast on the price of oil. They embarked on technology. Today they are 85-percent dependent on nuclear energy. What do they do with the high-level waste? They reprocess it, recover it and put it back in the reactors. It is plutonium. They vitrify the rest of the waste, which has a lesser lifetime. As a consequence, they don't have a proliferation problem and the criticism that we have in this country over nuclear energy. But, again, the NIMB philosophy is there—not in my backyard.

From where are these energy sources going to come? Are you going to have a powerplant in your county in your neighborhood? That isn't the question exactly. But in some cases it is the question.

Some suggest we can simply get there by increasing the CAFE standards and increase automobile mileage. We have that capability now. You can buy cars that get 56 miles per gallon, if the American public wants it. They are out there. Some people buy them, and we commend them for that. But is it government's role to dictate what kind of car you are going to have to buy?

Some people talk about the merits of climate change. There is some concern over Kyoto and the recognition that we are producing more emissions. But are we going to solve the Kyoto problem by allowing the developing nations to catch up or, indeed, are we going to have to use our technology to encourage the reduction of emissions?

Let me conclude my remarks this morning with a little bit on the realization that we have become about 56-percent dependent on imported oil. This is an issue that affects my State. We have been supplying this Nation with about 25 percent of the oil produced in this country for the last decade. One of the issues that is of great concern in the development of oil from Alaska—particularly the area of ANWR—is whether we can do it safely. Of course. We have had 30 years of experience in the Arctic.

Another question is: What effect will it have on the economy? What effect will it have on national security?

About one-half of our balance-of-payment deficit is the cost of imported oil. That is a pretty significant outflow of our national product in the sense of purchasing that oil.

The national security interests: At what time and at what point do you become more dependent on imported oil, and at what point do you sacrifice the national security of this country?

We fought a war in 1991. We lost 147 lives. There is a colleague over in the House who made the statement the other day that he would rather see us drill in cemeteries than to see his grandson come back from a conflict in the Mideast in a body bag. We already did once. How many times are we going to do it as we become more and more dependent? It affects the national security and it affects the economy.

As far as the attitude of those in my State, a significant majority—over three-quarters of Alaskans—support opening up ANWR.

Why do you want to open an area on land in a refuge? Let's put it in perspective. This refuge is the size of the State of South Carolina. This refuge contains 8.5 million acres of a wilderness that is dedicated in perpetuity and will not be touched. There are 19 million acres in the refuge that are off limits, leaving 1.5 million acres, a little sliver up at the top. That little sliver consists of 1.5 million acres out of 19 million acres. People say that is the Serengeti of the north. That is an untouched area.

First of all, they have never been there, unlike the occupant of the chair who has been there. And I appreciate his wisdom and diligence in making the trip up there.

There is a small village there with 147 people. They live in Kaktovik with a school, a couple of little stores, a radar site, and there is a runway.

What do the people think about it? They want it. They want the alternative ability to have a lifestyle that provides jobs, educational opportunities, personal services, health care, and so forth.

It is amazing to me to kind of watch and participate in this effort to communicate because the environmental community is spending a great deal of money portraying this area in 2½ to 3 months every summer. They are not portraying it in its 10-month winter period. They are not portraying it accurately relative to the people who live there.

They suggest it is going to take 10 years to develop the area. That is absolutely incorrect. They don't point out the reality that we have the infrastructure of an 800-mile pipeline already there, and that we have moved over towards the ANWR line to the Badami field, which is approximately 25 miles away from the edge of ANWR. If Congress were to authorize this area, it would take roughly 3½ years to have oil flowing.

Some people say it is only a 6-month supply. Tests estimate that there is a range of between 5.6 billion to 16 billion barrels. At an average of 10 billion barrels of production, it would be the largest field found in 40 years in the world.

That will give you some idea of the magnitude. It would be larger than Prudhoe Bay, which has been producing for the last 27 years 25 percent of the total crude oil produced in this country.

Let's keep the argument in perspective. It is a significant potential. It can reduce dramatically our dependence on imported oil from Saddam Hussein and others. It can have a very positive effect upon our economy.

Some Members have threatened to filibuster this. I am amazed that anyone would threaten a filibuster on an issue such as this. It is like fiddling while Rome burns.

Those who suggest that fail to recognize the reality that we have an energy problem in this country, and we have a broad energy bill that we think covers all aspects of energy development as well as new technology.

I urge my colleagues to go back and reexamine the potential.

First of all, let's recognize we have the problem. We are going to have to do something about it. We are not going to drill our way out of it. It is going to take a combination of a number of efforts to utilize existing energy sources. But opening ANWR is significantly a major role, if you will, in reducing our dependency on imported oil.

I remind my colleagues of one other point, and that is, a good deal of the west coast of the United States is dependent on Alaskan oil. That is where our oil goes. If oil does not come from Alaska, oil is going to come in to the west coast from some place else.

Oftentimes people say, developing Alaskan oil has nothing to do with the California energy crisis because they do not use oil to generate electricity. That certainly is true. I agree.

But what I would add is, California is dependent on Alaskan oil for its transportation, its ships, its airplanes. As a consequence, if the oil does not come from Alaska, it is going to come from someplace else. It is going to come from a rain forest in Colombia where there is no environmental oversight. It is going to come in ships that are owned by foreign trading corporations that do not have Coast Guard inspections and the assurance of the highest quality of scientific applications to ensure the risk of transporting the oil is kept at a minimum.

I urge my colleagues to reflect a little bit on the reality that this is an energy crisis. We are not going to drill our way out of it. We are going to have to use all of our resources, all of our energy technology, and a balanced approach, which is what we have in our energy bill, to confront this energy crisis.

Mr. President, I thank you for your time and attention.

EXTENSION OF MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, on behalf of the leadership, I ask unanimous consent that this period of morning business be extended until 12:30 p.m. today, with the time equally divided in the usual form.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TRIP TO ANWR

Mr. MURKOWSKI. Mr. President, I rise to extend an invitation to all Members of the Senate to take advantage of an opportunity this weekend relative to a trip to my State of Alaska to visit the Arctic National Wildlife Refuge.

If Members are free, I would appreciate their contacting my office at 224–6665. We do have room to accommodate more Members. We anticipate leaving Thursday at the completion of business and flying up to Anchorage. We will be in the accompaniment of the new Secretary of the Interior, Gale Norton, and we will be having breakfast in Anchorage Friday morning, then flying on down to Valdez where we will see the terminus of the 800-mile pipeline. Valdez is the largest oil port in North America, one of the largest in the world. We will see the containment vessels, the technology that is used to ensure that if there is an accident of any kind, the capacity for cleanup is immediately there.

We will also have an opportunity to go across from the terminal to the community of Valdez. We will be able to monitor the Coast Guard station that basically controls the flow of tanker traffic in and out of the port of Valdez. Then we will fly on to Fairbanks where we will overnight and have an opportunity to attend a dinner hosted by some of the people of Fairbanks, including Doyon, which is one of the Native regional corporations. At that time, we will have an opportunity to hear firsthand the attitudes of the people in interior Alaska.

Fairbanks is my home. The 800-mile pipeline goes through Fairbanks. As a consequence, there will be an opportunity to visit the largest museum in our State which contains all the material from public lands that have been generated over an extended period of time. It is an extraordinary collection. It is regarded as one of the finest collections outside of the Smithsonian.

The next morning, we will fly up to Prudhoe Bay. We will visit Deadhorse. We will see the old technology. Then we will go over to the village of Kaktovik in ANWR. We will be in ANWR, and we will be able to meet with the Eskimo people and see physically what is there. We will be able to fly over ANWR, and then we will go back to a new field near what they call Alpine and be hosted by a group of Eskimos at Nuiqsut where they are going to have a little bit of a potlatch for us. Then that evening, we will be in Barrow overnight. Barrow is the northernmost point of the world.

Many of you, if you have any questions about a trip such as that, might contact Senator HELMS. Senator and Mrs. HELMS made this trip a couple years with us. They could be firsthand advocates. What it does is give every Member an opportunity to view objectively the issue of whether or not it is in the national interest to open ANWR, whether we can do it safely, whether indeed it makes, as it does in my opinion and those of many other Alaskans, a significant contribution to the national security interests of this Nation and makes a significant contribution to the economy. They will have an opportunity to hear from Alaskans themselves their attitude on whether or not this can be opened safely.

One of the things that bothers me about this issue is, I continually have to account for my knowledge of the issue as an Alaskan. Yet my opponents, who have never been there and don't have any intention of going, never seem to have to account for their ignorance or lack of knowledge—if I may put it a little more kindly—on the issue.

So this is a rare opportunity, Mr. President. I again encourage Members to think about it. Spouses are welcome to accompany Members. We in Alaska are certainly willing to do our part. This development would take place on land as opposed to offshore. It is much safer to do it on land. It seems to me that as we look at the high price of energy, there is a recognition that we can have some relief, at least from dependence on imported oil, which affects our

transportation costs; that it is significant.

Some Members obviously don't notice much of an increase in their bills because maybe somebody else pays the bills. A lot of people in my State of Alaska, including fishermen—and, for that matter, fishermen on the east coast, in Massachusetts and other States—are affected by the high price of fuel for their vessels. They are all affected by the high cost of energy. So I don't think we should rely on the NIMBY theory—not in my back yard.

I was doing some figuring the other day as a consequence of a little address we did on ''Face The Nation'' this weekend, where we had a debate with one of my friends from Massachusetts. I am told there is enough oil in ANWR to fuel the State of Massachusetts for 125 years. ANWR happens to be about four times the size of the State of Massachusetts.

In any event, I am not picking on Massachusetts this morning. I am extending an invitation to Members that this weekend would be an ideal opportunity for you to see and evaluate for yourselves, and not necessarily take the word of America's environmental community, which has seen fit to use this issue as a major factor in generating membership and dollars. I think they have not really related to the recognition of the technical advancements we have made in producing energy in this country, in recognition that we can do it safely.

Mr. President, I will be leaving this Thursday night and returning Sunday evening. I encourage all Members to consider this invitation. This is an invitation from Senator STEVENS and myself.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired. Morning business is closed.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—Resumed

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

The assistant legislative clerk read as follows:

A bill (S. 27) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Pending:

Specter amendment No. 140, to provide findings regarding the current state of campaign finance laws and to clarify the definition of electioneering communication.

Fitzgerald amendment No. 144, to provide that limits on contributions to candidates be applied on an election cycle rather than election basis.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota, Mr. WELLSTONE, is recognized.

AMENDMENT NO. 145

Mr. WELLSTONE. Mr. President, I call up amendment No. 145 and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 145.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To apply the prohibition on electioneering communications to targeted communications of certain tax-exempt organizations)

On page 21, between lines 9 and 10, insert the following:

SEC. 204. RULES RELATING TO CERTAIN TARGETED ELECTIONEERING COMMUNICATIONS.

Section 316(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as added by section 203, is amended by adding at the end the following:

''(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS.—

''(A) EXCEPTION DOES NOT APPLY.—Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

''(B) TARGETED COMMUNICATION.—For purposes of subparagraph (A), the term 'targeted communication' means an electioneering communication (as defined in section 304(d)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service whose audience consists primarily of residents of the State for which the clearly identified candidate is seeking office.''.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

Mr. President, first, I thank my colleague from Massachusetts for his remarks and in particular for his focus on the importance of what some call clean money, clean elections, others call public financing, partial or full public financing.

Before I talk about this amendment, I want to give it some context with the argument I made on the floor of the Senate last week.

I am bitterly disappointed my amendment was not adopted. That amendment was an effort to say that our States should have the option of applying a voluntary system of partial or full public financing to our races. A couple of Senators said to me during the vote that they did not want their State legislatures deciding ''how to finance my campaigns.'' They are not our campaigns. These campaigns belong to the people of the country. I do believe, until we move to some system of public financing or move in that direction with some reforms, we are going to continue to have a system that is wired for incumbents. Sometimes I think the debate is as much between ins and outs as it is between Democrats and Republicans.

I want to put the defeat of that amendment in the context of some of the reform amendments being defeated and other amendments which I think significantly weaken this legislation, at least if one's interest is in reform and in trying to get some of the big money out of politics and bring some of the people back in.

The acceptance last week of the so-called millionaire's amendment, where we tried to fix the problem of people who have wealth and their own economic resources and spending it on their own campaigns with basically another abuse, which is to take the limits off how much money people can contribute—I fear this week we are going to take the lid off individual campaign contributions as some have suggested, going from $1,000 to $3,000 or $2,000 to $6,000 a year.

The point is, again, one-quarter of 1 percent of the people in the country contribute $200 or more and one-ninth of the voting age population in the country contribute $1,000 a year or more. How last week's support of the so-called millionaire's amendment can be considered a reform—it probably will be challenged constitutionally as well.

The point is, I do not know how bringing more money into politics, and more big money in politics, and having Senators—Democrats and Republicans—running for office more dependent on the top 1 percent of the population represents a reform.

If the Hagel proposal passes, I think that is a huge step backward. If part of the Hagel proposal passes and we raise the limits on individual contributions, then we have created a situation where I have no doubt incumbents will have a better chance of going after those big bucks.

Frankly, I think some of us probably will not be too successful, and, in any case, why in the world would you want a system more dependent upon the top 1 percent of the population who can make those contributions?

I worry about a piece of legislation that has moved in this direction. There were some good victories. I always will give credit to colleagues for their good work, and I certainly give full credit to Senator MCCAIN and Senator FEINGOLD for their good work. But I am in profound disagreement, first of all, with defeat of the amendment last week which would have allowed people at the State level to organize—grass roots politics at the State level. I am especially worried about creating loopholes in this bill or moving toward taking off the cap when it comes to the raising of hard money. Again, I do not believe it is much of a reform.

I have heard some argue it is a fact that since 1974 there has been inflation and $1,000 is not worth $1,000. It is also a fact that one-quarter of 1 percent of the people in the country contribute over $200. It is a fact that one-ninth of the people contribute over $1,000. It is a fact that most people do not have that

kind of money and cannot make those kinds of contributions.

Eighty percent of the money in the 2000 elections was hard money. That is PAC money included. If we take the limit off individual contributions and raise those limits in the direction some of my colleagues are talking about, we are moving toward politics yet even more reliant on big money.

What in the world will we have accomplished if, in fact, we are ultimately going to have the same amount of money spent but in a different way, which now gives me the opportunity to talk about the amendment I offer today, which will plug a loophole in this bill. It has to do with the treatment of sham ads. The purpose of this amendment is simple: It is to ensure that the sham issue ads run by interest groups fall under the same rules and prohibition that the McCain-Feingold legislation rightly imposes on corporations and union shame ads.

I make this appeal to my colleagues: This was in the Shays-Meehan bill. This was in the original McCain-Feingold bill. I know people have had to negotiate and make different political compromises, but from the point of view of policy, what good will it do if we have a prohibition of raising soft money on political parties and a prohibition when it comes to unions and corporations, but then other interest groups and organizations will be able to, using soft money, put ads on television? The money will just shift.

My argument is twofold: No. 1, I do not think it is fair to labor and corporations to say there is a prohibition on raising soft money for these sham issue ads and then not applying that standard to every other kind of group or organization, whether they are left, right, or center.

No. 2, I think we are going to have a proliferation of new stealth groups and organizations, all operating within this loophole, so that soft money will shift from the parties to these sham ads. There is this huge loophole and all those ads will go into the TV ads.

I say to my colleagues, I would rather point my finger at an opponent or another political party and say, look, your ads are not fair. I might say they are scummy or poisonous. Instead, we will have a proliferation of these stealth sham ads. This is a huge loophole in this bill.

In the original McCain-Feingold, the same rules and prohibitions that apply to corporations and unions apply to all the other interest groups. That is the way it should be. It is not fair to corporations and unions. We know it is a loophole. We know we will be back in a couple years dealing with this problem, and there will be plenty of lawyers who will figure out how to create the organizations and put the money into the sham issue ads.

Mr. MCCONNELL. Will the Senator yield?

Mr. WELLSTONE. I am happy to yield.

Mr. MCCONNELL. The Senator from Minnesota is entirely correct; that is exactly what will happen.

I wonder if he would be willing to modify his amendment to eliminate the exception for the media. The media are specifically exempt from all of these bills. If we are going to be pure, I say to my friend from Minnesota, why eliminate the media in the last 60 days if we are going to try to get true balance across the entire board?

Mr. WELLSTONE. If I could ask my colleague, I am trying to understand.

Mr. MCCONNELL. Just a question.

Mr. WELLSTONE. I understand it is just a question. We may be focusing in on different issues. I am focusing on one problem; you may be focusing on what you consider to be another problem.

I don't identify the media with the sham issue ads. Whether I agree or disagree, it seems to me, the media are there to inform people. So the answer is no, I wouldn't want to include the media.

Mr. MCCONNELL. Obviously, the Senator gets better treatment on the editorial pages than the Senator from Kentucky, particularly in proximity to an election. I have noticed that in the last 60 days of an election.

Mr. WELLSTONE. I appreciate that.

Mr. MCCONNELL. I thank the Senator.

Mr. WELLSTONE. I understand my colleague's point. I guess I say with a twinkle in my eye to the Senator from Kentucky, I think people in the country and certainly everybody in this Chamber should be very worried about just this loophole in the shifting of soft money to these sham ads. That is what we should worry about.

I see a whole bunch of interest groups and organizations that will do it. I see a whole bunch of new ones that will be created that are going to do it unless we go back to the original standard that was in the original bill, and that is basically in the Shays-Meehan bill coming out of the House. I don't think I would include the media or journalist broadly defined, whether I agree or disagree with their particular editorials.

Now, the soft money and issue ad provisions of McCain-Feingold restrict sham issue ads run by parties, corporations, and labor unions—that is important—but not by other groups. Limiting the ban in such a way seems to invite—this is what I am trying to say—a shift in spending to private groups in future elections, suggesting in the future years, even if this bill passes, that Congress is going to be predestined to revisit sham issue ad regulation to close yet another loophole in Federal election law.

I say as a matter of policy, why not do it now. And I continue to make this argument.

I argue this loophole is already pretty wide. The Campaign Finance Institute Task Force on Disclosure estimated that perhaps over $100 million was spent by independent groups trying to influence Federal elections with sham ads during the 2000 cycle. I don't think this comes as any surprise to the Presiding Officer or any of my colleagues. Many colleagues have seen such ads run during their own election.

The Brennan Center for Justice and the University of Wisconsin found these ads are overwhelmingly negative. Here is something I was not as aware as I should have been—again, I think many know what I am talking about; many have been the target of these negative ads; in some cases, some have perhaps been the beneficiaries of the negative ads against their opponent if that is what you like—the Brennan Center for Justice found specifically that more than 70 percent of these sham electioneering ads sponsored by groups are attack ads that denigrate a candidate's image or character as opposed to 20 percent, the good news, of the candidate-sponsored ads.

The point is, if you are concerned about poison politics, leave this loophole open, let these interest groups run these sham ads. Overwhelmingly they are negative, they can be vicious, they are poison politics.

The study concluded:

> . . . candidates and the American public can expect a wave of television advertising in the last 60 days of an election, casting aspersions on a candidate's integrity, health, or intentions.

Why in the world do we want to keep this loophole? Why do we want to pass a piece of legislation where the soft money is going to all shift away from the parties to these sham issue ads which are so overwhelmingly negative, which so overwhelmingly epitomize poison politics?

These groups are accountable to virtually no one, to nobody. And frankly, they do the dirty work for too many people in politics. I would like to do away with poison politics.

Make no mistake about it, every Senator—I am not talking about ads, I say to the Presiding Officer, that are legitimately trying to influence policy debates—rather, this amendment only targets those ads that we all know are trying to skew elections but until now have been able to skirt the law. I am not talking about legitimate policy ads. I am not talking about ads that run on any issue. I am talking about the ads that end up bashing the candidate or whoever is running. They don't say just vote against them. I am talking about sham issue ads. Any group, any organization, any individual can finance any kind of ad they want. I am just applying the standard of this bill to where there is a huge loophole.

Title II of McCain-Feingold consists of several sections known as the Snowe-Jeffords provision, named after similar legislation first proposed by my two colleagues from Maine and Vermont. This provision is an excellent first step toward curbing sham issue ads in that it prohibits such ads from being paid for with corporate or union treasury money.

Under the bill as currently written, broadcast ads that mention a Federal candidate that are made within 60 days of a general election, or within 30 days of a primary, and are transmitted to an audience that includes the electorate of the candidate, are defined as ''electioneering communications.'' That is a pretty tight test.

Now the value of this difference, in addition, has been discussed previously in this debate, so I will not spend a lot of time on its merits now. Suffice it to say this amendment has been carefully crafted, and I believe it is fully constitutional.

First, because it is totally unambiguous. It is perfectly obvious on the face whether an ad falls under this definition. This means there will be no ''chilling'' effect on protected speech, a concern raised by the Supreme Court in the Buckley decision because a group would be uncertain if an issue ad they intended to run would be covered or not. In other words, this is a bright-line test.

Second, the test is not overly broad. A comprehensive study conducted by the Brennan Center of ads run during the 1998 election found that only two genuine issue ads out of the hundreds run would have been inappropriately defined as a sham ad. You want to have a tight test, you want to have a high standard, that is what we do.

Snowe-Jeffords forces disclosure of all ads that fall under this definition, but under this bill, only corporations and unions may not spend funds from their treasury or soft money for this purpose. If a corporation or union wishes to run electioneering communications, they must use a PAC with contributions regulated by Federal law to do so. The point is, they have to do it with hard money. The point is, every other group and organization, pick and choose—it can be the NRA, it can be the Christian right, it can be the Sierra Club, it can be other organizations on the left, other organizations on the right, organizations representing every other kind of interest imaginable—they can continue to use soft money and pour it into these sham ads.

Why are we not applying this prohibition to them? Why are we creating this huge loophole? Do we want to pass a piece of legislation which is just like Jell-O? Push here, no, it doesn't go do parties and now it all goes into the sham issue ads.

We will not be doing right for people in the country if we pass a bill that does not get, really, very much big money out of politics but just changes the way it is spent. Maybe it will even be less accountable.

Here is the exemption in this bill for certain organizations: 501(c)(4) groups and 527 groups—this exemption means that Sierra Club, National Rifle Association, Club for Growth, or Republicans for Clean Air would be able to run whatever ads they want using soft money to finance them. They would, for the first time, have to disclose how much they are spending, but there is no bar to such groups running sham ads under this bill.

Fine. They can disclose how much they are spending. Three weeks before election, they pour in an unlimited amount of money with poison politics attacking Republicans, I say to the Chair, or Democrats, or independents. Why do we want to have this loophole?

I want to see this soft money prohibition and this big money out. I do not want to see us have this loophole in this piece of legislation which may mean that we passed a piece of legislation that has shifted all of this big money in the worst possible direction. I think this is a mistake. Already these interest groups are spending over $100 million on sham ads to influence our elections. Over 70 percent of them are bitterly personally negative.

So these groups already play a major role in our elections, and I predict, if we do not close this loophole now with this amendment, we will be back here in 2 years or 4 years, or I hope and pray people do not—maybe it will not be for another 20 or 30 years—trying to do what I am trying to do today. The reason will be that the center of power—please listen to this—in Federal elections will move much closer to these unaccountable groups because they will be able to pump millions and millions of dollars in soft money into these sham ads. That is where this money is going to go.

We will see what the other arguments on the floor are. I can anticipate some of them, and I will continue to make mine brief. But I say to the Presiding Officer, I do not know how many votes this amendment will get. I really do not know. But I will tell you this. My wife's family are from Appalachia—Harlan County, and Letcher County in Kentucky—the Isons. They talk about poor cities. When I am 80 years old, I at least am going to be able to tell my grandchildren—I am sorry, I have grandchildren now—my great grandchildren, great, great, great grandchildren, I hope and pray—that I laid down this amendment, I tried to close this loophole, I tried to do something that for sure would get more of the big money out of politics.

I do not know what the vote will be, but I know I am here, and I know I have to be a reformer, and I know I have to make this bill better. I have to lay down this marker just as I tried to do last week in an amendment that should have passed. I cannot believe that colleagues, authors of this bill, did not support it. I cannot believe that during the vote I had people telling me: I don't want my State legislature or people in my State telling me how to finance my campaign—as if it were our campaign. I could not believe it.

I say to the Presiding Officer, I could not believe Republicans, who always argue for States rights, voted against the proposition that every State ought to decide whether or not they wanted on a voluntary basis to apply some system of voluntary or partial public financing. Talk about encouraging grassroots politics. People in the country say: We can get at it in Arizona. They already have. You have clean money, clean elections. We can get at it in Minnesota, in Nevada. We don't know if we can ever be effective in D.C. toward public financing, but we can do it right here, we don't have to take expensive air trips to D.C. And it is defeated. Now I am trying to plug this loophole, and tomorrow or the next day we are heading towards raising spending limits.

Let me be clear, this amendment does not say any special interest group cannot run an ad. A lot of interests are special. That is fine. They are special to the people they represent, and sometimes they are special to the public interest, depending on your point of view. It only says these groups and organizations need to comply with the same rules as unions and corporations. Groups covered by my amendment can set up PACs, they can solicit contributions, and they can run all the ads they want. All this amendment says is they cannot use their regular treasury money. They can't use the soft money contributions to run these ads.

This is an amendment about fairness. It is an amendment about leveling the playing field.

I know some of my colleagues may come to the floor and oppose this amendment because, while they believe as a matter of policy this amendment is the right thing to do, they fear the Court may find that covering these special interest groups under the Snowe-Jeffords electioneering communication provision is unconstitutional. And, in all honesty, this is probably a question upon which reasonable reformers can disagree. But it is a debate worth having. I think this provision can withstand constitutional scrutiny, but it is probably not a slam-dunk.

Still, in a moment I want to talk about why I think the courts will uphold this amendment. But before I do—this has to be in the summary of this amendment tomorrow, before people vote—I want to make one important point. I have drafted this amendment to be fully severable. I have drafted this amendment to be fully severable. In other words, no one can suggest that even if the courts find this amendment unconstitutional, it would drag down the rest of this bill or even jeopardize the other provisions of Snowe-Jeffords.

This creates a totally new section under title II of this bill. Under the worst case scenario, if the Supreme Court rules that groups covered by my amendment cannot be constitutionally barred from using treasury funds for these sham issue ads, then the rest of the legislation will be completely unaffected. The rest of the legislation will be completely unaffected. And we are going to have a debate on severability anyway.

This is what gets to me. Colleagues will come out here—they did it on the

amendment to allow States to light a candle and move forward on public financing—and they will say: Oh, no, if you get a majority vote for your amendment, then it could bring down the bill. The argument is the majority of Senators vote for the amendment and then later on the same majority of the Senators who vote for the amendment say they are going to vote against the bill because they just voted for an amendment? Come on. I am just getting frustrated out here. Let's vote for these amendments on the basis of whether they are good policy and whether or not they represent reform.

I want to talk about this bill from the point of view of the constitutional arguments. I do it with a little bit of trepidation. I am not a lawyer, but I can certainly marshal some evidence for my point of view.

A February 20, 1998, a letter signed by 20 constitutional scholars, including a former legislative director of the ACLU, which analyzed the Snowe-Jeffords provision on electioneering argued that, even though the provision was written to exempt certain organizations, the organizations that I don't want to exempt from the ban on electioneering communication, such omission was not constitutionally necessary. And the scholars noted:

> The careful crafting of the Snowe-Jeffords Amendment stands in stark contrast to the clumsy and sweeping prohibition that Congress originally drafted in FECA. Unlike the FECA definition of electioneering, the Snowe-Jeffords Amendment would withstand constitutional challenge without having to resort to the device of narrowing the statute with magic words. Congress could, if it wished, apply the basic rules that currently govern electioneering to all spending that falls within this more realistic definition of electioneering. Congress could, for example, declare that only individuals and PACs (and the most grassroots of nonprofit organizations) could engage in electioneering that falls within this broadened definition. It could impose fundraising restrictions, prohibiting individuals from pooling large contributions toward such electioneering.

I argue colleagues can vote for this amendment in good conscience, but let me take a few moments to address in some detail and try to preempt some of the contentions we are likely to hear on the other side.

The main argument that I think colleagues will hear advanced against the constitutionality of this amendment is based upon a 1986 Supreme Court case called the Federal Election Commission v. Massachusetts Citizens for Life. In that case, a 5–4 decision, the Court found a flier produced by the group that urged voters to vote ''pro-life'' and mentioned candidates could be paid for using the group's regular treasury funds. But I think the five reasons why the Court would find this amendment, which is different constitutionally, is:

First, it is important to note tonight at the onset that this amendment—and indeed the Snowe-Jeffords motion already in the bill—only covers broadcast communications. It does not cover print communications such as the one issue in the Massachusetts Citizens for Life. Indeed, the group argued that the flier should have been protected as a news editorial. Snowe-Jeffords specifically exempts editorial communications.

Second, the Court based its decision in part on the logic that the regulation of election-related communication was overly burden to small grassroots organizations.

Under our amendment—and under Snowe-Jeffords the group would have to raise $10,000 on broadcast ads that mention a candidate 60 days before the election before their provision would kick in.

Third, the Federal law that the Court objected to was extremely broad. And the Court specifically cited that fact as one of the reasons it reached its decision, saying ''regulation that would produce such a result demands far more precision than [current law] provides.''

This amendment, which is patterned after the Snowe-Jeffords amendment, has that provision.

Finally, and most importantly of all about this Court decision, the Court actually argued that the election communications of nonprofit corporations, such as the one covered in this amendment, could be regulated once it reached a certain level. In fact, this is what the Court said:

> Should MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns.

Since this decision, these groups have operated outside the law with impunity.

Take, for example, the organization Republicans for Clean Air. Despite its innocuous name, this was an organization created for the sole purpose of promoting the candidacy of George W. Bush during the last Republican primary election. That is another example, again with an unlimited amount of advertising soft money. And we now have a loophole in this bill that will enable them to do it again.

If you are going to say corporations and unions can't do this 60 days before an election—they can't finance these sham issue ads for soft money—it should apply to all of these groups and organizations.

If you do not, it is not only unfair to unions and corporations, you are going to have a proliferation of these organizations. Republicans for Clean Air, Democrats for Clean Air, People Who Do Not Like Any Party For Clean Air, Liberals For Clean Air, Conservatives For Clean Air, Citizens For Dirty Air—I don't know what it will be. Another example is the Club For Growth. This was an outfit that ran attack ads against moderate Republican congressional candidates in the primary.

Both groups, which would be covered by my amendment, are not covered by this bill. But they could clearly be banned from running these sham issue ads from their treasury funds under the Massachusetts Citizens for Life decision. It is that simple.

By the way, this is amazing. In the 1986 decision, the Court concluded:

> The FEC maintains the inapplicability of current law to MCFL to open the door to massive, undisclosed spending by similar entities . . . We see no such danger.

In all due respect to this Supreme Court, it is clear that the FEC had it exactly right and the Supreme Court had it exactly wrong. If we have seen money to the tune of $100 million this last election, it was these sham issue ads.

I am going to say it won more time. I don't know whether this amendment will pass. I do not know whether it will get one vote. But I tell you this: I am going to be able to say later on that I at least tried to get this reform amendment passed. This is a huge loophole. In the Shays-Meehan bill, they plugged the loophole. In the original Feingold bill, they plugged the loophole.

I will say it again. How can you say to corporations and to labor that they can't run these sham issue ads in the 60-day period before elections and the 30-day period before primaries but at the same time not apply that prohibition to every other group and organization, whatever cause they represent?

And, No. 2, don't you realize that what everybody is going to do is set up another one of these groups and organizations? Then you will have a proliferation of influence groups and organizations. And individuals with all of this wealth and organizations that want to make these huge soft money contributions will make their soft money contributions to these sham issue ads run by all of these groups and organizations, which under this loophole can operate with impunity.

We are going to take soft money out of parties and we are going to put it into the sham issue ads. Frankly, I don't want my colleague from Kentucky to count me as an ally. If I am going to be the subject of these kinds of poisonous ads, I would rather point my finger at the Republicans. Or if I were a Republican, I would rather point my finger at the Democrats. Or I would rather point my finger at the opposing candidates. I wouldn't want to be put in a position of not knowing exactly who these different groups and organizations were with all of this soft money pouring into these poisonous ads in the last 3 weeks before the election. That is the loophole that we have.

I am not telling you that some of these groups and organizations, right, left, and center, are going to necessarily like this. But I am telling you, if you want to be consistent, that we have to support this amendment. If we don't want a huge loophole that is going to create maybe just as much soft money in politics as now, you have to support this amendment.

If you want to try to get as much of the big money out of politics as possible, you have to support this amendment. If you hate bitter, personal, poison politics, you have to support this amendment. Because, before the Presiding Officer came in, I was saying that the Brennan Center said that 70 percent of the money spent by these sham ads by these groups and organizations is personal, negative, and going after people's character. I am glad to say that only about 20 percent of the candidates' ads do that.

The Campaign Finance Institute at George Washington University in a February 2001 report found this to be the case. This is the quote.

These undisclosed interest group communications are a major force in U.S. politics, not little oddities, or blips on a screen.

Maybe when the Supreme Court issued its ruling in 1986 it was a blip on the screen. But today we are talking about tens of millions of dollars that go into these sham issue ads. These groups and organizations have become major players in our election. But the law doesn't hold them accountable.

One more time: I think Senators are aware of this. Some of you have been candidates in which these special interest groups have come in and carpet bombed your State with these sham issue ads. Maybe they were run against you. Maybe they were run against your opponent. In some recent elections there have been more special interest group ads run than by the candidates of a party.

May I make clear what is going on? We have to plug this loophole. If you just have the prohibition on the soft money to the party, and then you apply it to the sham issue ads by labor and corporations, and you don't apply it to any other group or organization—the 501(c)(4) groups and the 527 groups; the National Rifle Association, the Sierra Club, the Club for Growth, Republicans for Clean Air, and the list goes on and on—all you are doing is, No. 1, being patently unfair, by any standards of fairness, to corporations and labor, and, No. 2, you are inviting all of the soft money to go to these other groups and organizations. There will be a proliferation of them. We will have sham issue ads. There will be carpet bombing in all of our States and carpetbagging. Who knows where these ads come from?

Even if all my other arguments on constitutionality fall—and I think they are pretty sound—I think there is an excellent reason to believe that the Court today would look at this issue in a completely different way than it did in 1986.

As I said before my colleague came in, I have written a separate provision. This is a separate section of the bill. Even if this section were declared unconstitutional, I have written it so that it is severable, so it would not apply to Snowe-Jeffords or the rest of the bill. It does not put the rest of the bill in jeopardy at all.

I think it is on constitutional ground, but it does not put the bill in jeopardy. We are going to have a vote on the whole issue of severability anyway. So no one can come out here and say, if this amendment is adopted, it will jeopardize the constitutionality of the bill.

As I said before, I am getting tired of this other argument, which is that if a majority of the Members vote for the amendment, then this will bring the bill down. How does that happen—a majority of the Members vote for the amendment, and then a majority of the Members turn around and vote against the bill because of the amendment that the majority of the people just voted for? I do not think there is anything wrong with trying to strengthen legislation.

I hope my colleagues will vote for this amendment.

I want to shout it from the mountaintop, I want to be on record, I think it would be a major mistake not to close this loophole. If we do not close this loophole, we are going to see millions of dollars of soft money flow to these special interest groups, we are going to see more and more of these sham issue ads with their shrill, bitter attacks. I think people in the country, and people in Minnesota, are going to wonder, why didn't we fix this problem when we had a chance.

I think this amendment adds significantly to this bill. It makes it a better bill. It is better for politics. It is better for public policy. It is better for all of us. And most important of all, it is better for the people in this country and it is better for the people in Minnesota.

Mr. President, I reserve the remainder of my time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent the quorum call I will initiate be charged equally against both sides.

I suggest the absence of a quorum.

Mr. WELLSTONE. Mr. President, before we go to a quorum call, I would like to say one thing. I think it comes with being 5 foot 5½. I won't say that we not go into a quorum call, but if people oppose this amendment, they should come out and debate it, really. If they oppose this amendment, they should come out here and debate it.

Mr. President, if we go into a quorum call equally divided, how much time do we have? Are we moving on to the Hollings amendment?

The PRESIDING OFFICER. The Senator from Minnesota has 48 minutes; the Senator from Kentucky has 90 minutes.

Mr. WELLSTONE. We move on to the Hollings amendment at what time?

Mr. REID. Will the Senator yield?

It is my understanding we move to the Hollings constitutional amendment at 2 o'clock. That being the case, there are 45 minutes remaining. It is my understanding that the Senator has used about 45 minutes. Is that true?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Approximately. So half of the next 45 minutes would be charged to the Senator.

Mr. WELLSTONE. OK. I say to my colleague, I will reserve that. I hope at some point in time before the vote tomorrow I will have an opportunity to respond to whatever criticism there might be of this amendment. I have done a lot of work getting ready for this amendment. I am ready for the debate. I am not talking about my colleague from Nevada, but I think the Senators who oppose this——

Mr. REID. Will the Senator yield?

Mr. WELLSTONE. Yes.

Mr. REID. I, of course, supported the Senator from Minnesota in his other amendment.

Mr. WELLSTONE. I thank my colleague.

Mr. REID. I believed that the amendment the Senator offered last week did nothing other than to allow States to do what they believe is appropriate. That was not adopted. I was disappointed it was not adopted because I think there is so much talk that goes on in this body about States rights, and there was no better example than that that I have seen in this body in a long time in talking about States rights. If a State did not want to do as indicated in the Senator's amendment, then they would not have to do it.

So I appreciate very much the work the Senator has put on that amendment, and this amendment.

Mr. WELLSTONE. I thank the Senator.

If I may, before we go into a quorum call, I will take just a couple minutes.

I repeat one more time what I said about the whole question of constitutionality. On the whole question of the Snowe-Jeffords provision, of any other provision, there could be a challenge. This amendment uses the same sham issue test, ad test, as the Snowe-Jeffords language in the bill. I think it is constitutional. But if bulletproof constitutionality is the standard, then I do not know why we adopted the Domenici millionaire's amendment because I think that most definitely subjects this bill to a constitutional challenge—arguing that millionaires have the same first amendment rights as the rest of us.

Most important of all, this amendment is fully severable. If the Court does strike it down, it is a separate provision; the rest of the bill will be unaffected. We are also going to have a separate vote on the whole question of severability. I certainly plan on voting for severability.

So I want to make it clear, I hope Senators will vote on this on the merits of the proposal. Don't get the soft money out of this place—parties—and let it shift to these sham ads. Don't have a prohibition that applies to corporations and unions and none of these other groups and organizations. It is not fair to them, and there will be a

proliferation of these groups and organizations. The soft money will flow to them; and we are going to have these sham ads which are destructive and personal and bitter, and that is going to become American politics.

This amendment plugs that loophole. Vote up or down on the basis of whether you think it is good public policy. Come out here, someone, and tell me why it is not good public policy.

Well, I suggest the absence of a quorum, and the time will be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, this is a book. I don't agree with all of its analyses. It has a catchy title and was written by Jim Hightower. The title is, ''If The Gods Had Meant Us To Vote, They'd Have Given Us Candidates.''

The reason I mention this book is there is this one graphic that is interesting: The percentage of the American people who donate money to national political candidates. Ninety-six percent of the American people donate zero dollars. The percentage who donate up to $200 is 4 percent. The percentage who donate $200 to $1,000 is .09 percent. And the percentage who donate $1,000 to $10,000 is .05 percent. The percentage who donate from $10,000 to $100,000—and he points out in his book that you need a magnifying glass for this one—is .002 percent.

The percentage who donated $100,000 or more—you need a Hubble telescope, he says, for this one—is .0001 percent.

I use this graph from my friend Jim Hightower's book for two reasons. First of all, I have an amendment that tries to make sure a lot of this big money doesn't get—it is like Jell-O, you push it here, it shifts. It shifts from the party into the sham issue ads, not to the corporation, not to labor, but to every other group and organization. There will be a proliferation of it. This amendment plugs that loophole.

The Shays-Meehan bill basically has the same approach. This was originally part of the Feingold-McCain bill. I made it clear this provision is 100-percent severable. This is a separate provision. In any case, we will have a debate on severability. I have made it clear it is hard to make the argument that when a majority vote, you can't make the argument that to vote for this reform would bring the bill down.

I think we voted for other reforms that have a better chance of bringing down the bill. But it doesn't make sense. You say the majority voted for this amendment; now they are going to vote against the bill that has this amendment.

The other point I want to make is with this graph, what we are doing here is voting down reform amendments, such as the amendment last week that would have allowed States to light a candle and move forward with some voluntary system of partial or public financing, or maybe vote down this amendment, which would be a terrible mistake.

We are going to revisit this. This is going to be the loophole, I promise you. Let's do the job now, while we can. At the same time, they want to raise the hard money limits. Now we are supposed to feel better that we have gotten rid of a lot of soft money. That is what is significant about this effort by Senators MCCAIN and FEINGOLD. That is a significance that cannot be denied. But the problem is, it may shift to the sham issue ad. The other problem is, since 80 percent of the money spent in 2000 was hard money, PAC money included, you are going to raise the hard money limits.

It is crystal clear what people are talking about with one another. Why are we going to do that? Why are we going to bring yet more big money into politics and make people running for office more dependent on the top 1 percent of the population? How did that get to be a reform? And then I hear Senators say, well, the point is, if you go from 1 to 3 or 2 to 6, we will have to spend only one-third of the time.

Permit me to be skeptical. Everybody will be involved in this obscene money chase. They will be just chasing $3,000 contributions and $6,000 contributions. Somehow, people in Minnesota are going to be more reassured that we are putting more emphasis on the people who can afford to make $3,000 or $6,000, or maybe it will go from 1 to 2, or 2 to 4, and we are doing something that gives people more confidence in a political process that is more dependent upon the people who have the big bucks.

I raise this because I want to know why I am not having a debate on my amendment. I would like to know why Senators don't come out here and speak against this amendment. I don't mind people disagreeing or having other points of view. That is what it is about. But I would be interested in the opponents coming out here and opposing this amendment. Don't just wait until the last 5 minutes and get up and say we oppose the amendment, or we oppose it because there has been an agreement to oppose the amendment, because it will bring down the bill, or because it is not constitutional. I am trying to deal with arguments, but maybe there are arguments I don't know about.

This is very similar to what passed in the House. Well, it is my nature to like everybody and have a twinkle in my eye, so it looks as if in the world's greatest deliberative body, that there is not going to be a lot of deliberation or debate on this. I will have other amendments. This is a reform amendment, and this is the right thing to do.

I yield the floor and reserve the balance of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, I will momentarily yield back all the time in opposition to this amendment.

Therefore, I ask unanimous consent that the vote on this amendment occur in a stacked sequence at 6 p.m. with 15 minutes to be equally divided between Senators WELLSTONE and FEINGOLD.

Mr. REID. Mr. President, reserving the right to object. I want to make clear that my understanding is that we will vote on the constitutional amendment of Senator HOLLINGS, and after that vote there will be 15 minutes of debate?

Mr. MCCONNELL. Yes, and then a second vote.

Mr. REID. No objection, Mr. President.

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

Mr. MCCONNELL. Mr. President, consistent with the agreement, I yield back the balance of the time in opposition.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, if someone else has business involving this amendment, I will be happy to yield the floor. However, in the meantime I will take the opportunity to speak on the constitutional amendment to be offered at 2 o'clock by my friend, the junior Senator from the State of South Carolina, Mr. HOLLINGS.

I have been involved in debating this issue of campaign finance reform for many years. In fact, when I first came to the Senate I could not believe I'd ever be involved in another election like the one I went through in 1986. But I have been through two since then. And in each campaign, the money problem got more magnified and worse. So I am happy that we are having this debate. I am happy we are having the debate, and I extend my appreciation to Senators MCCAIN and FEINGOLD for giving us this opportunity. I also applaud and congratulate the two leaders, Senators LOTT and DASCHLE, for setting up a procedure where we can have this free-wheeling debate. I think it has been very good. It has been great for the Senate. I think this best represents what this institution is all about.

Underlying this debate is the threshold question: Are we able to withstand legal challenges to whatever we wind up doing here, or is this just a waste of time because the bill will be struck down by the courts as unconstitutional, as an infringement on rights guaranteed by the first amendment? I think the bill is constitutional, but I

have been surprised by the courts before and I can't say with certainty that is the case.

Some say it is constitutional, some say it is not constitutional. We have heard from renowned legal experts from all over the country, in letters and in newspaper opinion columns, and in testimony they have given to Committees of Congress. There are mixed opinions as to whether or not this legislation is going to be upheld as constitutional.

With my legal background, I personally think there is a sufficient foundation for this bill to withstand the parameters of our Constitution. I think it certainly should be considered constitutional. But many of my colleagues in this Chamber have been prosecutors, attorneys, who have served in various capacities, including teaching the law, and they have some disagreement as to whether or not this bill is constitutional.

So it is fair to say that there is a lot of disagreement as to whether or not what we are doing is going to be upheld as constitutional. Members of the Senate Judiciary Committee have, on various occasions, disagreed. I believe it is, but many others disagree.

I repeat, we have heard many lawyers and experts analyze not only what we are doing with this bill, but what the Supreme Court said in their decision in the Buckley v. Valeo case. And after all the experts have weighed in, what we are left with is that we really don't know right now.

Because of this uncertainty, I signed on a long time ago to Senator HOLLINGS' effort to amend the Constitution, to overrule Buckley v. Valeo.

In effect, this constitutional amendment will allow us in the Congress of the United States to set financial limits and do other things to improve the election process in our country. Constitutionally, until we do that, I do not know how far we can go in regulating campaign finance money. I do not know how far we can go in regulating issue ads, even the ones that are deceptive or misleading. I do not know how far we can go in regulating how corporations or unions spend their money in political campaigns.

In spite of my positive feeling about this underlying legislation, there is an uncertainty hanging over this debate like a cloud. Some Members will not vote for certain amendments because of the constitutional uncertainty. Other Members want to insert amendments they believe to be unconstitutional. They do it for other reasons; that is, they want to kill this bill.

This week we will debate the question of severability, whether the bill as a whole stands or falls if any one of the provisions is struck down by the courts. When we take this issue up, the issue of constitutionality moves front and center to this debate.

Every one of my colleagues who has questioned the constitutionality of any portion of this bill should support the Hollings-Specter bipartisan constitutional amendment because that amendment will clarify once and for all the power of this body, the Congress of the United States, to regulate campaign finance in this country.

In simple terms, the amendment says the Congress shall have the power to set reasonable limits on campaign contributions and expenditures and that Congress shall have the power to enforce this provision through appropriate legislation. In other words, it gives this body the power to do something about reforming our broken campaign finance system in a way that is unambiguous and free from doubt. The amendment does not require that any of the current reform bills be enacted. It does not matter whether one supports McCain-Feingold, the Hagel bill, or any other approach, or whether one is opposed to reform entirely. Even if the amendment is enacted, one can still vote against specific reform legislation.

Even those who are opposed to any kind of reform should support this amendment because it at least makes clear what we can and cannot do with campaign finance reform. It allows us to do what we were sent here to do: Debate the issue, whatever it might be, consider alternatives to whatever that issue might be, and vote our beliefs, what our constituents believe, in a way that is final, binding, and free from doubt or ambiguity.

I recognize that amending the Constitution is not something to be taken lightly. Our Constitution is rightfully the envy of the world for it establishes firm and lasting rules for our Federal Government and our State governments and gives the people rights that cannot be taken away. We have been studied by historians and scholars, we have been analyzed as a country, and everyone agrees the reason we have had our lasting legacy of freedom is because of our Constitution.

We cannot change it on a whim, that is for sure, and we cannot change it in the heat of battle or in a passing moment of passion, but in order to be lasting, while still remaining just, it must be flexible to change with changing times. That is what the Constitution is all about. We should, in general, only amend it in response to a national crisis that cannot be resolved any other way.

I believe we are attempting to resolve this campaign crisis. I say to the Presiding Officer and all those within the sound of my voice that we do have a crisis. When you have a State the size of the State of Nevada, and in 1998 two candidates, equally financed, spent over $20 million in the State of Nevada—that is a crisis.

I repeat, Mr. President, what I have said on this floor before. My friend and colleague, the other Senator from the State of Nevada, and I were involved in a bitterly contested race in 1998, a race in which we both spent about 4 million of hard dollars, campaign dollars. We spent $8 million between us. Then our State parties spent another $6 million each, or $12 million between them, on issue ads. That is $20 million total. These State party issue ads were all negative against my opponent and all negative against me. I do not think they did anything to better the body politic. They certainly did nothing to better people's feelings about who I think were two good people running for office.

That was not the end of it. Then we had independent expenditures coming in: the National Rifle Association, the League of Conservation Voters. They would have ads running against me; people who believed in me would have ads running against my opponent. I have no idea how much money these outside groups spent, but probably another $2 million to $3 million.

The State of Nevada at that time had less than 2 million people. That is too much. Something is wrong with the system. If there were ever a national crisis, something pressing on a national scope, it is this. Two-thirds of all voters do not even bother going to the polls. These people should be voting.

My wife and I have a home in Nevada. We also have a home here in Washington. We moved from a home where we raised our children to a smaller place, a condo. Somebody doing some work there boasted to my wife that he did not vote. It was his way of protesting. Protesting what? I guess the system that he thinks does not meet his expectations. I met the man. He is a very nice man. It is too bad, but I think a lot of these negative ads have turned off people like him.

There is a national crisis. We should resolve it by amending our Constitution. Make no mistake, we are experiencing, I repeat, a national crisis, a crisis of confidence. The American people have lost trust in their government. Two thirds of the voters do not bother going to the polls. We need to do something about this.

The American people have lost trust in us. That is too bad. People on that side of the aisle, 50 Republicans, and where I stand, 50 Democrats—these are good people on both sides of the aisle, people who you can trust on a handshake; we do not need a written contract, we do not even need a handshake. All we need is someone saying what they are going to do, because they are good and trustworthy people.

What is going on in the campaign process is hurting us, hurting the body politic, hurting our country, hurting the State of Nevada. Because the public does not see us as trustworthy. We need to do something about it.

I appreciate the Senator from South Carolina, who has spent a lifetime doing things that are right. In South Carolina, he recognized the evils of segregation a long time ago and as a young Governor spoke out against it. He realized the imbalance of segregated schools, and he participated in

the Brown v. Board of Education brief writing. FRITZ HOLLINGS from South Carolina is a fine man. I could go on for a long period of time about what a fine man he is and what he has done to better the State of South Carolina and our country. He is an example of why people should feel good about their Government because, even though there are not many people who have the experience and the background of FRITZ HOLLINGS, there are good people in this body.

I admire Senator HOLLINGS for offering this constitutional amendment. He has mounted this effort on a number of occasions. He hasn't gotten a two-thirds vote—that is too bad—and I do not think he will get two-thirds votes this afternoon, and that is a shame.

When Americans do not trust their elected officials, when they do not think they have their best interests at heart, that is a crisis. When average Americans think they are shut out of the system because they cannot afford to make campaign contributions—that is a crisis.

I used to have fundraising events where I raised money $5, $10, $20 an effort. People would give money in small amounts, and it would add up. When I was elected Lieutenant Governor in the State of Nevada in 1970, I had as much money as anybody running for Lieutenant Governor; I won; I spent $75,000. That was slightly different from 1998 spending—over $10 million.

We need to do something. Average Americans should believe they can participate in the system. That is why I admire my friend from Minnesota, who offered an amendment that says in the State of Minnesota, in the States of Nevada, Arizona, New Mexico, South Carolina, if the State wants to implement some type of matching funds system or do something else in the political process as far as money is concerned, let them do it; it should be up to them. Unfortunately, we voted that down.

We need a constitutional amendment. I believe the system is broken. I know Senators MCCAIN and FEINGOLD are doing the best they can to fix it. I support them in their efforts. If we pass the bill the way it is, and it still has a lot of problems, then there are things we will have to come back and fix. But if we don't take care of McCain-Feingold here, we will not be able to come back and debate it for another few Congresses, years from now.

No matter what we do in McCain-Feingold, we need to make sure the Buckley case is overturned so we can fix the many parts of the system that are simply broken. We need to pass the amendment that will be offered this afternoon. It is the first step in being able to even talk about reform.

I remind my colleagues of an important point. Let's do our duty and send the amendment on to the States. It takes two-thirds of the States to ratify an amendment to the Constitution. Let's at least give them a chance to decide. Give Senator HOLLINGS what he needs; that is, a two-thirds vote out of this body.

The American people believe we are taking advantage of a broken and corrupt system to keep ourselves in power. In my personal opinion, the ''millionaire'' amendment that passed last week was just that; it was more legislation to take care of us. In my opinion, the ''millionaire'' amendment was a guise to help incumbents.

For example, under the amendment that passed last week, if I decide to run for reelection in 2004, say I start to campaign with $3 million in the bank, money donated by ordinary people. As I indicated, since we don't go out and raise money at $20 a whack anymore, we have to raise hundreds and thousands of dollars, and with soft money it is tens of thousands of dollars. Say I have hard money in the bank amounting to $3 million and soft money is no longer allowed. That would be a miracle, but say that is the case. Under the amendment that passed, some poor guy or woman who runs against me—I don't mean ''poor'' in the sense of not having anything—say they mortgage their home, and take a loan out someplace, and spend their own money. I would be able to increase my fundraising limits because they mortgaged their home. This is what the millionaire amendment does. It has nothing to do with millionaires. It has everything to do with protecting us. It is an incumbent advantage measure in this underlying bill. I believe that was not the right way to go.

I hope the efforts of my friend from South Carolina bear fruit. I believe what he is doing is the right thing to do. In the court's 5–4 decision in Buckley v. Valeo; five justices voted for, four against it. We have to pass a law, as we do many times, to correct what five members of the Supreme Court have done. They are the Supreme Court, and they, in effect, invite us to change what we don't like about what they have done. I accept that invitation.

I invite my colleagues to change the Constitution and overturn Buckley v. Valeo, so we can do what this country needs us to do. So that we can look at what happens with the campaign finance system and be able to fix a little bit here, fix a little bit there, and not have to go through this unwieldy procedure of debating whether it is constitutional, unconstitutional, a first amendment problem, or not a first amendment problem.

I think we should do something to restore the confidence of the people, to let them become more involved in the process. I think passing this amendment is a step in the right direction.

I have spoken for 25 minutes, I say to my friend from South Carolina, extolling the virtues of this constitutional amendment. I have not only extolled the virtues of the constitutional amendment but I have extolled your virtues.

Mr. HOLLINGS. You have gone too far now.

I thank the distinguished Senator, but the Senator from Nevada has gone a little far. I want him to be believed about this constitutional amendment.

Mr. REID. I hope I am believed about this. The Senator is doing the right thing. We have a constitutional crisis in this country created by Buckley v. Valeo, and we should change it. We should not have to go through this process we have been working through all last week and this week: Is this constitutional? Is that provision constitutional? Are we violating the first amendment?

I think this constitutional amendment should get a two-thirds vote. If people don't like McCain-Feingold, they still should vote yes. If they like it, they still should vote yes. I am a proud sponsor of the Senator's amendment. I can't express publicly enough how much I admire and appreciate the work of the Senator on this issue.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Nevada. He is more than gracious to me personally. It is reciprocated because there is no one I admire more in the Senate. I have watched him over the years. He is so conscientious. And what is wrong this minute: We really are not conscientious about our duties and responsibilities in the Senate.

I will mention the no-no word, ''corruption,'' and I do so very sincerely because the system has become corrupted.

Now the distinguished Presiding Officer never had a part in this, but I can say the rest of the Members have, except the newcomers. That is the best way to put it.

Welcome to the $7 million club. That is the average cost of the last campaign in order to become a Senator. Unless you have $7 million by the time of the next election, you are not going to be able to keep the job. Therein is the corruption. Our effort, our determination, our endeavor, is to keep the job rather than doing the job. That is why we don't have anybody here but us chickens. This Chamber is intentionally empty. Why? Because we are all out trying to get that $7 million in order to continue to serve. Mr. President, that's nearly $1.2 million a year, each year, for 6 years. That's more than $3,000 every day including Sundays and Christmas Day. I am a little behind this morning because I have not collected $3,000. In fact, I am behind this past week because I didn't get my $22,000. And others believe they are behind. So the whole system now of considering the people's problems and their business is corrupted.

I was here back in 1966 and early on in the war in Vietnam. It amused me the other day when they said we finally had some debate going on in the Senate.

The reason we have a debate is because this is the first subject we know

anything about. All the rest of it is canned speeches that the staff gives you, and you come out and you talk about Kosovo, you talk about the defense budget, or you talk about the environment, and you read scientific statements and everything—but we know about money. Oh boy, do we know.

It is 2 o'clock.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Committee on the Judiciary is discharged from further consideration of S.J. Res. 4, which the clerk will report.

The senior assistant bill clerk read as follows:

A joint resolution (S.J. Res. 4) proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

The PRESIDING OFFICER. Under the previous order, there will now be 4 hours of debate equally divided between the Senator from South Carolina, Mr. HOLLINGS, and the Senator from Utah, Mr. HATCH.

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I ask unanimous consent S.J. Res. 4 be printed in the RECORD at this particular point.

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

S.J. RES 4

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within 7 years after the date of final passage of this joint resolution:

''ARTICLE—

''SECTION 1. Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

''SECTION 2. A State shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, State or local office.

''SECTION 3. Congress shall have power to implement and enforce this article by appropriate legislation.''.

Mr. HOLLINGS. Mr. President, as I was saying, we know about money. In fact, I had the small business appropriations subcommittee and I do not know 100 better small businessmen than the 100 Senators. You have to collect millions just in $1,000 increments. You wouldn't incorporate at $1,000-a-share of stock—you wouldn't get anywhere. You would have to work much longer than this, of course. But we do it.

Back in 1966, Senator Mansfield said we would start voting at 9 o'clock on Monday morning. I will never forget it. Then votes would ensue, and debates would ensue, and we would work until generally around 6 o'clock on Friday. It was a full workweek.

I see my colleague from Kentucky is back down on the floor I want to talk about corruption because that is the sensitivity he has, that there is nothing corrupted—ha-ha.

Monday is gone. And Fridays are gone. And Tuesday mornings are gone. And Wednesday evenings you have a window, and Thursday evening you have a window, and Wednesday at lunch you have a window, and Thursday at lunch you have a window—all for at least 20 to 25 percent of your time to collect money. Lunches, meetings with different groups downtown—I am part of it. I know. I struggle. I am from a Republican State, so I had to travel all around raising money during my last campaign. I am confident that people are ready and willing to vote for me. I have talked to them. But the contributions, incidentally, are listed in the newspaper and some people don't want to see their contributions appear, because when they go to the club on Saturday night, someone asks them, ''Why did you give to that Democrat?''

I mean, heavens above.

So I travel the country, up to Minnesota, everywhere and anywhere I can, to collect money. That takes my time on weekends, weekdays, any nights that I can. So I am part of the corruption I am trying to cure.

Mind you me, they do not have any idea of stopping this corruption. They thoroughly enjoy it because they know the one way to really play the campaign finance game for keeps and not for play, not for fun, is to pass a constitutional amendment.

The constitutional amendment which was just printed in the RECORD does not endorse, it does not support, it does not oppose any bill or any initiative. It merely gives authority to the U.S. Congress to limit or regulate expenditures and contributions in Federal elections. And the state and municipal officials, as well as the state governors, have asked for a similar provision. So we have that provision in there for State elections as well.

We all know, out in the hinterland, beyond the beltway, what a corruptive influence this has been. It takes all the time in the world to collect that $3,000 a day, every day, including Saturday and Sunday. We have gotten to the point that we have to collect more than a church on Sunday. It is a pitiful situation. But they know this is unconstitutional. It is unconstitutional, McCain-Feingold.

It might be appropriate at this point to say the unanimous consent agreement was supposedly at the termination or the disposition of McCain-Feingold, because I did not want to interfere with the initiative of the Senator from Arizona and the Senator from Wisconsin in McCain-Feingold. I voted for it, I guess, about five times. I will vote for it again because it may be constitutional—you can't tell with this Supreme Court. They found that the States always regulate their own elections, except when it came to Florida and the Presidency. And the very crowd in the minority, always talking about the States having control, became the majority and took over the election. Given this reversal of opinion, you never can tell if the Court would change their opinion about Buckley v. Valeo. I will vote for the severability also.

I hope part of it is sustained by the Court. But we know good and well that they enjoy the wonderful charade and farce that has been going on in the Senate last week and this week, and particularly in the media. They don't have any idea of exposing this. If you can find in a newspaper that a constitutional amendment is to come up on Monday and be debated all day Monday, I will give the good government award to that particular newspaper. It is not even printed, they couldn't care less, because they know this thing should continue on, up, up, and away, millions upon millions, in order to hold a job, get elected.

So, as to its unconstitutionality, let me refer, first, to my friend, the Senator from Kentucky. I do not like to mention him when he is not present on the floor, but I will again, when he comes to the floor. S.J. Res. 166, in 1987, by Senator MCCONNELL of Kentucky, of a constitutional amendment. He says:

The Congress may enact laws regulating the amounts of expenditures a candidate may make from personal funds or the personal funds of the candidate's immediate family, or may incur with personal loans, and Congress may enact laws regulating the amounts of independent expenditures by any person other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for Federal office.

The Senator from Kentucky and I appeared, and we testified before the Subcommittee on the Constitution of the Judiciary Committee in the Senate back at that time. And I quote Senator MCCONNELL:

I would not have any problem with amending the Constitution with regard to the millionaire's problem.

(Mr. AKAKA assumed the chair.)

The reason I emphasize that is because every time I have mentioned this since that time, I had Senator MCCONNELL worried about buying the office. But he found out that is the best and easiest way for that crowd to do it. He has sort of left me. He pontificates about the idea and how it is just horrible having a constitutional amendment to amend freedom of speech.

Let me see exactly what he said at the particular time just by way of emphasis. He said on June 19, 1987, at page

S16817 of the CONGRESSIONAL RECORD, U.S. Senate:

I believe that this resolution, unlike most constitutional amendments, would zip through this body and zip through the State legislatures.

He didn't complain at that time about the time it took. But he says:

These are constitutional problems demanding constitutional answers. This Congress should not hesitate, nor do I believe it would hesitate, to directly address these imbalances of the campaign finance laws. I offer this constitutional amendment in the sincere hope that the Senate will begin to turn its attention to the real abuses in campaign finances, millionaire loopholes, independent expenditures, political action committee contributions, and soft money, and develop simple, straightforward solutions rather than strangle the election process with overall spending limits and a larger political bureaucracy.

The distinguished leader in opposition to McCain-Feingold, I used to stand with him because he was against soft money. He was against buying the office. But there you are.

Of course, he reiterated on the floor the other day that we had reached the nub of the problem. He recognizes it still as a constitutional question.

We go right to the long, hard task in March of trying to bring people to their senses once Buckley v. Valeo amended the first amendment. There isn't any question. They equated money with speech when Justice Stevens in the Nixon case said money is property. It was Kennedy who said that by the bifurcation and separating the contributions from the actual expenditures we had developed a new form of speech. Having money as speech is out of the whole cloth.

I don't go out and ask one dollar for one vote. It is one man-one vote; or one person-one vote. But under Buckley v. Valeo, it is one dollar-one vote.

By limiting the amount given but not the amount expended, they have taken away the freedom of speech of the Presiding Officer, and this particular Senator, because we don't have those millions to spend on elections such as we see being done this day and age. No questions are asked. The trend is more, more, and more.

There was an article in the newspaper last week on how the Democratic Party was looking for millionaire candidates so we don't have to raise the money. If we can find a bunch of millionaire candidates, it would be wonderful. We would be in the majority. But that is very enticing but very corruptive for the simple reason that Buckley v. Valeo took away our freedom of speech.

This constitutional amendment will reenact the freedom of speech for all Americans. What will happen is, of course, you can pass anything you want, I emphasize once more. This is not in support of McCain-Feingold, or in opposition to McCain-Feingold, or in support or opposition to any particular initiative that the Senate may take or the Congress may take.

But it frees us up—''Free at last,'' so to speak—in order to enact what we desire to enact with respect to campaign financing.

I refer to the article ''Democracy or Plutocracy? The Case for a Constitutional Amendment to Overturn Buckley v. Valeo,'' by Jonathan Bingham.

Mr. President, former Congressman Bingham wrote about it with distinction. But there is a more recent article from the James Madison Center for Free Speech, and an analysis of McCain-Feingold by James Bopp, general counsel for the James Madison Center for Free Speech. It can be found at: www.jamesmadisoncenter.org.

Mr. President, an article entitled ''Court Challenge Likely if McCain-Feingold Bill Passes'' from the Washington Post of March 19 of this year by Charles Lane also points out the unconstitutionality of McCain-Feingold.

I ask unanimous consent it be printed in the RECORD.

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

COURT CHALLENGE LIKELY IF MCCAIN-FEINGOLD BILL PASSES

FOES CITE FREE-SPEECH ISSUES AS DEBATE ON CAMPAIGN FINANCE REFORM BEGINS

(By Charles Lane)

The debate over campaign finance reform that begins today in the Senate is just the start of a long journey that likely will end in the courtroom.

As even supporters of the bill sponsored by Sens. John McCain (R–Ariz.) and Russell Feingold (D–Wis.) concede, the measure poses fundamental free-speech questions and faces an inevitable court challenge by opponents if it becomes law. The questions are serious enough that they will probably have to be resolved by the Supreme Court.

''Everyone recognizes that there are constitutional issues in McCain-Feingold, and everyone assumes it will end up at the Supreme Court if it passes and is signed,'' said Lawrence Noble, a former general counsel of the Federal Election Commission who is executive director of the pro-reform Center for Responsive Politics.

The most vulnerable provision in the McCain-Feingold legislation is a section that bars unions and corporations from buying ''issue advertising'' on television and radio that mentions federal candidates during a specified period before elections. The same section also would subject other interest groups that buy ads to new funding disclosure rules.

McCain-Feingold's supporters say that under the law, the ads are a sham—that they are not intended merely to inform citizens about issues but rather to influence the outcome of elections. The provision in the reform law, they say, is necessary to close a loophole through which vast de facto campaign contributions pass unregulated each election year.

But the loophole exists largely because the Supreme Court has said issue ads are a form of political expression that must be left untouched by federal regulation. Opponents of the bill say that means the issue-ad provision would be overturned in the courts.

''It has no chance of being upheld,'' said James Bopp, general counsel of the James Madison Center for Free Speech, who has successfully challenged similar state issue-ad laws in lower courts.

Supporters of the McCain-Feingold bill say the provision was carefully written to take into account the court's key precedent in campaign finance matters, the 1976 case Buckley v. Valeo.

The court ruled in that case that the Constitution permits the government to regulate the flow of money in politics to prevent actual or apparent corruption. But such regulations must be subjected to ''strict scrutiny'' by the court to ensure that they do not unduly impede the free expression of the political ideas that money pays for.

Applying that balancing test to a 1974 campaign reform law, the court upheld limits on contributions as well as disclosure requirements. But it struck down limitations on political communications ''relative'' to federal elections. The court concluded that part of the statute was so vague it could stifle too much political speech.

Since Buckley, only limits on ''express advocacy''—political communications that specifically tell voters to cast their ballots for or against a candidate—have been upheld. So parties, unions, corporations and interest groups have been able to buy issue ads freely, as long as they don't urge a vote for a particular candidate.

But McCain-Feingold's issue-ad provision is based on the view that the court would accept an alternative to the ''express advocacy'' standard as long as it isn't as vague as the one the justices struck down in the Buckley case.

The bill seeks to provide such an alternative by creating a new category, ''electioneering communications,'' defined as broadcast ads that refer to clearly identified candidates and appear within 30 days of a primary or 60 days of a general election.

Having redefined issue ads in a way that captures their true nature as campaign-related communications, McCain-Feingold backers say, Congress could subject those who pay for the ads to spending and disclosure regulations without running afoul of Buckley.

Under the bill, unions and corporations would be barred from spending their own funds on such ads. Interest groups would be allowed to air them but would have to use individual contributions to pay for them and disclose where the money came from.

''There will be questions about issue ads,'' McCain said in an interview, ''but I also believe . . . Supreme Court justices . . . do read newspapers and watch TV. And it would be hard to argue from a logical standpoint that the sham ads are not intended to affect the election or nonelection of candidates.''

But McCain-Feingold opponents say the justices won't buy this proposed revision of the ''express advocacy'' standard, which has survived repeated challenges in lower federal courts. No matter how McCain-Feingold defines the new regulations, they argue, the court would see it as curtailing a certain amount of political expression that has heretofore enjoyed constitutional protection.

''To the extent the bill would . . . make illegal or burdensome the funding of speech that has been protected up till now, it is vulnerable to challenge,'' said Joel Gora, a professor at Brooklyn Law School who represented the plaintiffs in Buckley and is working with the American Civil Liberties Union to defeat McCain-Feingold.

Gora said that under McCain-Feingold, a group that opposed that law but had no position on whether McCain should be a senator would be subject to regulations if it wanted to run an ad attacking the bill in Arizona within 60 days of a Senate election involving McCain.

The only alternative to the McCain-Feingold bill, a reform proposal by Sen. Chuck Hagel (R–Neb.), does not include restrictions on issue ads by corporations and unions, and would not raise the same kinds of constitutional questions.

The best-known provision of McCain-Feingold, a ban on ''soft money,'' is a relatively open constitutional issue because there is little in case law to suggest how a majority of the court might view it.

Under the law, wealthy individuals, unions and corporations may give unlimited amounts of money to political parties for ostensibly general purposes such as educating voters about the issues and getting them to the polls on Election Day. This is in contrast to ''hard money''—donations to specific candidates that are subject to limits and disclosure requirements.

Reformers argue, however, that soft money has evolved into a de facto campaign contribution because so much of it is used to finance issue advertising targeted at specific elections. They say it should be easy to persuade the court to uphold a ban, just as it upheld contribution limits in Buckley.

''The court will respect Congress's judgment that money is fungible and that soft money is really working on a national election,'' said Alan Morrison of the Public Citizen Litigation Group.

In a case decided last year, Nixon v. Shrink Missouri Government PAC, the court, by a vote of 6 to 3, reaffirmed Buckley's holding that contribution limits may be imposed to combat political corruption or the appearance of corruption.

The six-member majority included the court's four liberal members and two conservatives, Chief Justice William H. Rehnquist and Justice Sandra Day O'Connor. The opinion by Justice David H. Souter cited ''the broader threat from politicians too compliant with the wishes of large contributors.''

Two justices, Stephen G. Breyer and Ruth Bader Ginsburg, said in a concurring opinion that a soft money limitation might well be constitutional under Buckley.

However, Justice Clarence Thomas, joined by Justice Antonin Scalia, published a dissenting opinion indicating that even existing campaign finance regulations suppressed too much speech and that Buckley should be overruled on that basis.

McCain-Feingold opponents say they would challenge the soft money ban as an attack on free association and a threat to the two-party system. Quite simply, they argue, soft money is not a sham. It is used not only for issue ads but also for general ''party-building'' activities and cannot be eliminated without crippling the parties.

As evidence of recent sympathy on the court for the special role of parties in American politics, they cite a 1996 case in which the court held that the government could not limit the spending of hard money by a political party on behalf of a candidate as long as the spending was ''independent'' of the candidate's campaign.

In reaching this conclusion, the court observed that it was ''not aware of any special dangers of corruption associated with political parties'' that would have warranted a different conclusion.

''If the court continues to view parties as they did in [that case] and other cases, I don't see how the soft money ban can survive,'' Bopp said. ''There is no compelling government interest that would support the gut-ripping of political parties.''

Mr. HOLLINGS. Mr. President, I harken to the memory of working with my distinguished colleague from Kentucky when he and I were on the same side. I also worked with the former counsel to the President, Lloyd Cutler, also the former Senator from Kansas, Mrs. Nancy Kassebaum, and others on the committee on the constitutional system. They appeared and testified about the need for a constitutional amendment.

On every amendment, starting with the Domenici amendment last week, they are going to raise a constitutional question.

There it is. Everybody likes to adhere to the Constitution because they respond to the very solemn scare tactics of my friend from Kentucky.

The reason I described it as scare tactics—let me quote from last week, March 19 on page S2440 of the CONGRESSIONAL RECORD, I quote Senator MCCONNELL:

> You have to go right to the core of the problem. The junior Senator from South Carolina, Mr. Fritz Hollings, will offer that amendment at some point as he has periodically over the years. He deserves a lot of credit for understanding the nub of the problem. The nub of the problem is you can't do most of these things as long as the First Amendment remains as it is.
>
> So Senator Hollings, at some point, I think under the consent agreement, will probably at the end of the debate offer a constitutional amendment . . . to regulate, restrict, and even prohibit any expenditures ''by, in support of, or in opposition to a candidate for public office.'' It would carve and etch out of the First Amendment, for the first time since the founding of our country and the passage of the Bill of Rights, giving to the government at the Federal and State level the ability to control political speech in this country. It is worth noting that would also apply to the media.

Now you see the scare tactics. Wait a minute. After 230 years of history, and all of sudden we are going to monkey around, we are going to tamper with, and we are going to amend the first amendment for the first time since the founding of our country and the passage of the Bill of Rights—we are going to amend the first amendment.

I note the Senator from Kentucky is a brilliant individual. He knows better. But he knows the art of defamation and debate. If he can scare those who have not paid attention to the debate last week and this week, and those who will not pay attention, then he'll prevail. There is nobody here but us chickens for the simple reason that they said last week I had to go on Monday. I had other engagements already because I am like all the other Senators, I have things to do. I can plan ahead, knowing that I can get out and raise money on Monday. Then they said, if you can't get back on Monday, you just stay here on Friday. I also, like all the other Senators—we voted at 9 o'clock and, boy, we broke out of that door. If you stood there at those double doors after that vote at 9:15 to 9:30, you would have been run over because we had to go. We have to collect that $3,000 that Friday, that $22,000 that week, that $7 million over the 6-year period. And so it is that he knows and I know they are not hearing this.

We all do revere the Constitution. And we all revere the first amendment. But the distinguished Senator from Kentucky, watching those Oscars last night, he ought to get an Oscar for this one. Here it is:

> . . . I think under the consent agreement, will probably at the end of the debate offer a constitutional amendment so the Federal and all 50 State governments can have the unfettered latitude to regulate, restrict, and even prohibit any expenditures ''by, in support of, or in opposition to a candidate for public office.'' It would carve and etch out of the First Amendment, for the first time since the founding of our country and the passage of the Bill of Rights, giving to the government at the Federal and State level the ability to control political speech in this country.

Now, Mr. President, not so. He gets the Oscar because those who not listening heard that last week, when I couldn't get the floor and award him that particular Oscar. Because he knows from the debate of 1907 of the Tillman Act, under President Teddy Roosevelt, where the Federal Government controls the speech of corporations. And then in 1947, Harry Truman, in the Taft-Hartley Act, that is another one of ''the first time since the founding of our country and the passage of the Bill of Rights.'' That was the second time that I know of back in 1947 under Taft-Hartley.

Poor Harry did it. They want to give him awards now. Everybody is trying to mimic Teddy Roosevelt over there on the Republican side. But they forget that ''for the first time'' Teddy did it back in 1907. We know about the shouting of fire in the theater, the clear and present danger ruling; that is another time that the first amendment was amended. We know, with respect to the prohibition against fighting words, that is another time that the first amendment was amended.

Congress, since I have been here, gave the authority, in the Pacifica case that finally was determined. But we passed the enactment to tell the FCC to regulate obscenity over the airwaves. That deals with the first amendment. There were those seven dirty words in the Pacifica case.

So it is that we have, about seven or eight times since the founding of our country ''etched out of the First Amendment.'' We took an exception with respect to slander. I cannot slander you; you cannot slander me. That is defamation. That is another time. There is false and deceptive advertising. Has the distinguished Senator never heard of the Federal Trade Commission? That is under the authority of the Federal Trade Commission: false and deceptive advertising. We regulate or amend, as he would say, carving and etching out, for the first time in our history since the founding of the Republic, an amendment to the first amendment.

We all go to classified briefings, particularly up on the fourth floor in the Capitol. That is another restriction we have on the first amendment.

Of course, we can go right on down to the 24th amendment—well, the Hatch Act. I do not want to leave that out. We amended it in 1993. But you still can't run for these partisan political offices. You can't solicit contributions

or receive contributions. You can't politic on a Federal facility. We would be forbidden under the Hatch Act to campaign in this Federal facility, except for us. All we do is campaign here. We have to take care of ourselves here. We understand what the game is. Nobody is here. But I am here. And we have a constitutional amendment.

And then, of course, the 24th amendment, the poll tax. Isn't that a wonderful thing? They said: Look, there should be no financial burden on the right to vote. Now, with Buckley v. Valeo there is a financial burden with respect to campaigning.

The distinguished senior Senator from my State says at the end of next year he is not going to run for reelection. They have already, in a sense, crowned a Republican nominee according to my local news. Everybody has come out for him. Two or three Democrats have been up to see me. Each time I said: Now, wait a minute. You have to get $7 million. You have to be prepared. Because I can tell you, here and now, I spent $5.5 million myself in 1998, and this will be 4 years hence by 2002. So you have to get that $7 million. It has all but prohibited the poor from campaigning. It has all but prohibited the middle class from campaigning, or at least in relation to the Senate.

I can tell you right now, we ought to have an amendment restoring every mother's son's right. I can see Russell Long standing right here at this desk. He put in the checkoff system so every mother's son could run for President. So we had to check off on the income tax to bill up the money. With respect to Buckley v. Valeo, let's amend that particular amendment to the first amendment; namely, the restriction they put on political speech of the poor and middle class in America.

I have already had to discourage—I didn't mean to do it but you need to be realistic—and I am confident I have discouraged three candidates from running because unless and until they can get up in the political polls, our Democratic Senatorial Campaign Committee cannot afford to give them any financial assistance. So they have to prove themselves. And in order to prove themselves in this game, you have to have money.

Finally, of course, as I have already referred to, I would like to ask consent to have printed in the RECORD S.J. Res. 166 from the distinguished Senator from Kentucky. How could he stand in the well and say, ''It would carve and etch out of the First Amendment, for the first time since the founding of our country and the passage of the Bill of Rights'' wherein he, in S. Res. 166, tried that himself in 1987? I ask unanimous consent it be printed in the RECORD.

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

S.J. RES. 166

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

ARTICLE—

''SECTION 1. The Congress may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and Congress may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for Federal office.

''SECTION 2. The several States may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and such States may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for State and local offices.''.

Mr. HOLLINGS. Mr. President, there we are: Five of the last six amendments have dealt with just that, with elections. Certainly, the Hollings-Specter amendment—and I want to note at this time the wonderful support of the distinguished Senator. He not only cosponsored it, he has been at the hearings and on the floor. He has given it warm support.

We have other cosponsors. I thank them also: Mr. REID of Nevada; Mr. BIDEN of Delaware; Mr. MILLER of Georgia, and several others; Mr. CLELAND; also the distinguished former majority leader, the Senator from West Virginia, Mr. BYRD, has been a stalwart with respect to the Constitution. The Senator from West Virginia understands better than any that this particular initiative is certainly as important as the poll tax, the 24th amendment. It is certainly as important as the 27th amendment, Senatorial pay. Come on. Here we have corrupted the entire process. We can't get any work done. We can't get regular Americans to run for public office. We can't give the people the time they deserve working at the job of being a U.S. Senator because we have to work at the job of staying a U.S. Senator. It certainly is just as important as Senatorial pay with respect to its significance and importance.

The last five or six amendments dealt with elections. This would be the 25th amendment and would be immediately, I am led to believe, ratified by the several States.

I have touched on the corruption. There are other points we want to make for the RECORD.

I yield the floor, retain the balance of my time, and grant our distinguished friend from West Virginia such time as he may consume.

Mr. BYRD. Mr. President, I thank the very distinguished Senator from South Carolina, Mr. HOLLINGS, for yielding to me. I thank him for being the author and chief sponsor of this amendment. I thank him for his steadfast and clear-sighted approach to a very serious and growing problem facing our Republic. I thank him for allowing me to join him in cosponsoring this amendment.

Ralph Waldo Emerson, in an oration delivered on August 31, 1867, said:

> This time, like all times, is a very good one, if we but know what to do with it.

As the Senate considers the proposed constitutional amendment offered by our distinguished colleague from South Carolina, Mr. HOLLINGS, it is my fervent hope that each of us will take heed of Emerson's apt words. We have the opportunity to take an important step in the direction of restoring the people's faith and in our ability to rise above partisanship and really do something about our present sorry system of financing Federal campaigns.

If 55 years ago, when I started out in politics, we had had the current system of funding campaigns, somebody else would be standing at this desk. It wouldn't be I. I came from the very bottom of the ladder. There were no lower rungs in my ladder. There weren't any bottom rungs in my ladder. I came out of a coal camp. What did I have?

If I might, for a moment, tinker with grammar, ''I didn't have nothing,'' as they would say. ''I ain't got nothing.'' All I had was myself and my belief in our system. I believed in a system, then, in which a person who didn't have anything, a person who was poor, a person who came from lowly beginnings but who could pay his filing fee, could run for office.

I graduated from high school in 1934 in the midst of the Depression. I married 64 years ago the month after next. I married a coal miner's daughter. We didn't have anything. We only had two rooms in which to live in the coal company house. I started out making $50 a month. When I married I was making the huge sum of $70 a month. All I had was a high school education. I didn't have a college education. That was all I had.

The man who raised me, my uncle, was not a banker. He was not a big politician. He was not a former judge. He was not a former officeholder. He was a coal miner, a lowly coal miner. He was honest.

What did I have? Who was I to run for office? Who was I to offer myself to the people with just a high school education. That was all. That coal miner was the only dad I ever knew so I felt good about being his son. I didn't have anything. There I was, a coal miner's son, starting to find my way up the ladder of a political career.

Could I do it today? I would go to Senator HOLLINGS and say: I would like to run for the House of Delegates in West Virginia. I would like to run for the House of Representatives in Washington. What advice do you have for

me? He would say to me today, as he said to others: Who are you? What is your background? That is not so important. But have you got any money? How much money are you willing to spend on this? I would have been out, if it had depended upon money. I would have been out at the beginning. I would never have gotten to first base.

The current system is rotten, it is putrid, it stinks. The people of this country ought really to know what this system is giving to them and what it is taking from them. This system corrupts political discourse. It makes us slaves, makes us beholden to the almighty dollar rather than be the servants of the people we all aspire to serve.

Unfortunately, the Supreme Court has given this kind of campaign system first amendment protection.

In Buckley v. Valeo, the Court made it extraordinarily difficult for the public to have what it wants: reasonable regulations of campaign expenditures which do not either directly or indirectly limit the ideas that may be expressed in the public realm. I submit that such regulations will actually broaden the public debate on a number of issues by freeing it from the narrow confines dictated by special interest money.

We may be able to fool ourselves, but the time is long past for all of us to stop trying to fool the American people. They are more than aware that both political parties—both political parties—abuse the current system and that both political parties fear to change that system. Each party wants to preserve its advantages under the system, but the insidious system of campaign fundraising will eventually undermine the very foundation of this Republic.

What I am saying is, that this system of funding our political campaigns is going to undermine the Republic. For our own sakes and for the sake of the people, we must find a way to stop this political minuet. We must come to grips with the fact that the campaign finance system in its current form is simply, simply, simply unworthy of preservation.

I have spoken on this floor many times before about the exponential increase in campaign expenditures since I first ran for the Senate in 1958. Jennings Randolph and I ran for the Senate in 1958. There was a situation in West Virginia in which the late Senator M.M. Neely died and left 2 years of his Senate tenure open, which meant we had two Senate seats in West Virginia to fill in the same election. Senator Randolph ran for the 2-year term, I ran for the 6-year term, and we decided to team up and run together. There were several other Democrats running for both seats. But we teamed up and we ran that campaign—two Senators—for $50,000. That is all we had, $50,000. We didn't have television in those days. Oh, there were a few black and white sets around. But we didn't have these expensive campaign consultants. We didn't know anything about these kinds of negative campaigns. We just went around from courthouse to courthouse and spoke in the courthouse yards. I played my fiddle —drew a good crowd. But we didn't have these expensive campaigns. Otherwise, we could not have run.

I was running against an incumbent Republican Senator, Senator Chapman Revercomb. We could not have done it. That was in 1958. We had $50,000, two Senators.

I recently heard one of the richest men in America say that political access is ''undervalued'' in the campaign finance market. Campaign contributions will continue to increase until a ''market valuation'' is achieved, thus causing the cost of a reasonably effective campaign to continue to skyrocket. We haven't hit the top yet, by any means. It already costs tens of millions of dollars to run an effective campaign for the Senate in many States.

What do we tell a poor kid from the hollows? What do we tell a poor kid from the coal camps? Forget it. Yet, that person may have the capacity and the drive to be a good Senator. A campaign for the Senate will be beyond his or her personal means and beyond the means of friends and associates.

We must act to put the Senate, the House of Representatives, and the Presidency within the reach of anyone with the brains, with the spirit, with the spine, and with the desire to go for it. And the proposed constitutional amendment before us today is a necessary step on the way to accomplishing that goal. Yes, it amends the First Amendment.

One of the great ironies of the current campaign financing system is that it puts more distance between candidates and the people they hope to represent. Campaigns of today are technologically sophisticated. They rely increasingly on mass media. The whole point of current campaigns has become raising enough money to pay to more people, more times, over the airwaves.

There is no argument that there is an efficiency consideration here. People's lives today are complicated. They have to run from pillar to post, to work, to school, to the grocery store, to the dry cleaner, cook dinner, put the kids to bed, and so on and on and on, over and over again. Families do not have the time or the inclination to attend community functions as they used to years ago. Even if they did, there is this crazy ''boob tube'' in the home. I don't listen to it a great deal. I long ago learned that is almost a complete waste of time to listen. I so listen every Saturday night to that British show, ''Keeping Up Appearances.'' I recommend that anybody and everybody watch that show. You won't hear any profanity in it, you won't see any violence in it, and it is not a story about sex. So, listen to ''Keeping Up Appearances'' on Channel 26 and Channel 22, public television.

May I say to my friend from South Carolina and my equally good friend from Connecticut, I have been in Washington 49 years. I have been to one movie, and I did not stay through that one. Yul Brynner was playing in it. It bored me to death, and I left about halfway through. But I have seen some good movies on Channel 26, Channel 22—public television. I like Masterpiece Theater. It gives us some good, clean, wholesome movies to watch. Otherwise, do not waste your time watching TV.

I have had some recent campaign events in some of West Virginia's communities where people still come out to hear candidates, but in our Nation today, such events are the exception, not the rule. So to influence voters, we pay high-priced consultants, and many times, I say to my friend from South Carolina, we probably know a good bit more about politicking and what needs to be seen and said than they do, but they sure know how to spend your money; they sure know how to take your money. These TV people just rack it up.

I must say that TV is the greatest medium that was ever invented, I suppose. At least it will hold its own with the printed media. But I think it is helping to ruin these political campaigns.

To influence voters, we pay high-priced consultants to produce slick, high-priced ads and to buy high-priced television and radio time to air them. Our opponents do the same, which leads our expensive consultants to encourage us to tape more ads—tape more ads—and buy more advertising time. It is a vicious circle that requires candidates to spend more and more time raising money and less and less time listening to the people and working for the people, once they are elected, whom they wish to represent.

I have been majority leader in this Senate, and I have been minority leader, and I can tell Senators that this money chase is a real headache for the leaders in this Senate. It used to be, when I was the leader, I was continually being importuned by colleagues—Senators on my side of the aisle—to not have votes on this afternoon, not have votes on tomorrow, not have votes on Fridays, not have votes on Mondays, not have votes on Tuesdays until after the weekly conference luncheon.

When I first came to the Senate, we did not have weekly Democratic conferences. Mostly, the Republicans had conferences, but we did not necessarily have a conference every week. It was after I became leader that we started to have regular conferences every week. It was I, as the leader, who had the first so-called retreat with our Democratic colleagues. We went over to Canaan Valley in West Virginia, and we also went up to Shepherdstown on another occasion.

We did not have any retreats prior to my being leader. We did not have all

these campaign financing problems. We did not have to raise so much money for campaigns until, for the most part, I was leader for the second time in the 100th Congress.

It was in the 100th Congress that I offered a cloture motion eight times—eight times—to try to have the Senate act on campaign financing legislation—eight times. That is the highest number of cloture motions ever offered by a leader in this Senate on any matter; eight times, and I failed eight times. I was never able to get more than a half dozen members of the Republican Party to vote for cloture on campaign financing legislation.

The result of the campaign financing system we now have is that today there are fewer rallies, there is less knocking on doors, less face-to-face time with the voters, less handshaking by the candidate. No wonder the people think we are out of touch. We do not see the people.

For the most part, we go to those meetings that are held by special interest groups. They are good people to see—I am not saying that. We do not generally see the general run of people. Those old-time rallies and meetings do not occur so much anymore. Through the creative use of film and audiotape, we have made ourselves intangible.

While I am very reluctant to amend the Constitution, I am not opposed to amendments in all circumstances. The Constitution contains a provision, as we all know, for amendments, and it is there for a purpose. Whereas, as in Buckley v. Valeo, the Supreme Court creates a significant obstacle to democratic self-government, it is certainly appropriate for us to approve a constitutional amendment. Otherwise, I regard the prospects as slim for comprehensive reform legislation that would both free the Congress from the iron grip of the special interests and put Federal office within the reach of every able and willing American.

By equating campaign expenditures with free speech, the Supreme Court has made it all but impossible for us to control the ever-spiraling money chase. Under current constitutional jurisprudence, any legislation intended to control the cancerous effects of money in politics may necessarily be complicated and convoluted. The complications we are forced to resort to, in turn, may create new opportunities for abuse.

Some argue that money will find a way to control the process, regardless of what we do. I respond that a simple and straightforward limit on campaign expenditures is much more difficult to circumvent than the maze of regulations to which we have had to resort. I wonder, too, whether these opponents of campaign finance reform are willing to permit money to buy anything on the grounds that it is difficult to control.

Even without a constitutional amendment, we can, of course, tinker around the edges, but we cannot enact comprehensive legislation that will get to the heart of the problem. I wish we could. But the fact is we cannot get the kind of legislation we really need unless we first adopt an amendment to the Constitution. I have come to that conclusion.

We see it every year. The money chase gets tighter, takes more and more money, and the love of money is the root of all evil. We learned that at our mother's knee and from the Bible. The love of money is the root of all evil. Just look at what it has done in politics, and one will see what it has meant.

Our campaign financing system clouds our judgments. Fear of losing advantage is what has driven both parties to be reluctant to enact meaningful expenditure reform.

I understand this is the system we are in. As long as this is the system, if I am running, I do what the system allows me, and I do what the system requires. I try to raise money. It is the most demeaning thing I as a Senator have to experience. Demeaning. I don't like going around asking for money. I abhor it. That is the way it is.

The fixation with maintaining advantage is blinding us to the dangers to our credibility. Credibility is a precious commodity. More important to a politician than—yes, more important—than money. When we lose our credibility, no amount of money will enable us to buy it back.

People out there who are watching: Do you know what campaign financing does to your interests as we, the legislators, pass laws, vote on amendments? Do you, the people, know that you, not organized, do not wield the influence, man for man and woman for woman, that is wielded by the special interest groups? This is not to say that they don't have the best interests of the country in mind. They have the best interests of the country in mind as they see those best interests. We are beholden, we in this body, and in the other body, and at the White House, are beholden to the people who help us to win by giving us contributions. You people who are not organized come in second.

When we lose our credibility, no amount of money will enable us to buy it back. Already, many of our citizens don't vote. They don't think their vote counts. They don't feel we are influenced by their votes, so they don't vote. Let us fear the further erosion of our Republic.

I am sorry that it has come to this. I am sorry that it has come to the point that, if we are going to deal with this Frankenstein monster that is in our midst—this campaign financing system—we have to amend the Constitution of the United States. I am sorry for that.

They say, well, this is the first time, this will be the first occasion in which we would amend the first amendment to the Constitution. What is worse? What is worse? Keeping the first amendment intact or saving our country, saving our Republic, from its eventual complete destruction because the people in whom the power and the sovereignty resides are no longer the main focus of the attention of legislators and Presidents?

I think to continue down this road is to destroy this Republic and the things for which that flag stands. If there is only one way to save it, and that is to amend the first amendment to the Constitution, then let's amend it.

It is sad. To one who started out in politics with nothing —I didn't have, as I say, a father who could lift me up, who could go to the banks in the city and say, this is my son, help him; who could go to the civic clubs and say, invite my son to speak, help him; who could look to the lawyers in the community and say, I'm a lawyer, I'm a judge, I want you to help my son—I didn't have that kind of father to lift me up and help me in politics. I could hardly put two nickels together.

Now what do we see? We see a situation in which that coal miner's son could never come to the Senate. No coal miner's son could ever lift himself up by the ladder that has no rungs at the bottom and come to the Senate. That could not be one of his or her dreams.

I compliment the distinguished Senator from South Carolina who is a leader in this effort. This is a good time, as Ralph Waldo Emerson said, if only we know what to do with it. Let us not squander an opportunity to begin to fix this thoroughly rotten campaign finance system once and for all. Let us not continue to disappointment the American people.

Yes, I am ready to amend the first amendment to the Constitution. What good is it if we have a first amendment to the Constitution if we destroy the Republic in the meantime? I see this flawed campaign financing system as a real dagger at the heart of our constitutional Republic. What good is a Constitution without a Republic?

As I see it, take your choice: Keep the first amendment, unamended, or continue down this path of destruction of the Republic and everything it stands for.

Let us take a stand and support this proposed amendment to the Constitution.

In Atlanta, there is a monument to the memory of the late Benjamin Hill. Inscribed on that monument are these words:

> Who saves his country saves himself, saves all things, and all things saved do bless him. Who lets his country die, lets all things die, dies himself ignobly, and all things, dying, curse him.

I say to Senators, let us save our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I hope everyone had an opportunity to hear that and those who did not have

an opportunity to see the speech of the distinguished Senator from West Virginia in the CONGRESSIONAL RECORD. He talks from a 50-year or more experience here in the Senate, and, assiduous as he is to protect the Constitution, to go with this particular amendment means that we are in the extreme, that it is absolutely necessary.

I feel the same way. I don't like to amend the Constitution. But I take the position that it was the Court itself, in Buckley v. Valeo, that amended the Constitution with this distorted bifurcation, equating money with speech and then controlling some but not other moneys. As a result, we end with this duplicitous situation of the money chase.

Let me yield, before I have some other comments, to our distinguished floor leader, Senator DODD.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I hope as well Members who are not here will read the remarks of our colleague from West Virginia. It is about as concise and thorough a description of the current status of affairs as anything you are going to hear or have heard over the last week or so as we have discussed campaign finance reform or, I suspect, that you are going to hear for the remainder of this week or into next week, if we have to take additional time to debate the McCain-Feingold legislation.

There is not a great deal I could add to it. He captures my thoughts, my sentiments, far more eloquently than anything I have ever said about the subject matter, and I have spoken on it on numerous occasions. His language is graphic in a couple of instances, but it is appropriate language to describe the current state of affairs, the current circumstances in which we find ourselves in this beloved Nation of ours.

There is nothing more fundamental. I know there are other subject matters this body wants to address, issues of budget and taxes and education, environment, health care. They are all very important subject matters. They certainly have a more contemporaneous appeal than the subject of campaign finance reform. Certainly every poll that is done in the country indicates that this subject matter ranks near the bottom of issues about which the public cares.

I think I understand why, at least in part. In part, it is because people have become so disgusted with it and have little hope things are going to change and are just so accepting, unfortunately, of the present state of circumstances with no likelihood it is going to change.

While I think these other subject matters have value and importance, in my view nothing we will debate or discuss in the coming Congress or coming Congresses will exceed in value or importance the subject matter which we will decide later today, and during the remainder of the week if the Hollings proposal is rejected, as I suspect it will be based on earlier votes we have had. I say that with a deep sense of regret because he is addressing the issue in a way that, unfortunately, it can only be addressed.

I am very respectful of the U.S. Supreme Court. As someone who is a graduate of law school, an attorney, licensed in my State, I was trained to revere the Supreme Court of the United States and respect all of its decisions. But the decision in Buckley v. Valeo, reached more than a quarter of a century ago, that equates money with speech, could not be more flawed, in my view. That is to suggest that the microphone which I am using here today is equal to speech, or that the sound system in here is equal to speech, or some other form of currency that may exist is equal to speech. Nothing could be further from the truth. Justice Stevens had it right: Money is property, just as this microphone is property, just as the sound systems are property. It is not speech, it is merely a vehicle by which we enhance the volume of our voice.

A columnist and reporter in my State of Connecticut got it right. Only in American politics would we equate free speech with the present set of circumstances. It is an oxymoron, she said. There is nothing free about it. Speech only belongs, in American politics, to those who can afford to buy it. It is not speech at all. But because the Court arrived at that decision, we have found ourselves, over the last quarter of a century, grappling with how we can regulate to some degree this excessive—to put it mildly—explosion in the cost of running for public office. Not just the Senate; in the House of Representatives and local offices in our respective States, the cost has risen dramatically.

I fear, as the Senator from West Virginia has so eloquently stated, if we do not do something meaningful about this, that we do put our democracy in peril. That is not an exaggeration. That is not hyperbole. When we have reached the situation in this country where the maximum contribution you can give is $1,000—in effect, $2,000—and we are about to raise that to possibly $3,000 or $6,000, for a couple to $12,000—and an annual calendar year level of contributions by individuals to $75,000 or a couple to $150,000, and we are told that is barely enough to finance the campaign system in this country, that we are going to have to index it so we can have incremental increases as the cost-of-living goes up—I always thought cost-of-living adjustments were done for the poor, people on Social Security, people who could not make ends meet, buy groceries, pay the rent, clothe themselves, so we built in a cost-of-living adjustment to assist those people. A cost-of-living adjustment for less than 1 percent of the American public who can afford to write a $1,000 check to finance a Federal office—they need a cost-of-living adjustment so they can buy more influence? That is incredible to me, that we would even entertain such a thought as part of the campaign finance reform mechanisms.

I served for 2 years as the general chairman of the Democratic Party, a position I was proud to hold. I did not seek it. I was asked to do it. I filled a similar role to that held by the former majority leader of the Senate, Bob Dole, former colleague Paul Laxalt, and others over the years who had been asked to fill those roles, particularly during a national campaign. I got to see firsthand what could happen when the money chase gets out of hand. It got out of hand in both parties.

My great fear is that if we don't learn these lessons, if we don't understand how disgusted the American public is and how narrow the pool of likely candidates for public office is becoming, and how that jeopardizes the institutions which we are responsible for preserving for future generations to be able to inherit and sit at these desks and chairs, and debate the issues of their day, that we are naive at best and border on corruption at its worst. It is getting to that.

Two-hundred years ago in order to seek public office you had to be a white male who owned property. We changed the laws in this country. It is no longer the case. But we have established a de facto set of barriers that are almost as pernicious. That barrier has become money; unless you have wealth or access to it or are willing to make compromises, a coal miner's son or daughter, as the Senator from West Virginia said, or anyone else of modest means, for that matter, is going to be de facto excluded from seeking public office.

I noted this morning in the New York Times a story by John Cushman, entitled ''After Silent Spring Industry Put Spin on All It Brewed.'' The subject matter of the article concerns the chemical industry and how it is particularly involved in this. But I suspect they are not unique, and that this happens across the board.

It is interesting to read one paragraph. I ask unanimous consent that the entire article be printed in the RECORD.

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

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

AFTER 'SILENT SPRING' INDUSTRY PUT SPIN ON ALL IT BREWED

(By John H. Cushman Jr.)

WASHINGTON, MARCH 25.—The year was 1963, the publication of Rachel Carson's ''Silent Spring'' had just opened the modern environmental movement, and the chemical industry reckoned it had a public relations emergency on its hands.

Already that year, the industry's trade association had spent $75,000 scraped together for a ''crash program'' to counter the book's environmental message. It needed an additional $66,000 to expand the public relations campaign. Several companies quickly pledged more money to challenge the book's

arguments, according to the association's internal documents.

That chain of events would be repeated time and again, at ever increasing expense, as the industry's lobbying arm in Washington, now known as the American Chemistry Council, confronted the environmental age in the corridors of power and in the arena of public opinion.

Now the industry's practices over the decades are facing unusual and unwanted exposure, as its documents, turned up by trial lawyers in lawsuits against the industry, are being published by environmental advocates on the Web and explored in a PBS documentary on Monday. Many of the documents were disclosed in 1998 in a series of articles in The Houston Chronicle, but until now they have not received much wider attention.

The adverse publicity is nothing new for the chemical industry.

''I seem, perhaps like Halley's comet, to float periodically into the orbit of your board,'' an industry lobbyist, Glen Perry, said to the chemical group's board in 1966, ''generally with my hand outstretched in a plea for financial support of efforts to avert, or avoid the consequences of, some frightful catastrophe. Like Rachel Carson.''

Or Bhopal. Or Love Canal. Or state ballot initiatives unfriendly to the industry, or legislation tightening regulations on toxic wastes. Or even the industry's growing perception that no matter how much money it spent on public relations—amounts that grew from a few thousand dollars a year to a few million a year as the decades passed—it was losing its war for public opinion.

The industry used many weapons in its campaigns to influence state and federal laws; public relations was just one of them.

Giving money to candidates, of course, played an important role in the industry's strategy, according to a 1980 document discussing ''political muscle, how much we've got, and how we can get more.''

Spending by political action committees helped its lobbyists gain access to members of Congress, the document said. ''But over the long term, the more important function of the PAC's is to upgrade the Congress,'' it said.

Just as important, said a 1984 document, were carefully orchestrated ''grass roots efforts'' like the industry's establishment of a pressure group with the benign name Citizens for Effective Environmental Action Now.

The industry spent more than $150,000 that year to make 25,000 phone calls and send 42,000 pieces of direct mail. Adopting new computer technology for the first time, the group documented more than 7,000 calls and telegrams to seven important Democrats on the House Ways and Means Committee, which was drafting the Superfund legislation governing toxic waste dumps.

''Grass roots delivered three congressmen who were ready to take action during committee writing of legislation,'' the document said. But the ''industry lobby was unable to respond quickly to their offer of help,'' the industry association's assessment noted. ''We must be prepared to provide the congressmen with a simple action plan and legislative language.''

But Congress was responding to broader public concerns, and for decades the industry was painfully conscious of how hard it was to sway public opinion.

''The Public Relations Committee realizes that public fear of chemicals is a disease which will never be completely eradicated,'' a committee member, Cleveland Lane, reported in 1964. ''It may lie dormant or appear from time to time as a minor rash, but it can flare up at any time as a major and debilitating fever for our industry as a result of a few, or even one instance, such as the Mississippi fish kill, or the publication by some highly readable alarmist, or as an issue seized upon by some politician in need of building a crusading image.''

At the same time, Mr. Lane acknowledged that only deeds, not words, could salvage the industry's reputation—a credo that industry lobbyists repeat to this day.

''No public relations operation, no matter how effective, can cover up acts of carelessness or neglect which do harm to the citizens,'' said Mr. Lane, who worked for Goodrich-Gulf Chemicals Inc. ''As long as we produce products or conduct operations which can cause health hazards, public discomfort or property damage, we must do all we can to prevent these situations.''

In recent years, the industry has increasingly tailored its publicity campaigns to emphasize its efforts to follow strict safety standards, set forth in a voluntary effort it calls Responsible Care. The effort is intended to control the risks of chemical pollution and help convince a skeptical public that the industry is made up of good corporate citizens.

Among those not convinced of the industry's good faith is Bill Moyers, whose documentary for PBS focuses on the dangers of exposure to vinyl chloride, the subject of litigation by a chemical industry worker's widow that uncovered the documents. The report relies heavily on them to assert that the companies and their trade association covered up the dangers of the chemical, used for making plastic products.

Even before the documentary was broadcast, the industry group charged Mr. Moyers last week with ''journalistic malpractice'' for not including interviews with its spokesmen or allowing them to preview the program. Instead, Mr. Moyers has invited them to react to his documentary in a half-hour discussion to be broadcast immediately afterward.

''I consider myself in good company to be attacked by the industry that tried to smear Rachel Carson,'' Mr. Moyers said on Friday.

The Environmental Working Group, an advocacy organization in Washington, plans to publish on its Web site on Tuesday tens of thousands of pages of internal industry documents produced in lawsuits. The group plans to expand the Web site, www.ewg.org, into a wide-ranging archive of industry documents.

The documents cover not just vinyl chloride and public relations crusades but every facet of the industry association's work, from lobbying on taxes and price controls to transportation safety and the growing array of laws and regulations that have taken effect since the 1960's.

In 1979, the industry began a multi-million-dollar advertising effort to counter ''growing evidence that the public image of the chemical industry is unfavorable, and this has negative results on sales and profits,'' one document explained.

Then in 1984, disaster struck with the explosion of a chemical plant in Bhopal, India, which killed and injured thousands of people.

The industry found in surveys later that ''we are perceived as the No. 1 environmental risk to society,'' an industry association official told the group's board in 1986.

Despite continued spending to improve its image, little had changed by 1990, association officials fond.

''There is a rising tide of environmental awareness in the country,'' a document reported that year. ''Favorable public opinion about the industry continues to decline.'' In a decade, the percentage of the public that considered the industry under-regulated grew to 74 percent from 56 percent.

So as the environmental groups, with membership expanding by hundreds of thousands of people a year, laid plans for a 20th celebration of Earth Day, in 1990, the industry worked to make its voice heard, too.

For the first time, it began to advertise its Responsible Care program, setting aside a $5 million, five-year budget to make its approach known to the public. ''The public must see an entire industry on the move,'' one document said.

''The term 'public relations' is morally bankrupt,'' a memorandum cautioned, ''and yet, done properly, is exactly what is needed to make Responsible Care work.''

And in interviews last week, the group's lobbyists said that Responsible Care was steadily improving the industry's environmental performance—and that its latest polling suggested this approach now seemed to be winning over the public.

''The evolution of an industry is a journey,'' said Charles W. Van Vlack, the American Chemistry Council's chief operating officer. ''It is a fascinating evolution in terms of attitude and in terms of performance. We went through the process of the public coming to terms with our industry before most, if not all, other industries. It was in our face—we had to deal with it.''

Mr. DODD. As is my colleague from West Virginia, I am most reluctant to amend the Constitution. I have resisted almost every single effort except this one during my 20 years as a Member of the Senate. I cherish and carry with me every day a copy of the Constitution given to me by the Senator from West Virginia, my seatmate. In fact, it is inscribed by him to me. I cherish it.

To illustrate the point, I will bring it out of my pocket. I carry it every day—Senator BYRD carries his with him as well—to remind me of the important role we fill here as Members of this body, and how we should cherish and protect that document. But I know of no other means by which we can effectuate a fundamental change in these laws.

I think we have made some decent progress on the McCain-Feingold legislation. I am a supporter of it because it is the only means by which we are going to be able to bring some possible discipline to the process. It will slow down the exponential growth of the cost of these campaigns.

But the real answer is what the Senator from South Carolina has offered. That is the real answer. It is the only answer.

Someday we may adopt this, if the situation continues to run out of hand. The Senator from South Carolina, myself and the Senator from West Virginia may no longer be Members of this body. I am sorry to say that, but that may be the case.

Others may look back to this debate and the debate we had in 1997, or other debates over the years, in which the Senator from South Carolina has raised this proposal on the issue of campaign finance reform that came to the floor of the Senate, and rue that we did not in earlier times take the steps that the Senator has suggested as a way of providing us with a more simple and clear-cut manner by which to regulate the condition of our Federal elections.

As the Senator from South Carolina has pointed out, we have now run Presidential elections for 25 years with public financing. No less a conservative than Ronald Reagan accepted public money, as had George Bush. As a condition of accepting Federal dollars, of course, they were limited in the amount they could spend.

Public financing has even less of a chance of being adopted by this Congress than the proposal offered by the Senator from South Carolina. I am sorry that is the case as well—not because I particularly like the idea of public financing. But in the absence of that, and given the Buckley v. Valeo decision, it is very difficult for us to craft legislation that is going to survive constitutional scrutiny in light of the Buckley v. Valeo decision, hence the value of the importance of the amendment offered by the Senator from South Carolina.

I noted this morning that William Safire had a column called ''Working Its Will,'' in which he endorses the McCain-Feingold approach, as I read it. But I was struck by the story told at the outset of the column, which I will share with my colleague. He said:

The story is told of the corrupt Albany judge who called opposing trial lawyers into his chambers.

''You offered me a $5,000 campaign contribution to throw this case to the plaintiff,'' said the fair-minded judge, ''and defendant's lawyer here just offered me $10,000 to find for his client. Now how about plaintiff giving me $5,000 more, evening things up—and we try the case on the merits?''

It almost seems like that is what happened here. Money talks, but money is not speech. That is the essence of the offense and defense of campaign finance reform.

William Safire goes on in this column.

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

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

[From the Washington Post]

WORKING ITS WILL

(By William Safire)

The story is told of the corrupt Albany judge who called opposing trial lawyers into his chambers.

''You offered me a $5,000 campaign contribution to throw this case to the plaintiff,'' said the fair-minded judge, ''and defendant's lawyer here just offered me $10,000 to find for his client. Now how about plaintiff giving me $5,000 more, evening things up—and we try the case on the merits?''

Whether the bidding war that is now American politics will continue in this fashion is to be decided in the Senate this week. Every senator knows the subject cold and need not rely on staff expertise or party discipline for guidance. Rarely do voters see such a revealing free-for-all.

Money talks, but money is not speech. That, in essence, is the offense and defense of campaign finance reformers.

That heavy political contributions influence officeholders is beyond dispute. Money for ''access'' rarely qualifies as prosecutable bribery, but the biggest givers are usually the biggest receivers. The pros know that a quo has a way of following a quid and the public is not stupid.

The purchase of a pardon by Marc Rich haunts the Senate this week. The stain spreads; now we learn that the fugitive billionaire, with $250,000 to the Anti-Defamation League, induced its national director to lobby President Bill Clinton for forgiveness and thereby bring glee to the hearts of anti-Semites. (Abe Foxman should resign to demonstrate that ethical blindness has consequences.)

But the hurdle that Senators John McCain and Russell Feingold must jump is this: does the restriction of money in campaigns deny anyone freedom of speech?

Of course it does. But we abridge free speech all the time, in protecting copyright, in ensuring defendants' rights to fair trials, in guarding privacy, in forbidding malicious defamation and incitement to riot. Because no single one of our rights is absolute, we restrain one when it treads too heavily on another.

That's why our courts have held repeatedly in the past century that the Constitution permits restrictions on political contributions. Just as antitrust laws encouraged competition in business, anti-contribution laws have enhanced competition in politics. Freedom of speech is diminished when one voice who can afford to buy the time and space is allowed to drown out the other side.

Washington opponents of campaign finance reform offer less lofty arguments, too.

1. ''Holding down the number of paid political spots will increase the power of the media at the expense of the political parties.'' And what do my ideological soulmates fine so terrible about that? The wheezing liberal voices of the Bosnywash corridor are as often as not clobbered by the intellectual firepower of conservative columnists, Wall Street Journal editorialists and good-looking talking heads. Wake up and smell the right-wing cappuccino, fellas.

2. ''If we close the soft-money loop-hole, money will soon find another way to reach politicians.'' Fine; that will provide a campaign platform for the next generation's great white hat. The tree of liberty must constantly be refreshed by the figurative blood of tyrannous fund-raisers, as Jefferson almost said.

3. ''If this goo-goo abomination passes with all its amendments, and any one item is struck down by the courts, then the whole thing must go up in smoke.'' Do Republicans really want to hold that unseverability gun to the head of the Rehnquist court? Why, if you're so hot for freedom of speech, tempt the high court to weaken the First Amendment by letting a questionable part of an all-or-nothing law through?

Tomorrow the senators seeking to keep in place the Clinton-McAuliffe fund-raising abuses that so polluted the 90's will offer the Hagel substitute for the McCain-Feingold bill. It's sabotage, plain and simple, ''limiting'' soft-money gifts to a half-million dollars per fat-cat family per election cycle.

Senators, fresh from offending billionaire candidates and from thumbing the eye of the powerful broadcasters' lobby, should cherry-pick a few items from the Hagel substitute, up the hard-money limit to $2,500 and take their chances on a sore-loser filibuster by voting down the all-or-nothing trick.

If that's the will the Senate works, I think President Bush would tut-tut and sign McCain-Feingold. That's because I'm an optimist and believe in the two-party system.

Mr. DODD. Mr. President, there is a column that addresses a situation in my own State of Connecticut but also talks about the subject matter of campaign financing across the country, written by Michele Jacklin of the Hartford Courant.

I ask unanimous consent that her column be printed in the RECORD.

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

[From the Courant, March 25, 2001]

CAMPAIGN FINANCE BILL LEVELS PLAYING FIELD

(By Michele Jacklin)

Warren Buffett, the third richest person in America and someone who could buy any politician he wants, weighed in on the campaign finance reform debate last Sunday.

Characterizing the existing fund-raising system as ''a shakedown of sorts,'' Buffett said politicians offer a product for sale ''and the product is access and influence.''

''It's not buying votes, but it's getting in the door. And the people with the most money are going to get in the door the most frequently,'' Buffett said on ABC's ''This Week.''

Mind you, Buffett is so rich he could walk through any door unimpeded. But the chairman of Berkshire Hathaway and a growing number of people in all walks of life have come to realize that the pay-to-play system is unfair. Thanks to outdated laws and wrong-headed judicial decisions, this nation has become a plutocracy in which only the voices of the wealthy are heard above the din.

The word ''voices'' is especially crucial in the debate about campaign finance reform that is raging in Washington and in Hartford. The U.S. Supreme Court has held that campaign spending is speech and cannot be constrained under the First Amendment. But do you think the nine jurists on the court, most of whom are millionaires themselves, intended that the voices of the rich should be louder and stronger than the voices of the less privileged?

To be sure, President Bush and a majority of Republican officeholders think so. They oppose congressional efforts to ban the use of unregulated, unlimited ''soft money'' in federal campaigns. Just the other day, with Democratic help, the Senate approved an amendment to the McCain-Feingold bill that would allow federal candidates to raise substantially larger amounts of money from individuals when they run against wealthy candidates who bankroll their own candidacies.

As a result, the National Voting Rights Institute switched from supporting the soft-money legislation to opposing it, saying: ''For the vast majority of Americans who cannot afford to make a $1,000 contribution, the amended McCain-Feingold bill now makes matters worse.''

And Doris Haddock, a 91-year-old woman who walked across America to raise awareness of the issue, said of the amendment: ''It creates a fairer fight between the rich and the super-rich, but it still leaves out the man on the street. What's the point of a level playing field when the field is on the moon?''

Here in Connecticut, Democratic legislators are wrestling with ways to not only make the playing field a little more even—at least in terms of statewide races—but to keep it on planet Earth.

You'll hear two major complaints about the public financing bill passed Wednesday by the Government Administration and Elections Committee. First, that taxpayers shouldn't be forced to pay for political campaigns and second, that the legislation isn't perfect.

The first objection is absurd. In fact, taxpayers wouldn't be forced to do anything;

they would be able to choose whether to contribute $5 via checkoff on their state income tax forms. Also, an individual's taxes pay for many things that he or she might not like. I don't want my federal taxes used to build Osprey tilt-wing aircraft, whose only purpose I can figure is to kill American military personnel. Guess what? Tough noogies.

As for it not being a perfect bill, OK. It's not. Sen. Andrew W. Roraback of Goshen, using some contorted logic, urged his colleagues to vote for Gov. John G. Rowland's alternative plan ''in the belief that doing something is better than doing nothing.''

But if Rowland's minimalist—and constitutionally suspect—plan (which was rejected by the elections panel) is better than nothing, why not take the next step and rid the system, to as great an extent as possible, of special-interest money? But Roraback and his fellow Republicans, with the exception of freshman Rep. Diana S. Urban of North Stonington, opposed the public financing bill.

Under the proposal, candidates for governor and other statewide offices would be eligible for public financing if they first raised a set amount of money (90 percent of it from Connecticut residents) to establish their legitimacy and voluntarily agreed to spending limits. Candidates would be prohibited from accepting money from political committees.

The bill is a huge improvement over last year's version, which Rowland vetoed, in that it applies to the entire campaign cycle, not just to the months following the parties' nominating conventions.

But there is an imperfect part. The bill doesn't go far enough in limiting the influence of special interests in legislative campaigns. The financing plan is modeled on one used in Nebraska: A candidate would voluntarily agree to spending limits. If his or her opponent violated those limits, the candidate would be eligible for some public money. PACs and lobbyists would face restrictions on what they could give.

Rep. Alex Knopp of Norwalk, the chief architect of the bill, acknowledged its flaws, but said there wouldn't be enough state money, at least not right away, to offer public financing to everyone.

Should the bill reach his desk, Rowland will probably strike it down again. In the name of free speech, special interests will be allowed to continue to unduly influence our elected leaders.

Make no mistake, those who hide behind the shield of free speech have turned it into an oxymoron. In the context of American politics, speech isn't free. It belongs only to those who can afford it.

Mr. DODD. Mr. President, she makes the point, and I will quote her. I should give her credit for this. She says:

Make no mistake, those who hide behind the shield of free speech have turned it into an oxymoron. In the context of American politics, speech isn't free. It belongs only to those who can afford it.

That says it about as well and as concisely as anything I have seen in print.

We will vote on this matter later today. We had 33 votes or thereabouts the last time, and I am hopeful we may get a few more of those who will want to join us in what I consider to be a noble cause.

I thank my colleague from South Carolina for his efforts. As he has pointed out on numerous occasions, there are other examples where we limit speech. Speech is not a right without its limitations. And there are countless examples of where, in fact, we limit speech because of circumstances that we have discerned to be more valuable and more important than unfettered speech.

Certainly, in my view, nothing can be more serious than the debate about campaign finance reform and trying to put the brakes on slowing down the money chase, trying to make seeking public office more available to more people, people with good ideas and creativity and imagination and energy who serve in public life but who, because of the rising costs of these campaigns, will be excluded from that possibility.

The Senator from South Carolina has come up with the only workable solution that I can think of at this juncture. In the absence of it being adopted, of course, I will continue to support McCain-Feingold because I know of no other way in the absence of that than trying to do something about it.

A better way of dealing with this is to adopt the amendment being offered by the Senator from South Carolina. I am pleased to be a supporter of it. I thank him for doing so.

I regret there are not more Members here to engage in this debate today. I realize it is Monday. As the Senator from West Virginia said, people are probably out holding fundraisers all across the country. As one of our colleagues pointed out the other day, you have to raise $100,000 a week now to compete effectively in one of the largest States in this country. In my State, one of the smallest States in the country, you have to raise over $1,000 a day, every day; in fact, more than that in order to compete in a contested matter in the small State of Connecticut. I have watched a statewide race go from $400,000 in the mid-1970s to $5, $6, $7 million today in Connecticut.

That is obscene. There is no other way to describe it. It is obscene. And anyone who has looked at it agrees. The idea, as some have said, that the problem is not that there is too much money in politics but that there is too little really just runs smack into what most Americans, the overwhelming majority of Americans, believe. They understand it. I think we know that they understand it.

I think it is regrettable that we are not going to do something more about it, particularly the idea that is being suggested this afternoon by the Senator from South Carolina.

With that, Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Again, the distinguished Senator from Connecticut passionately speaks common sense. It is the most moving speech I have heard with respect to this particular initiative. I wish everyone could have been here to hear that. I hope they look at his remarks in the RECORD so they can understand just exactly what is behind this particular initiative.

Mr. President, Senator SPECTER and I have a constitutional amendment which states that Congress is hereby authorized to regulate or control expenditures in Federal elections. Senator SPECTER and I have been here before to argue for this same amendment and we are pleased to have this opportunity again, this time with the support of Senators BYRD, CLELAND, MILLER, BIDEN and REID. But Mr. President, this is perhaps the most timely debate for this Constitutional Amendment because critics here in this body and commentators have spent much time discussing the constitutionality of McCain-Feingold and the various proposed amendments to this bill.

I want to state clearly, here at the outset, that this amendment does not frustrate, oppose, support, or endorse any particular plan of reform. Rather, it is the first step toward meaningful reform, regardless of the approach. To that end, I hoped to debate this at the conclusion of McCain-Feingold so that it could not be used as a sword against that measure.

We had our first fit of conscience when we passed the 1974 Federal Election Campaign Act. This act came about due to the untoward activity in the 1967 and 1971 Presidential races. I want to remind everyone that this was a deliberate, bipartisan effort. It set spending limits on campaigns, limited candidates' personal spending, limited expenditures by independent persons or groups for or against candidates, set voluntary spending limits as a condition for receiving public funding, set disclosure requirements for campaign spending and receipts, set limits on contributions for individuals and political committees, and created the Federal Election Commission. This was a comprehensive proposal, with each part complementing the other.

However, the Supreme Court supplanted this regime with its views on campaign finance in the now infamous decision, Buckley v. Valeo. The resulting system put a premium on fund raising and encouraged covert money donations. Don't take my word for it, look at Justice Kennedy's dissenting opinion in the recent Court decision, Nixon v. Shrink Missouri Government PAC:

The plain fact is that the compromise the Court invented in Buckley set the stage for a new kind of speech to enter the political system. It is covert speech. The Court has forced a substantial amount of political speech underground, as contributors and candidates devise even more elaborate methods of avoiding contribution limits, limits which take no account of rising campaign costs. The preferred method has been to conceal the real purpose of the speech. Soft money may be contributed to political parties in unlimited amounts . . . Issue advocacy, like soft money, is unrestricted . . . while straightforward speech in the form of financial contributions paid to a candidate, speech subject to full disclosure and prompt evaluation by the public, is not. The current system would be unfortunate, and suspect under the First Amendment, had it evolved from a deliberate legislative choice; but its unhappy origins are in our earlier decree in

Buckley, which by accepting half of what Congress did (limiting contributions) but rejecting the other (limiting expenditures) created a misshapen system, one which distorts the meaning of speech.

Forgive me for the length of the above quote, but I feel Justice Kennedy hit the nail on the head. Now, we must excise this cancer from our political system. But it is an exercise in futility to address any particular campaign reform plan without first enacting a constitutional amendment because Buckley is still the law of the land.

One critical flaw in the Buckley decision is that the Court equated money with speech. Justice Stevens, however, correctly noted in his concurring opinion in Nixon v. Shrink Missouri Government PAC, ''Money is property; it is not speech.'' Justice Stevens explains that while the Constitution protects an individual's decision about how to use his or her property, ''[t]hese property rights, however, are not entitled to the same protection as the right to say what one pleases.'' An individual's right to get up on a stump and speak on behalf of or in opposition to a candidate is markedly different from ''speaking'' with money. Justice Kennedy, also in Shrink, observes that there is a difference between inspiring volunteers through speech and hiring volunteers with money. The first activity deserves the utmost protection. Unfortunately, those are minority views of the Court.

For the sake of argument, assume money is speech as my colleague from Kentucky asserts. At the start of the debate we heard the Senator from Kentucky provide me the compliment of saying that ''I understand the nub of the issue.'' Of course after that fleeting moment he argues why we should not accept this measure. Of course there was a time when he saw the value of this approach. In 1987, my colleague offered a constitutional amendment to restrict the amount of money wealthy individuals could spend on their election. The important point is not that he once advocated that position, but rather, it recognizes that speech is not completely unfettered when there are significant interests that require its limitation. The following are a few examples of where speech is limited: If it creates a clear and present danger of imminent lawless action; if it constitutes fighting words; if it is obscene; [The Supreme Court ruled in 1978 in FCC v. Pacifica that the Federal Communications Commission could limit what they considered offensive language on the airwaves]; if it constitutes defamation; if it amounts to false and deceptive advertisement.

Let me also point out a couple of speech restrictions perhaps more closely related to the current debate. The Hatch Act limits federal employee involvement in campaigns. Admittedly, the ''Hatch Act Amendments of 1993'' removed most of the restrictions on voluntary, free-time activities by federal employees; however the following are a sample of the restrictions that still apply:

Federal employees are generally restricted from soliciting, accepting or receiving political contributions from any person; they may not run for office in most partisan elections; they are generally prohibited from engaging in partisan campaign activity on federal property, on official duty time, while wearing a uniform or insignia identifying them as federal officials or employees, or while using a government vehicle.

Finally, as Justice Breyer, in Nixon v. Shrink, notes ''The Constitution often permits restrictions on speech of some form in order to prevent a few from drowning out the many—in Congress, for example, where constitutionally protected debate, Art. I, §6, is limited to provide every Member an equal opportunity to express his or her views. Or in elections, where the Constitution tolerates numerous restrictions on ballot access, limiting the political rights of some so as to make effective the political rights of the entire electorate.'' This is an important point Mr. President. I have long maintained that it is ill-advised to allow one who possesses more money to drown out the speech of another with less money. Essentially what we are saying now is if you have money, speak, if you don't, you have the right to keep your mouth shut. It is from this line of arguments that I really draw my conclusion that I am the one promoting speech.

So there is precedent for limiting speech where there are equally important interests at stake. Our campaign system is of sufficient importance and has sufficient problems to warrant limited restrictions. Just consider the affect of the cost of running for office. The exorbitant costs of campaigns today are a real hurdle, preventing many people from throwing their hat into the arena. The average amount spent on a campaign for the United States Senate in the year 2000 was approximately $7 million. Can you imagine that. That means you have to raise on average $22,000 each week for the six years you are in the Senate in order to get ready for your next election. Or stated another way, you have to raise over $3000.00 per day. Yes that's per day. Saturday and Sunday, you need to raise $3000.00. Something is wrong when you have to raise more on Sunday than your church.

Sadly this has really become a money chase. Rampant fund raising threatens the very fabric of democracy because it causes people to lose faith in the political system. They see their candidates motivated by contributions and not by important issues in their community. It often seems to the voting public that its voice is being drowned out by the hum of cash registers. That of course was not always the case. When I first ran for office, much of my campaign work was accomplished through volunteers. It was more enjoyable to campaign because you could really focus on the individual citizen rather than on raising money. You can't afford to go door to door anymore.

By extension, while politicians are out courting money they are obviously not in Washington addressing the concerns of their constituents. There is no doubt that our current campaign finance system has bred absenteeism in the Senate chamber. We no longer arrive to work at 9 o'clock in the morning on Monday and struggle to close shop by 5 o'clock in the afternoon on Friday like we once did. Now on Monday and on Tuesday morning, there is no real floor debate because so many people are out raising money. On Wednesdays and Thursdays, we request time windows so that we can do more fund raising. And then as soon as Friday rolls around, we bolt from the starting blocks for another leg in the money race. If curing this sickly system isn't in the governmental interest, then I don't know what is.

We realize these problems and are now faced with the present dilemma of deciding how to reform this broken system under the misguided framework laid out in Buckley. The Senator from Arizona and the Senator from Wisconsin are to be commended. They are dedicated and have successfully drawn attention to this issue. But their critics assert the same two arguments: 1. their proposal does not go far enough, or 2. their proposal goes too far and runs afoul to the Constitution. This will be the case with any serious proposal because of Buckley.

The unconstitutionality of the Snowe-Jeffords portion of the McCain-Feingold bill which addresses issue advocacy has been talked about, and written about. Recently, Charles Lane wrote an article for the Washington Post titled, ''Court Challenge Likely if McCain-Feingold Bill Passes.'' The reason for this is that in Buckley, the Supreme Court held that campaign finance limitations apply only to express communications, such as ''vote for,'' ''elect,'' ''support,'' ''cast your ballot for,'' and ''Smith for Congress,'' that advocate the election or defeat of a clearly identified candidate for federal office in express terms. If express words such as these are not present, then it is issue advocacy and cannot be regulated. The circuit courts, following the Buckley precedent, have drawn a bright line by requiring these express words and rejecting intermediate tests to determine whether something constitutes express advocacy or issue advocacy. Maine Right to Life Committee v. FEC, Oct. 6, 1997, the First Circuit affirmed the district court's opinion that the ''reasonable person'' standard in its definition of ''express advocacy'' infringed upon issue advocacy, an area protected by the First Amendment. The Fourth Circuit reached a similar conclusion in *FEC* v. *Christian Action Network,* 92 F.3d 1178, 4th Cir. 1997. The Second Circuit, in Vermont Right to Life Committee v.

Sorrell, determined state campaign regulations were unconstitutional because they regulated express and implicit advocacy. It is evident that when the government seeks to regulate anything more than express or explicit advocacy, which is what they try to do in McCain-Feingold, the courts strike it down.

Mr. President, the soft money ban of McCain-Feingold also faces constitutional challenges. The Supreme Court made it clear in Buckley that any restriction on First Amendment rights must be narrowly tailored to further a substantial governmental interest such as the prevention of corruption or the appearance of corruption. In Federal Election Commission v. Colorado Republican Federal Campaign Committee, Colorado I., the Court raised doubts about the risk of corruption between parties and candidates. On remand to the district court, Colorado II, the court examined whether section 441a(d) of the FECA may constitutionally impose coordinated expenditure limits upon parties. The lower court found that ''contributor-to-party-to-candidate pressure'' is an ''unlikely avenue of corruption'' and that party pressure over candidates does not result in corruption. The court reasoned that political parties serve to promote political ideas and by deciding whether or not to support a candidate that subscribes to these ideas does not equal corrupting influence. This case was again appealed to the Tenth Circuit. In its May 5, 2000 decision, the circuit court affirmed the district court and echoed its reasoning. Allow me to read the following quotes from the circuit court's decision:

''Political parties today represent a broad-based coalition of interests, and there is nothing pernicious about this coalition shaping the views of its candidates;''

''However, the premise of this theory, namely that, political parties can corrupt the electoral system by influencing their candidates' positions, gravely misunderstands the role of political parties in our democracy,'' and finally;

''The opportunity for corruption or its appearance of corruption is greatest when the political spending is motivated by economic gain. As discussed below, political parties are diverse entities, one step removed from the candidate, and they exist for noneconomic reasons.''

Based on these cases, the ban on soft money is unconstitutional as well. James Bopp is general counsel to the James Madison Center for Free Speech and served as counsel in more than 60 election-related cases, including the Maine Right to Life v. FEC and the Vermont Right to Life v. FEC cases mentioned earlier. Mr. Bopp is certainly an expert in this area. That is why I found his analysis of McCain-Feingold particularly persuasive. According to Bopp:

Because McCain-Feingold 2001 prohibits the raising of ''soft money'' by national political parties, they have no such money available for issue advocacy, legislative, and organizational activities. It treats political parties as if they were federal-candidate election machines . . . Yet these restrictions fail constitutional muster. Political parties enjoy the same unfettered right to issue advocacy as other entities, which is especially appropriate because advancing a broad range of issues is their raison d'etre. ''Reforms'' banning political parties from receiving and spending so-called ''soft money'' cannot be justified as preventing corruption, since the Supreme Court has already held that interest insufficient for restricting issue advocacy in Buckley.

According to Bopp, if there is not the threat of corruption or the appearance of corruption when we speak of political parties, then you can't restrict how they raise their money. Thus, the soft money regulations in McCain-Feingold are also likely to be found unconstitutional.

In light of the above, a constitutional amendment is a necessary first step to real reform. Until we do this we are merely trying to patch a leaky dam with Bandaids. Certainly, amending the constitution is not something we should do lightly. But, campaign finance goes right to the heart of our democracy. That is likely the reason that of the nine most recent amendments, seven relate to our electoral process: The 19th amendment gave women the right to vote; the 20th set the beginning of Presidential and Congressional terms and provided for succession of the President and Vice President, (i.e., this amendment established procedure to replace the President or Vice President elect upon their death or incapacitation); the 22nd amendment provided Presidential term limits; the 23rd amendment provided the D.C. electoral votes in Presidential elections; the 24th amendment eliminated the Poll tax; the 25th amendment established the procedure for Presidential succession whether by death or incapacitation; the 26th amendment changed the voting age to 18.

Surprisingly, the average length of time it took for passage of Amendments 20–26 was a little over 17 months. What's even more compelling is the fact that the 24th amendment already recognizes the influence of money on the freedom of political speech. It says that it is unconstitutional to place a financial burden on voters in order for them to voice their political opinions at the polls. In other words, it gives us ''one man, one vote.'' The poorest of the poor can cancel out the richest of the rich. This is the same spirit that's driving campaign finance reform today.

Mr. President, it isn't that the people do not trust us. I think they are bored with us. When you talk about campaigns and everything else like that, today's model is, you hire a consultant, and he gets the poll, and you get seven or eight hot-button items or issues, and you counsel: Do not take too strong a position pro or con—for or against—but, on the contrary, say you are concerned: ''I'm troubled.'' Everybody who comes to this blooming place is troubled, and they are concerned. But I can't find them taking a position on anything. And that goes for Republicans and for Democrats—all the candidates.

So unless you get a unique individual, such as the Senator from Arizona, Mr. MCCAIN, who had no poll, obviously, to get around to this campaign finance—and certainly it was not boring. He kept them on fire, and kept them going, and kept them interested—and keeps them interested. That is why we are having this debate. But the truth of the matter is that politics has been taken out of campaigning.

Let me emphasize what the Senator from West Virginia was talking about regarding campaigns. No. 1, we used to have nothing but volunteers. I ran for the State house of representatives for $100 back in 1948—over 50 years ago. There were 24 candidates. I led the ticket. But I worked, and I saw people. I talked and listened to people. There weren't fundraisers to go to.

Now, in contrast, there are only fundraisers to go to. In fact, on the recent campaign, I was going around not just thanking but talking to old friends, and many said: Why are you coming around now? You have already won a wonderful race by a good majority. Why are you coming around now?

I said: I didn't get to see you. I didn't get to talk to you. I could only go to fundraisers.

Mind you me, if you have run, as I have, for the legislature, for Lieutenant Governor, Governor, and the U.S. Senate—I have been elected seven times—at the country store at the crossroads outside of Honea Path on the way into Anderson, they want to know why I didn't come by. So I go by that shift at a mill in Edmund, SC. If I don't get to that 3 o'clock shift, I have ''Potomac fever,'' I have forgotten about the people.

So I know what it is to campaign without money. It is much better than this money chase and the TV squibs about how I am against crime, how I am for education. That crowd over there, they come out for education. They did their best to abolish the Department under President Reagan, under President Bush, under President Clinton. They had the Contract in the mid-1990s, a few years ago, and wanted to abolish the Department of Education. But that is canned now. They are all for education. They are not for it, but they have to identify with it because the company consultants have said so. That is what is going on.

So the people really are bored with all the campaigning because there is nothing to it. You can't get them to take a stand other than they are just for this or that popular thing. They finally found out it was unpopular to try to veto, but they tried for 20 years to abolish the Department of Education. I can tell you because I was here and helped defend it over those 20 years.

But the people have been taken out of the campaign themselves. That is all

you have, time to go on the money chase. Obviously, those making the contributions have already made up their mind or they wouldn't have come to the event in the first instance. And you wouldn't have gone to the event except for the money involved.

So there it is. I think that at this particular time, other than citing a dozen variations of the first amendment—or you might say amendments to that first amendment—I think it ought to be emphasized just exactly what has occurred in the words of Justice Kennedy in the Nixon v. Shrink Missouri case. I quote from him:

The plain fact is that the compromise the Court invented in Buckley set the stage for a new kind of speech to enter the political system. It is covert speech. The Court has forced a substantial amount of political speech underground, as contributors and candidates devise even more elaborate methods of avoiding contribution limits, limits which take no account of rising campaign costs. The preferred method has been to conceal the real purpose of the speech. Soft money may be contributed to political parties in unlimited amounts. . . . Issue advocacy, like soft money, is unrestricted. . .while straightforward speech in the form of financial contributions paid to a candidate, speech subject to full disclosure and prompt evaluation by the public is not. The current system would be unfortunate, and suspect under the First Amendment, had it evolved from a deliberate legislative choice; but its unhappy origins are in our earlier decree in Buckley, which by accepting half of what Congress did (limiting contributions) but rejecting the other (limiting expenditures) created a misshapen system, one which distorts the meaning of speech.

Let me add my comment: And distorts the freedom of speech.

The constitutional amendment will give the opportunity to the U.S. Congress to restore that freedom of speech to all Americans.

We have used over three-quarters of our time, Mr. President, and I have some speakers coming who want to speak when they arrive here at 5 o'clock. So let me suggest the absence of a quorum. I would like to speak to the distinguished leader on the other side to see if I could charge it to him, or certainly not just run the time out in a quorum call and then have 2 hours and no chance to respond. But I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DODD. 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. DODD. Mr. President, I ask unanimous consent to speak as in morning business for about 10 minutes or less and that the time be counted against the opponents of the legislation. I am told, talking to staff, that is not objectionable.

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

(The remarks of Mr. DODD are located in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

Mr. HOLLINGS. Mr. President, before we have the quorum, the Senator from Pennsylvania is the principal cosponsor. We have 20 minutes remaining. We have some other speakers coming. I will try to borrow some time from Senator MCCONNELL when he regains the floor. I ask unanimous consent that the quorum call then be charged to both sides.

Mr. SPECTER. Mr. President, I have just arrived from Pennsylvania. I am going to take about 3 minutes to prepare a statement. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, again, I join my distinguished colleague from South Carolina, Senator HOLLINGS, in offering a constitutional amendment which, simply stated, would allow the Federal Government, through its Congress, signed by the President, or overriding the Presidential veto, and the State legislatures, in due form according to State law, to enact legislation to limit expenditures and contributions on campaign matters.

In so doing, I would not in any way suggest changing the language of the first amendment, which I consider sacrosanct and have personal reverence for. But in moving for a constitutional amendment on this issue to overturn Buckley v. Valeo, there is no reference here to changing any language of the first amendment, but only to changing the interpretation of the Supreme Court of the United States in Buckley v. Valeo. That decision was extraordinarily complicated. The main portion, which I hold in my hand, runs 145 pages. That is not considering the dissents which were brought. Chief Justice Burger concurred in part and dissented in part, and Justice White concurred in part and dissented in part. Justice Marshall dissented in part. Justice Rehnquist concurred in part and dissented in part. By the time you finish reading the opinion in Buckley v. Valeo, what you find is a constitutional quagmire—a constitutional quagmire which, in the past 25 years, has led to extraordinary litigation and some of the most absurd results in constitutional history.

For example, the controversy has arisen as to what is an advocacy ad and what is an issue ad. The Supreme Court of the United States, in one small paragraph in this lengthy opinion, said that in order to uphold the statute so that it would not be considered vague and therefore violative of the due process clause of the fifth amendment, unconstitutional on grounds of vagueness, that the statute would require specific language, such as ''vote for'' or ''vote against,'' ''support,'' or ''defeat.'' That has brought about the dichotomy on what is an advocacy ad, which the Supreme Court designed as ''vote for,'' or ''vote against,'' et cetera, or what is an issue ad.

Look at what has happened. In the 1996 campaign, President Clinton put on the following ad, which was deemed to be an issue ad, not an advocacy ad. What I am about to read to you has been interpreted to be just on issues and not urging the election of President Clinton or the defeat of Senator Dole. This is the ad:

America's values: Head Start, student loans, toxic cleanup, extra police, protected in the budget agreement. The President stood firm. Dole-Gingrich's latest plan includes tax hikes on working families, up to 18 million children facing health care cuts, Medicare slashed $167 billion. Then Dole resigns, leaving behind him the gridlock he and Gingrich created. The President's plan: Politics must wait. Balance the budget. Reform welfare. Protect our values.

It would be hard to conceive an advertisement which was any more emphatic to reelect President Clinton and to defeat Senator Dole. But the exact same pattern was followed by the other side, the Republican National Committee. Listen to the following ad:

Three years ago, Bill Clinton gave us the largest tax increase in history, including a four-cents-a-gallon increase on gasoline. Bill Clinton said he felt bad about it.

Then there is a videotape of Clinton saying, ''People in this room still get mad at me over the budget process because you think I raised your taxes too much. It might surprise you to know that I think I raised them too much.'' Then President Clinton's face fades out and the announcer comes back on and says, ''OK, Mr. President, we are surprised. So now surprise us again. Support Senator Dole's plan to repeal your gasoline tax and learn that actions do speak louder than words.'' Now how that ad could possibly be interpreted as dealing only with issues and not with the advocacy of Senator Dole's election and the defeat of President Clinton's bid for reelection—I don't like the expression ''boggles the mind,'' but it boggles the mind. But that is the consequence of Buckley v. Valeo.

And, then, referring to a single ad in the election for the year 2000 Presidential—this is a brief statement because of limited time. We could go into many advertisements that are the same, advocating the election of one candidate and the defeat of the other, but because of Buckley v. Valeo are held to be issue ads. This is an unusual one, even in the context of issue ads. This is in the election for the year 2000. This is an advertisement paid for by the Democratic National Committee:

George W. Bush chose Dick Cheney to help lead the Republican Party. What does Cheney's record say about their plans? Cheney was only one of eight Members of Congress to oppose the Clean Water Act, one of few to

vote against Head Start, and he voted against the school lunch program and against health insurance for people who lost their jobs. Cheney, an oil company CEO, said it was good for OPEC to cut production of oil and gas so prices can rise. What are their plans for working families?

It is obvious that the language just read urges defeat of the candidate, Vice President CHENEY. But how ludicrous is it to say that this could remotely be considered an issue ad when it takes up the Clean Water Act? There has been no debate about the Clean Water Act. It could not possibly be an issue on the American political scene. It talks about the Head Start Program, which has been accepted in America for more than a decade—hardly a matter that relates to an issue—or the school lunch program. Again, it is absolutely ludicrous to say that those matters relate to issue advertisements.

All of this has happened because of the progeny of Buckley v. Valeo. The decision in Buckley is inordinately complicated. As I say, there are 145 pages in the main text before coming to the dissents and concurrences by Chief Justice Burger, Justice White, Justice Marshall, and Justice Rehnquist. And then within the doctrines of their concurring and dissenting opinions, Mr. Justice White concurred in part and dissented in part. This is the start of his opinion:

I concur in the Court's answers to certified questions 1, 2, 3(b), 3(c), 3(e), 3(f), 3(h), 6, 7, 7(a), 7(b), 7(c), 7(d), 8, 8(a), 8(b), 8(c), 8(d), 8(f).

I dissent from the answers to certify questions 3(a), 3(d), 4(a), and I also join in part three of the court's opinion adding much of parts 1/B II and IV.

It takes a complicated crossword puzzle analysis to go through the opinions and to figure out who agrees with what and who dissents from what and what is the conclusion. If there ever was a constitutional quagmire, this is it.

Regrettably, Justice Stevens did not participate in the decision in Buckley v. Valeo. Justice Stevens has since participated in the decisions on the issue and has articulated the view that the Supreme Court was wrong in Buckley in equating money and speech.

It seems to me to be a non sequitur on its face, to be diplomatic and not to call it absurd, ridiculous, or preposterous, that money equals speech. Yet in a society which comprises democratic rule, one person one vote, where do you end up with the ability of people to spend unlimited sums of money to carry their political point of view? Freedom of speech means that someone can advocate, state, articulate, argue, but it hardly means, in my opinion, that somebody should be weightier in speech because his bank account is weightier. I come to this issue with a little bit of a personal bias, if I may state briefly my own personal experience with Buckley v. Valeo.

In January of 1976, when Buckley v. Valeo was decided, I was in a primary contest with Congressman John Heinz for the Republican nomination for the U.S. Senate. In late January 1976, the Supreme Court of the United States said that Congressman Heinz could spend millions, which he did, and that my brother, Morton Specter—he could not have met the highest financing, but he could have done quite well—was limited to $1,000. I petitioned for leave to intervene in Buckley v. Valeo and to file a brief in Buckley v. Valeo. So I am no Johnny-come-lately to this issue.

When Senator HOLLINGS said to me years ago: ARLEN, why don't we take on Buckley v. Valeo, I understood FRITZ, barely, and we have been fighting this constitutional amendment for years. Senator HOLLINGS, if he were understood totally, would have carried the day a long time ago when he ran for President in 1984. I am pretty sure I have the year right. When the campaign was over, Senator HOLLINGS approached me in the steam room one day and said: My Presidential campaign went nowhere. Everybody thought FRITZ HOLLINGS was a German moving company. FRITZ HOLLINGS.

We have been at this for a long time, and we have not gotten very far. We have not gotten very far because there is a coalition of people who articulate the sanctity of freedom of speech, and there are the people who would like to keep the current finance system in effect to benefit those who can raise the most money or those who have the most money.

While I do not like to repeat myself, it is worth repeating that I would not dream of changing the language of the first amendment, but I would actively argue that because a majority of Supreme Court Justices have interpreted the first amendment as they have in Buckley v. Valeo, their interpretations are not sacrosanct. There are many, many, many Supreme Court decisions which are 5–4. One vote decides some of the most important questions touching the lives of Americans every day. Those are interpretations of the Constitution. They are not holy writ. They do not come from Mount Olympus. They do not come from Mount Sinai. While their opinions may be better than mine, they are not better than Senator HOLLINGS, a very distinguished lawyer and constitutional scholar.

I think we have standing to say: Let's take another look at Buckley v. Valeo. Let's see where it leaves us.

We have had very extended debate during the course of the past week, and now we are starting the second week on campaign finance reform. Continually the issue is raised: What you are proposing is unconstitutional. No matter what it is, which side, the argument is raised that it is unconstitutional.

On Thursday afternoon we had an extensive debate with the Senator from Kentucky, Mr. MCCONNELL, the Senator from Delaware, Mr. BIDEN, the Senator from Tennessee, Mr. THOMPSON, and I, and we were pontificating—I was pontificating; they were giving legal arguments—about what was constitutional and what was not constitutional; what is a bright line to satisfy Buckley v. Valeo. We could all be right or we could all be wrong because the reality is you cannot figure out what Buckley v. Valeo means.

There have been a plethora of decisions I have gone through preparing for these discussions, and this is only a small part of it. It is beyond peradventure a constitutional quagmire.

The Supreme Court of the United States has said the obvious in Buckley, that there is the authority to regulate speech where you have corruption or the appearance of corruption. The appearance of corruption is rank in America today.

We passed a bankruptcy bill the week before last. I thought it was a good bill, and I voted for it. I voted for it because there are many people who are avoiding their debts who can afford to pay their debts. The bankruptcy law has sufficient flexibility so the bankruptcy judge can schedule payments that somebody can afford.

The Senate took a shellacking in the media because of contributions and what was characterized as the appearance of corruption, that Senators votes were bought.

A series of books are cited in the amendment which I offered last week: ''The Best Congress Money Can Buy,'' ''Party Finance and Political Corruption.'' I ask unanimous consent that this list be printed in the RECORD.

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

(A) Backroom Politics: How Your Local Politicians Work, Why Your Government Doesn't, and What You Can Do About It, by Bill and Nancy Boyarsky (1974);

(B) The Pressure Boys: The Inside Story of Lobbying in America, by Kenneth Crawford (1974);

(C) The American Way of Graft: A Study of Corruption in State and Local Government, How it Happens and What Can Be Done About it, by George Amick (1976);

(D) Politics and Money: The New Road to Corruption, by Elizabeth Drew (1983);

(E) The Threat From Within: Unethical Politics and Politicians, by Michael Kroenwetter (1986);

(F) The Best Congress Money Can Buy, by Philip M. Stern (1988);

(G) Combating Fraud and Corruption in the Public Sector, by Peter Jones (1993);

(H) The Decline and Fall of the American Empire: Corruption, Decadence, and the American Dream, by Tony Bouza (1996);

(I) The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective, by Frank Anechiarico and James B. Jacobs (1996);

(J) The Political Racket: Deceit, Self-Interest, and Corruption in American Politics, by Martin L. Gross (1996).

(K) Below the Beltway: Money, Power, and Sex in Bill Clinton's Washington, by John L. Jackley (1996);

(L) End Legalized Bribery: An Ex-Congressman's Proposal to Clean Up Congress, by Cecil Heftel (1998);

(M) Year of the Rat: How Bill Clinton Compromised U.S. Security for Chinese Cash, by Edward Timperlake and William C. Triplett, II (1998);

(N) The Corruption of American Politics: What Went Wrong and Why, by Elizabeth Drew (1999);

(O) Corruption, Public Finances, and the Unofficial Economy, by Simon Johnson, Daniel Kaufmann, and Pablo Zoido-Lobatoon (1999); and

(P) Party Finance and Political Corruption, edited by Robert Williams (2000).

Mr. SPECTER. There is no doubt that the public is concerned about the appearance of corruption. It is my hope that there will be a close look at this issue by those who are interested in campaign finance reform. If someone is not interested in campaign finance reform, then I can understand a vote against this constitutional amendment.

Let's not clear the underbrush of Buckley v. Valeo if someone does not want to have campaign finance reform, but if someone wants to have campaign finance reform—and there are many people who oppose this constitutional amendment on the ground that it is a change of the first amendment—they are simply wrong.

There is no change in the first amendment. There is a change in a majority of the nine people on the Supreme Court who have interpreted the first amendment.

I thank the Chair. I thank my distinguished colleague from South Carolina, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, the proposal of the Senator from South Carolina to eviscerate the first amendment is as refreshing as it is frightful.

It is a blunt instrument, this proposed amendment to the Constitution. It consists of a simple paragraph repeated twice so that the State governments, as well as Congress, would be empowered to restrict the heretofore sacrosanct, all contributions and spending ''by, in support of, or in opposition to candidates for public office.'' The whole political ballgame: citizen groups, individuals, parties and the candidates.

Unlike the McCain-Feingold, the Hollings constitutional amendment does not include a special exemption for the news and entertainment media.

And unlike the McCain-Feingold debate, the casual observer will not be confused by the campaign finance vocabulary. ''Issue advocacy,'' ''express advocacy,'' ''electioneering,'' ''soft money,'' ''hard money''—these terms of art in the McCain-Feingold debate are absent from the Hollings constitutional amendment, which reads simply: ''by, in support of, or in opposition to.''

Plain English. These eight words in the Hollings constitutional amendment sum up the reformers' agenda for the past quarter-century as they have sought to root out of American political life any speech or activity which could conceivably affect an election or be of value to a politician.

Except the media's speech, of course. McCain-Feingold takes care of them with a special exemption on page 15 of their bill to foreclose prosecution of their ''electioneering'' in newspapers, on radio and television.

The Hollings amendment reaches right in and rips the heart right out of the First Amendment.

No pretense. No artifice. No question about it. If you believe that the government—federal and state—ought to be omnipotent in their power to restrict all contributions and spending ''by, in support of, or in opposition to'' candidates for public office . . . then the Hollings amendment is for you.

If you believe that the United States Supreme Court should be taken out of the campaign finance equation, then the Hollings constitutional amendment is for you.

If the Hollings amendment had been in place twenty-five years ago, there would have been no Buckley v. Valeo decision. Congress would have gotten its way in the 1970s: independent expenditures would be capped at $1,000. Any issue advocacy that FEC bureaucrats deem capable of influencing an election would be capped at $1,000.

Citizen groups would have to disclose to the government their donor lists. Sierra Club members who live in small towns out west where environmentalists are not universally revered—and whose need for anonymity has been cited by Sierra Club officials as the reason they keep donor names secret—would have their names publicly listed on a government database, probably the Internet.

All of us politicians' campaigns would be constrained by mandatory spending limits. There would be no ''millionaire's loophole'' because millionaires would be under the spending limits, too.

There would be no taxpayer financing. It would not be necessary, because spending limits would not have to be voluntary.

That's why the American Civil Liberties Union counsel, Joel Gora, who was part of the legal team in the Buckley case has labeled the Hollings constitutional amendment: a ''recipe for repression.''

The media—news and entertainment divisions—ought to take note. There is no exemption for them in the Hollings constitutional amendment. No media ''loophole.'' Under the Hollings constitutional amendment, the federal and stage governments could regulate, restrict, even prohibit, the media's own issue advocacy, independent expenditures and contributions. Just so long as the restrictions were deemed ''reasonable.''

I commend the Senator from South Carolina for offering this amendment, insofar as he lays out on the table just what the stakes are in the campaign finance debate.

To do what the reformers say they want to do—limit ''special interest'' influence—requires limiting the United States Constitution which gives ''special interest''—that is, all Americans—the freedom to speak, the freedom to associate with others in a cause, and the freedom to petition the government for a redress of grievances.

You have to gut the first amendment. You have to throw out on the trash heap that freedom which the U.S. Supreme Court said six decades ago, is ''the matrix, the indispensable condition of nearly every other form of freedom.''

If you believe McCain-Feingold is constitutional, as its advocates claim it is, then you do not need the Hollings constitutional amendment. In fact, Senator FEINGOLD is against the constitutional amendment.

If you vote for the Hollings constitutional amendment, then you have affirmed what so many of us in and outside of the Senate have been saying: that to do what McCain Feingold's proponents want to do—restrict all spending by, in support of and in opposition to candidates, then you need to get rid of the first amendment. That is the core of the problem.

If you really want to reduce special interest influence on American politics, you need to get rid of the first amendment.

Fortunately, Madam President, this amendment, which Senator HOLLINGS has certainly persevered in offering over the years, continues to lose support. The first time I was involved in this debate back in 1988, it actually passed—bearing in mind it requires 67, a majority, for this amendment—52–42. That rough majority persisted in a second vote in 1988 and then a sense of the Senate vote in 1993.

Then in 1995 the support for it dropped from 52 down to 45 and in 1997 from 45 down to 38, and last year, March 28, 2000, this proposal was defeated 67–33. Only 33 Senators a year ago believed it was appropriate to amend the Constitution for the first time in history to give the Government this kind of power.

One of the reasons this constitutional amendment is growing in unpopularity is that it has a lot of opponents. Common Cause is opposed to it. I ask unanimous consent two letters from Common Cause on the subject be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMON CAUSE,
Washington, DC, March 12, 1997.

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

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

Under existing Supreme Court doctrine, Congress has significant scope to enact tough and effective campaign finance reform consistent with the Court's interpretation of the First Amendment in Buckley.

The McCain-Feingold bill, S.25, provides for significant reform within the framework

of the Buckley decision. The legislation would:

Ban soft money;

Provide reduced postage rates and free or reduced cost television time as incentives for congressional candidates to agree to restrain their spending;

Close loopholes related to independent expenditures and campaign ads that masquerade as ''issue advocacy'';

Reduce the influence of special-interest political action committee (PAC) money;

Strengthen disclosure and enforcement.

A recent letter to Senators McCain and Feingold from constitutional scholar Burt Neuborne, the Legal Director of the Brennan Center for Justice and a past National Legal Director of the ACLU, sets forth the case that the McCain-Feingold bill is constitutional, Professor Neuborne finds that the key provisions of the bill are within the Court's existing interpretation of the First Amendment, and he thus demonstrates that a constitutional amendment is not necessary to enact reform.

Professor Neuborne concludes that the voluntary spending limits in the McCain-Feingold bill are consistent with the Supreme Court's ruling in *Buckley*. He further concludes that ''Congress possesses clear power to close the soft money loophole by restricting the source and size of contributions to political parties. . . .'' He also concludes that efforts to close loopholes relating to independent expenditures and so-called ''issue ads'' are also within Congress existing authority.

It is, therefore, not necessary to amend the Constitution in order to enact meaningful campaign finance reform. Congress has the power, consistent with the First Amendment, to enact comprehensive reform by statute.

A constitutional amendment for campaign finance reform should not be used as a way to delay reform legislation. Typically, amending the Constitution takes years. After both Houses of Congress adopt an amendment by a two-thirds vote, it has to be approved by three-quarters of the state legislatures. Even then, the Congress would still have to take up enacting legislation. This is a lengthy and arduous process.

Congress needs to act now to address the growing scandal in the campaign finance system. Congress can act now—and consitutionally—to adopt major reforms. Congress need not and should not start a reform process that will take years to complete by pursing campaign finance reform through a constitutional amendment. Instead, the Senate should focus its efforts on enacting S.25, comprehensive bipartisan legislation that represents real reform. It is balanced, fair, and should be enacted this year to ensure meaningful reform of the way congressional elections are financed.

Sincerely.

ANN MCBRIDE,
President.

COMMON CAUSE,
Washington, DC, March 23, 1988.

DEAR SENATOR: The Senate is expected to consider shortly S.J. Res. 21, a proposed amendment to the Constitution to give Congress the power to enact mandatory limits on expenditures in campaigns. Common Cause urges you not to support S.J. Res. 21.

The fundamental problems caused by the massive growth in spending for congressional elections and by special interest PAC giving demand effective and expeditious solution. The Senate recently came within a handful of votes of achieving this goal. For the first time since the Watergate period, a majority of Senators went on record in support of comprehensive campaign finance reform legislation, including a system of spending limits for Senate races. It took an obstructionist filibuster by a minority of Senators to block the bill from going forward.

The Senate now stands within striking distance of enacting comprehensive legislation to deal with the urgent problems that confront the congressional campaign finance system. The Senate should not walk from or delay effort. But that is what will happen if the Senate chooses to pursue a constitutional amendment, an inherently lengthy and time-consuming process.

S.J. Res. 21, the proposed constitutional amendment, would not establish expenditure limits in campaigns; it would only empower the Congress to do so. Thus even if two-thirds of the Senate and the House should pass S.J. Res. 21 and three-quarters of the states were to ratify the amendment, it would then still be necessary for the Senate and the House to pass legislation to establish spending limits in congressional campaigns.

Yet it is this very issue of whether there should be spending limits in congressional campaigns that has been at the heart of the recent legislative battle in the Senate. Opponents of S. 2, the Senatorial Election Campaign Act, made very clear that their principal objection was the establishment of any spending limits in campaigns.

So even assuming a constitutional amendment were to be ratified, after years of delay the Senate would find itself right back where it is today—in a battle over whether there should be spending limits in congressional campaigns. In the interim, it is almost certain that nothing would have been done to deal with the scandalous congressional campaign finance system.

There are other serious questions that need to be considered and addressed by anyone who is presently considering supporting S.J. Res. 21.

For example, what are the implications if S.J. Res. 21 takes away from the federal courts any ability to determine that particular expenditure limits enacted by Congress discriminate against our otherwise violate the constitutional rights of challengers?

What are the implications, if any, of narrowing by constitutional amendment the First Amendment rights of individuals as interpreted by the Supreme Court?

We believe that campaign finance reform legislation must continue to be a top priority for the Senate as it has been in the 100th Congress. If legislation is not passed this year, it should be scheduled for early action in the Senate and the House in 1989.

In conclusion, Common Cause strongly urges the Senate to face up to its institutional responsibilities to reform the disgraceful congressional campaign finance system. The Senate should enact comprehensive legislation to establish a system of campaign spending limits and aggregate PAC limits, instead of pursuing a constitutional amendment that will delay solving this fundamental problem for years and then still leave Congress faced with the need to pass legislation to limit campaign spending.

Sincerely,

FRED WERTHEIMER,
President.

Mr. MCCONNELL. The Washington Post is against it, and I ask unanimous consent their editorial opposing it be printed in the RECORD.

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

[From the Washington Post, Apr. 6, 1988]

CAMPAIGN SPINACH

Sen. Ernest Hollings was not an admirer of S. 2, the sturdy bill his fellow Democrats tried to pass to limit congressional campaign spending by setting up a system of partial public finance. He agreed to vote for cloture, to break a Republican filibuster, only after Majority Leader Robert Byrd agreed to bring up a Hollings constitutional amendment if cloture failed. Mr. Byrd, having lost on S. 2, is now about to do that.

Right now Congress can't just limit spending and be done with it; the Supreme Court says such legislation would violate the First Amendment. Limits can only be imposed indirectly—for example, as a condition for receipt of public campaign funds. The Hollings amendment would cut through this thick spinach by authorizing Congress to impose limits straightaway. The limits are enticing, but the constitutional amendment is a bad idea. It would be an exception to the free speech clause, and once that clause is breached for one purpose, who is to say how many others may follow? As the American Civil Liberties Union observed in opposing the measure, about the last thing the country needs is ''a second First Amendment.''

The free speech issue arises in almost any effort to regulate campaigns, the fundamental area of free expression on which all others depend. There has long been the feeling in and out of Congress—which we emphatically share—that congressional campaign spending is out of hand. Congress tried in one of the Watergate reforms to limit both the giving and the spending of campaign funds. The Supreme Court in its Buckley v. Valeo decision in 1976 drew a rather strained distinction between these two sides of the campaign ledger. In a decision that let it keep a foot in both camps—civil liberties and reform—it said Congress could limit giving but not spending (except in the context of a system of public finance). In the first case the court found that ''the governmental interest in preventing corruption and the appearance of corruption'' outweighed the free speech considerations, while in the second case it did not.

Mr. Hollings would simplify the matter, but at considerable cost. His amendment said, in a recent formulation: ''The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal offices.'' But that's much too vague, and so are rival amendments that have been proposed. Ask yourself what expenditures of a certain kind in an election year are not ''intended to affect'' the outcome? At a certain point in the process, just about any public utterance is.

Nor would the Hollings amendment be a political solution to the problem. Congress would still have to vote the limits, and that is what the Senate balked at this time around.

As Buckley v. Valeo demonstrates, this is a messy area of law. The competing values are important; they require a balancing act. The Hollings amendment, in trying instead to brush the problem aside, is less a solution than a dangerous show. The Senate should vote it down.

Mr. MCCONNELL. No surprisingly, George Will is opposed to it, and I ask unanimous consent two editorials be printed in the RECORD.

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

[From the Washington Post, Feb. 13, 1997]

GOVERNMENT GAG

(By George F. Will)

''To promote the fair and effective functioning of the democratic process, Congress, with respect to elections for federal office, and States, for all other elections, including initiatives and referenda, may adopt reasonable regulations of funds expended, including

contributions, to influence the outcome of elections, provided that such regulations do not impair the right of the public to a full and free discussion of all issues and do not prevent any candidate for elected office from amassing the resources necessary for effective advocacy.

''Such governments may reasonably define which expenditures are deemed to be for the purpose of influencing elections, so long as such definition does not interfere with the right of the people fully to debate issues.

''No regulation adopted under this authority may regulate the content of any expression of opinion or communication.''—Proposed amendment to the Constitution

Like the imperturbable Sir Francis Drake, who did not allow the Spanish Armada's arrival off England to interrupt a game of bowling, supposed friends of the First Amendment are showing notable sang-froid in the face of ominous developments. Freedom of speech is today under more serious attack than at any time in at least the last 199 years—since enactment of the Alien and Sedition Acts. Actually, today's threat, launched in the name of political hygiene, is graver than that posed by those acts, for three reasons.

First, the 1798 acts, by which Federalists attempted to suppress criticism of the government they then controlled, were bound to perish with fluctuations in the balance of partisan forces. Today's attack on free speech advances under a bland bipartisan banner of cleanliness.

Second, the 1798 acts restricted certain categories of political speech and activities, defined, albeit quite broadly, by content and objectives. Today's enemies of the First Amendment aim to abridge the right of free political speech generally. It is not any particular content but the quantity of political speech they find objectionable,

Third, the 1798 acts had expiration dates and were allowed to expire. However, if today's speech-restrictors put in place their structure of restriction (see above), its anti-constitutional premise and program probably will be permanent.

Its premise is that Americans engage in too much communication of political advocacy, and that government—that is, incumbents in elective offices—should be trusted to decide and enforce the correct amount. This attempt to put the exercise of the most elemental civil right under government regulation is the most frontal assault ever mounted on the most fundamental principle of the nation's Founders.

The principle is that limited government must be limited especially severely concerning regulation of the rights most essential to an open society. Thus the First Amendment says ''Congress shall make no law . . . abridging the freedom of speech,'' not ''Congress may abridge the freedom of speech with such laws as Congress considers reasonable.''

The text of the proposed amendment comes from Rep. Richard Gephardt, House minority leader, who has the courage of his alarming convictions when he says: ''What we have is two important values in conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both.''

However, he also says: ''I know this is a serious step to amend the First Amendment. . . . But . . . this is not an effort to diminish free speech.'' Nonsense. Otherwise Gephardt would not acknowledge that the First Amendment is an impediment.

The reformers' problem is the Supreme Court, which has affirmed the obvious: Restrictions on the means of making speech heard, including spending for the dissemination of political advocacy, are restrictions on speech. It would be absurd to say, for example: ''Congress shall make no law abridging the right to place one's views before the public in advertisements or on billboards but Congress can abridge—reasonably, of course—the right to spend for such things.

Insincerity oozes from the text of the proposed amendment. When Congress, emancipated from the First Amendment's restrictions, weaves its web of restraints on political communication, it will do so to promote its understanding of what is the ''fair'' and ''effective'' functioning of democracy, and ''effective'' advocacy. Yet all this regulation will be consistent with ''the right of the people fully to debate issues,'' and with ''full and free discussion of all issues''—as the political class chooses to define ''full'' and ''free'' and the ''issues.''

In 1588 England was saved not just by Drake but by luck—the ''Protestant wind'' that dispersed the Armada. Perhaps today the strangely silent friends of freedom—why are not editorial pages erupting against the proposed vandalism against the Bill of Rights?—are counting on some similar intervention to forestall today's ''reformers,'' who aim not just to water the wine of freedom but to regulate the consumption of free speech.

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[From the Washington Post, Apr. 2, 2000]

IMPROVING THE BILL OF RIGHTS

(By George F. Will)

Last week Washington was a sight to behold. Two sights, actually, both involving hardy perennials. The city was a riot of cherry blossoms. And senators were again attacking the First Amendment.

Thirty-three senators—30 Democrats and three Republicans—voted to amend the First Amendment to vitiate its core function, which is to prevent government regulation of political communication. The media generally ignored this: Evidently assaults on the First Amendment are now too routine to be newsworthy. Besides, most of the media favor what last week's attack was intended to facilitate, the empowerment of government to regulate political advocacy by every individual and group except the media.

The attempt to improve Mr. Madison's Bill of Rights came from Fritz Hollings, the South Carolina Democrat, who proposed amending the First Amendment to say Congress or any state ''shall have power to set reasonable limits on the amount of contributions that may be accepted, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, federal office.''

So, this license for politicians to set limits on communication about politicians requires that the limits be, in the judgment of the politicians, ''reasonable.'' Are you reassured? Hollings, whose candor is as refreshing as his amendment is ominous, says, correctly, that unless the First Amendment is hollowed out as he proposes, the McCain-Feingold speech-regulation bill is unconstitutional.

Fuss Feingold, the Wisconsin Democrat who is John McCain's co-perpetrator, voted against Hollings in order to avoid affirming that McCain-Feingold is unconstitutional. McCain voted with Hollings.

The standard rationale for regulating the giving and spending that is indispensable for political communication is to avoid ''corruption'' or the appearance thereof. Hollings, who has been a senator for 33 years, offered a novel notion of corruption. He said the Senate under Montana's Mike Mansfield (who was majority leader 1961–76) used to work five days a week. But now, says Hollings, because of the imperatives of fundraising, ''Mondays and Fridays are gone'' and ''we start on the half day on Tuesdays,'' and there are more and longer recesses. All of which, says Hollings, constitutes corruption.

Well. The 94th Congress (1975–76), Mansfield's last as leader, was in session 320 days and passed 1,038 bills. The 105th Congress (1997–98) was in session 296 days and passed 586 bills. The fact that 22 years after Mansfield's departure there was a 7.5 percent reduction in the length of the session but a 43.5 percent reduction in legislative output is interesting. But it is peculiar to think that passing 586 bills in two years—almost two bills every day in session—is insufficient. Is the decline in output deplorable, let alone a form of corruption, and hence a reason for erecting a speech-rationing regime?

The Framers of the First Amendment were not concerned with preventing government from abridging their freedom to speak about crops and cockfighting, or with protecting the expressive activity of topless dancers, which of late has found some shelter under the First Amendment. Rather, the Framers cherished unabridged freedom of political communication. Last week's 33 votes in favor of letting government slip Mr. Madison's leash and regulate political talk were 34 fewer than the required two-thirds, and five fewer than Holling's amendment got in 1997. Still, every time at least one-third of the Senate stands up against Mr. Madison, it is, you might think, newsworthy.

Last week's campaign reform follies included a proposal so bizarre it could have come only from a normal person in jest, or from Al Gore in earnest. He proposes to finance all congressional and Senate races from an ''endowment'' funded with $7.1 billion (the .1 is an exquisite Gore flourish) in tax deductible contributions from individuals and corporations.

An unintended consequence of Gore's brainstorm would be to produce, in congressional races across the country, spectacles like that in the Reform Party today—federal money up for grabs, and the likes of Pat Buchanan rushing to grab it. But would money flow into the endowment?

With the scary serenity of a liberal orbiting reality, Gore says: ''The views of the donor will have absolutely no influence on the views of the recipient.'' Indeed, but the views of particular recipients also would be unknown to particular donors because all money pour into and out of one pool. So what would be the motive to contribute?

Still, Gore has dreamt up a new entitlement (for politicians) to be administered by a new bureaucracy—a good day's work for Gore.

Mr. MCCONNELL. The ACLU, of course, is opposed to it. I ask their letter in opposition be printed in the RECORD.

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

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, March 24, 2000.

DEAR SENATOR: The American Civil Liberties Union strongly opposes S.J. Res. 6, the proposed constitutional amendment that permits Congress and the states to enact laws regulating federal campaign expenditures and contributions.

Whatever one's position may be on campaign finance reform and how best to achieve it, a constitutional amendment of the kind here proposed is not the solution. Amending the First Amendment for the first time in our history in the way that S.J. Res. 6 proposes would challenge all pre-existing First Amendment jurisprudence and would give to Congress and the states unprecedented,

sweeping and undefined authority to restrict speech protected by the First Amendment since 1791.

Because it is vague and over-broad, S.J. Res. 6 would give Congress a virtual ''blank check'' to enact any legislation that may abridge a vast array of free speech and free association rights that we now enjoy. In addition, this measure should be opposed because it provides no guarantee that Congress or the states will have the political will, after the amendment's adoption, to enact legislation that will correct the problems in our current electoral system. This amendment misleads the American people because it tells them that only if they sacrifice their First Amendment rights, will Congress correct the problems in our system. Not only is this too high a price to demand in the name of reform, it is unwise to promise the American people such an unlikely outcome.

Rather than assuring that the electoral processes will be improved, a constitutional amendment merely places new state and federal campaign finance law beyond the reach of First Amendment jurisprudence. All Congress and the states would have to demonstrate is that its laws were ''reasonable.'' ''Reasonable'' laws do not necessarily solve the problems of those who are harmed by or locked out of the electoral process on the basis of their third party status, lack of wealth or non-incumbency. The First Amendment properly prevents the government from being arbitrary when making these distinctions, but S.J. Res. 6 would enable the Congress to set limitations on expenditures and contributions notwithstanding current constitutional understandings.

Once S.J. Res. 6 is adopted, Congress and local governments could easily further distort the political process in numerous ways. Congress and state governments could pass new laws that operate to the detriment of dark horse and third party candidates. For example, with the intention of creating a ''level playing field'' Congress could establish equal contribution and expenditure limits that would ultimately operate to the benefit of incumbents who generally have higher name recognition, greater access to their party apparatus and more funds than their opponents. Thus, rather than assure fair and free elections, the proposal would enable those in power to perpetuate their own power and incumbency advantage to the disadvantage of those who would challenge the status quo.

S.J. Res. 6 would also give Congress and every state legislature the power, heretofore denied by the First Amendment, to regulate the most protected function of the press—editorializing. Print outlets such as newspapers and magazines, broadcasters, Internet publishers and cable operators would be vulnerable to severe regulation of editorial content by the government. A candidate-centered editorial, as well as op-ed articles or commentary printed at the publisher's expense are most certainly expenditures in support of or in opposition to particular political candidates. The amendment, as its words make apparent, would authorize Congress to set reasonable limits on the expenditures by the media during campaigns, when not strictly reporting the news. Such a result would be intolerable in a society that cherishes the free press.

Even if the Congress exempted the press from the amendment, what rational basis would it use to distinguish between certain kinds of speech? For example, why would it be justified for Congress to allow a newspaper publisher to run unlimited editorials on behalf of a candidate, but to make it unlawful for a wealthy individual to purchase a unlimited number of billboards for the same candidate? Likewise, why would it be permissible for a major weekly newsmagazine to run an unlimited number of editorials opposing a candidate, but impermissible for the candidate or his supporters to raise or spend enough money to purchase advertisements in the same publication? At what point is a journal or magazine that is published by an advocacy group different from a major daily newspaper, when it comes to the endorsement of candidates for federal office? Should one type of media outlet be given broader free expression privileges than the other? Should national media outlets have to abide for fifty different state and local standards for expenditures? These are questions that Congress has not adequately addressed or answered.

Moreover, the proposed amendment appears to reach not only expenditures by candidates or their agents but also the truly independent expenditures by individual citizens and groups—the very speech that the First Amendment was designed to protect.

If Congress or the states want to change our campaign finance system, then it need not throw out the First Amendment in order to do so. Congress can adopt meaningful federal campaign finance reform measures without abrogating the First Amendment and without contravening the Supreme Court's decision in Buckley v. Valeo. Some of these reform measures include:

Public financing for all legally qualified candidates—financing that serves as a floor, not a ceiling for campaign expenditures;

Extending the franking privilege to all legally qualified candidates;

Providing assistance to candidates for broadcasting advertising;

Improving the resources for the FEC so that it can provide timely disclosure of contributions and expenditures;

Providing resources for candidate travel.

Rather than argue for these proposals, many members of Congress continue to propose unconstitutional measures, such as the McCain/Feingold bill that are limit-driven methods of campaign finance reform that place campaign regulation on a collision course with the First Amendment. Before Senators vote to eliminate certain First Amendment rights, the ACLU urges the Congress to consider other legislative options, and to give these alternatives its considered review through the hearing and mark-up processes.

The ACLU urges Senators to oppose S.J. Res. 6. As Joel Gora, Professor of Law of the Brooklyn Law School recently stated, ''This constitutional amendment is a recipe for repression.''

Sincerely,

LAURA W. MURPHY.

Mr. MCCONNELL. The Cato Institute is opposed. I ask unanimous consent its letter be printed in the RECORD.

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

THE CATO INSTITUTE,
Washington, DC, March 24, 2000.

Hon. MITCH MCCONNELL,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR CHAIRMAN MCCONNELL: Your office has invited my brief thoughts on S.J. Res. 6, offered by Senator Hollings for himself and Senators Specter, McCain, and Bryan, which proposes an amendment to the Constitution of the United States that would grant power to the Congress and the States ''to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to,'' any federal, state, or local office.

It is my understanding that on Monday next, Senator Hollings is planning to offer this resolution as an amendment to the flag-burning amendment now before the Senate. For my thoughts on the proposed flag-burning amendment, please see the testimony I have given on the issue, as posted at the website of the American Civil Liberties Union, and the op-ed I wrote for the Washington Post, copies of which are attached.

Regarding the proposed campaign finance amendment, I am heartened to learn that those who want to ''reform'' our campaign finance law are admitting that a constitutional amendment is necessary. But that very admission speaks volumes about the present unconstitutionality of most of the proposals now in the air. It is not for nothing that the Founders of this nation provided explicitly for unrestrained freedom of political expression and association—which includes, the Court has said, the right to make political contributions and expenditures. They realized that governments and government officials tend to serve their own interests, for which the natural antidote is unfettered political opposition—in speech and in the electoral process.

In the name of countering that tendency this amendment would restrict its antidote. It is a ruse—an unvarnished, transparent effort to restrict our political freedom and, by implication, the further freedoms that freedom ensures. That it is dressed in the gossamer clothing of ''reform'' only compounds the evil—even as it exposes its true character. If the true aim of this amendment is incumbency protection, then let those who propose it come clean. Otherwise, they must be challenged to show why the experience of previous ''reforms'' will not be repeated in this case too. Given the evidence, that will not be an enviable task.

Fortunately, candor is still possible in this nation. This is an occasion for it. I urge you to resist this amendment with the forces that candor commands.

Yours truly,

ROGER PILON.

Mr. MCCONNELL. Other countries tried to do what the distinguished Senator from South Carolina seeks to do, other countries unfettered by the first amendment. They don't have the problem we have in trying to restrict the speech of their citizens. A quick glance around the world makes clear that more government control of speech in the places where it is allowed is not the answer.

The first amendment distinguishes us from the rest of the world. The first amendment allows the citizens—not the government; the citizens, not the government—to control speech. Consequently, much of the rest of the world has restricted political speech far more than we have in the United States. Reformers abroad, as those at home, seek to reduce cynicism about the government and increase voter participation. With no first amendment in these other countries to get in the way, the reformers have been able to enact sweeping reforms.

Let me share with my colleagues some of the other countries' experience. Canada, our neighbor to the north, has passed many of the types of regulations supported by those supporting McCain-Feingold. Canada has

adopted the following regulations of political speech: A spending limit that all national candidates must abide by to be eligible to receive taxpayer matching funds. Candidates can spend $2 per voter for the first 15,000 votes they get, and $1 per voter for all the votes up to 25,000, and 50 cents per voter beyond 25,000 voters.

There are spending limits on parties that restrict parties to spending a product of a multiple used to account for the cost of living times the number of registered voters in each electoral district in which the party has a candidate running for office. It comes out now to about $1 a voter.

The Canadian Government requires that radio and television stations provide all parties with a specified amount of free time during the month prior to the election. The Government also provides subsidies to defray the cost of political publishing and gives tax credits to individuals and corporations which donate to candidates and/or parties.

The most recent political science studies of Canada demonstrate, despite all of this regulation of political speech by candidates and parties, the number of Canadians who believe the Government doesn't care what people such as I think has grown from roughly 45 percent to approximately 67 percent. Confidence in the national legislature has declined from 49 percent to 21 percent, and the number of Canadians satisfied with their system of government has declined from 51 percent to 34 percent.

If you think the Canadians have gotten a handle on speech, let me tell you about the Japanese. In order to try to squeeze all that opinion out of politics, the Japanese Government limits the number of days you can campaign, the number of speeches you can give, the types of places you can speak, the number of handbills and bumper stickers you can print, and even the number of megaphones you can buy. They allow each candidate to have one megaphone. So I think we can pretty safely say that over in Japan, unfettered buying, anything like the first amendment, they have squeezed all that money right out of politics.

What has been the result? The number of Japanese citizens who have ''no confidence in legislators'' has risen to 70 percent and voter turnout has continued to decline.

Let's take a look at another country that has passed these kinds of sweeping restraints on citizens' speech—France. In France, they have government funding of candidates, government funding of parties, free radio and television time, reimbursement for printing posters and for campaign-related transportation. They ban contributions to candidates by any entity except parties and political action committees. Individual contributions to parties are limited, and there are strict expenditure limits set for each electoral district and frequent candidate auditing.

Despite these regulations, the latest political science studies in France indicate that the French people's confidence in their government and political institutions has continued to decline and voter turnout has continued to decline.

Let's take a look at Sweden. Sweden has imposed the following regulations on political speech. In Sweden, there is no fundraising or spending at all for individual candidates. Citizens merely vote for parties which assign seats on the proportion of the votes they receive. The government subsidizes print ads by parties. Despite the fact that Sweden has no fundraising or spending for individual candidates since these requirements have been in force, the number of Swedes disagreeing with the statement that ''parties are only interested in people's votes, not in their opinions'' has declined from 51 percent to 28 percent. The number of people expressing confidence in the Swedish Parliament has declined from 51 percent to 19 percent.

So my point is this: There are some countries that are unfettered, unburdened, if you will, by the free speech requirements of the first amendment, and they have gone right at the heart of this problem in a way that would warm the heart of the most aggressive reformer. They have squeezed all this money and all this speech right out of the system. All it has done is driven the cynicism up and the turnout down.

Even if all of these restrictions had been a good idea someplace in the world, they clearly are not a good idea here. I hope the trend on the Hollings constitutional amendment will continue. It is a downward trend. Last March only 33 Members of the Senate supported this constitutional amendment, and I hope that will be the high-water mark.

I believe Senator HATCH is here. He is controlling the time on this issue. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I rise this afternoon to address, as I have in prior years, the Constitutional Amendment to limit campaign contributions and expenditures that my colleague from South Carolina has once again brought to the Senate floor.

Two election cycles have come and gone since this amendment was first debated in this chamber. And, unfortunately, these last two elections have shown that money remains as big—or an even bigger—part of our campaigns as it was when this Amendment was first introduced.

I know that most in this body deplore the role of money in the electoral process. And, Mr. President, I believe that the debate in this chamber over the last week has plainly shown that each of us would vote in favor of a solution that would, in a fair, even-handed, and constitutional way, reduce the role of money in campaigns.

But as I noted in the debate over this same amendment in 1997, there is a right way of reforming our system of campaign finance. And, there are wrong ways.

While I certainly sympathize with the sentiments that have motivated my colleagues to introduce this proposal, I submit that circumscribing the First Amendment of our Constitution is simply the wrong way to address campaign finance reform. I also think the McCain-Feingold bill in fringes upon the First Amendment, and that is what the distinguished Senator from South Carolina is trying to resolve with his amendment, which would be the only way, it seems to me, of resolving this matter in a way that ultimately the people who are supporting the McCain-Feingold bill would like to do.

The proposal we are debating today would amend the Constitution to allow Congress and the States to set any ''reasonable'' limits on (1) campaign contributions made to a candidate and (2) expenditures in support or opposition to a candidate made by the candidate or on behalf of the candidate.

Why do I oppose this amendment?

For the first time in the history of this Republic this amendment would put an express limitation on one of the bulwark protections that has defined and strengthened this great nation for over two centuries—the First Amendment of the United States Constitution.

And perversely, we would not be seeking to limit this important safeguard of our liberty in order to eliminate speech that is on the margin of the First Amendment protection.

We would not be seeking to eliminate speech that deeply offends the majority of our citizens, such as the so-called speech involved in the desecration of our national symbols.

We would not be seeking to eliminate speech that malevolently capitalizes on the unhealthy historical divisions within our society, such as racially motivated ''hate speech.''

We would not be seeking to eliminate speech that insidiously corrupts the morals of our children, such as pornography.

No. Ironically, the first category of speech singled out for regulation by this proposal is the category of speech that is universally recognized as being at the core of the First Amendment protection: the right to engage in unfettered debate about political issues.

What the supporters of today's proposal often fail to emphasize is that the money involved in electoral campaigns does not end up in the pockets of the candidates. And it is not thrown into some black hole.

The money spent by campaigns, or by third parties in an effort to influence campaigns, is directed toward one simple aim: to express a particular message.

Money may be spent by a candidate to take out a newspaper advertisement setting forth his or her positions on the issues.

Money may be spent by an interest group on a television advertisement to publicize the voting record of an incumbent.

Money may be spent by a concerned individual to fund a study on how certain legislation would affect similarly situated people. In each case, the goal is the same: to educate and/or influence the electorate with respect to political issues.

Supporters of today's proposal believe that there is too much of this political debate. As a result, supporters of this proposal would curtail the First Amendment to allow Congress and the state legislatures to place limits on the amount of political debate that will be allowed in connection with an election.

If this amendment passes, will a person still be allowed to say, ''Vote against Senator X''? Yes, they will.

Will that person be able to print a handbill that says ''Vote against Senator X''? Only if the government decides that such an expenditure is ''reasonable.''

Will that person be able to take out an advertisement in a local newspaper that says, ''Vote against Senator X''? Only if the Government decides that such an expenditure is reasonable.

How is Congress to decide whether such expenditures are reasonable? The proposal we are debating today is silent on that subject. I would note, however, that Senator X would be one of the lawmakers responsible for deciding whether, and under what circumstances, such expenditures would be allowed.

In effect, today's proposal would allow Congress and the state legislatures to censor speech for just about any reason, as long as they could establish that their censorship was ''reasonable.'' The free speech rights of all Americans would be subject to the vagaries and passions of fleeting majorities. If there was anything our Founding Fathers really were concerned about and alarmed about, that is a pure majoritarian type of rule in the country.

The Hollings Amendment would change the very nature of our constitutional democratic form of government. By limiting robust political debate, the amendment would tilt the scales sharply in favor of incumbents, who benefit from limitations on debate because of their higher name recognition and their ability to direct governmental benefits to their home districts. Such advantages would only be magnified by permitting incumbents to decide what type of political speech is ''reasonable'' in connection with the efforts by challengers to unseat them.

I would like to take a couple of minutes to explain in greater depth what the dangers of this Constitutional amendment are:

Let me start with the importance of the first amendment to free elections.

The very purpose of the First Amendment's free speech clause is to ensure that the people's elected officials effectively and genuinely represent the public. The Founders of our country certainly understood the link between free elections and liberty. Representative government—with the consent of the people registered in periodic elections—was—to these leaders of our new nation—the primary protection of natural or fundamental rights. As Thomas Jefferson put it in the Declaration of Independence, to secure rights ''Governments are instituted among Men'' and must derive ''their just Powers from the Consent of the Governed.''

The nexus between free elections and free speech was equally understood. As Jefferson said:

> Were it left to me to decide whether we should have a government without newspapers, or newspapers without government, I should not hesitate a moment to prefer the latter.

[Letter from Thomas Jefferson to Edward Carrington (January 16, 1787), reprinted in 5 The Founder's Constitution 122 (P. Kurland & R. Lerner ed., 1987)].

Without free speech, there can be no government based on consent because such consent can never be truly informed. Obviously, we would have no democracy at all if the government were allowed to silence people's voices during an election. It is especially important to our democracy that we protect a person's right to speak freely during an electoral campaign—because it is through elections that the fundamental issues of our democracy are most thoroughly debated, and it is through our elections that the leaders of our democracy are put in place to carry out the people's will.

No. 2, the amendment will overturn the Buckley case.

The Supreme Court of the United States recognized this fundamental principle of democracy in the 1976 case of Buckley v. Valeo. In that case, the Court held:

> Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order to assure the unfettered interchange of ideas. . . [Buckley v. Valeo, 424 U.S. at 14].

Moreover, the Court in Buckley recognized that free speech is meaningless unless it is effective. During a campaign, not only does a person have the right to speak out on candidates and issues, a person also has the right to speak out in a manner that will be heard. The right to speak would have little meaning if the government could place crippling controls on the means by which a person was permitted to communicate his message. For instance, the right to speak would have little meaning if a person was required to speak in an empty room with no one listening.

And in today's society, the right to speak would have little meaning if a person were required to forego television, radio, and other forms of mass media, and was instead forced to go door to door to impart his message solely by word of mouth. Accordingly, the Supreme Court in Buckley v. Valeo, and in a string of subsequent cases, has consistently ruled that campaign contributions and expenditures are constitutionally protected forms of speech, and that regulation of campaign contributions and expenditures must be restrained by the prohibitions of the First Amendment.

The Buckley Court made a distinction between campaign contributions and campaign expenditures. The Court found that the free speech concerns inherent in campaign contributions are less than in campaign expenditures because contributions convey only a generalized expression of support. But expenditures are another matter. These are given higher First Amendment protection because they are direct expressions of speech.

In the words of the Buckley Court:

> A restriction on the amount of money a person or group can spend 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. This is because virtually every means of communicating in today's mass society requires the expenditure of money. [424 U.S. at 19–20].

The Hollings Amendment's allowance of restrictions on expenditures by Congress and state legislatures would impose direct and substantial restraints on the quantity of political speech. It would permit significant limitations on both individuals and groups from spending money to disseminate their own ideas as to which candidate should be supported and what cause is just. The Supreme Court noted that such restrictions on expenditures, even if ''neutral as to the ideas expressed, limit political expression at the core of our electoral process and of the First Amendment freedoms.'' [Buckley at 39].

Indeed, under the Hollings proposal, even candidates could be restricted from engaging in protected First Amendment expression. Justice Brandeis observed, in Whitney v. California, [274 U.S. 357, 375 (1927)], that in our republic, ''public discussion is a political duty,'' and that duty will be circumscribed where a candidate is prevented from spending his or her own money to spread the electoral message. That a candidate has a First Amendment right to engage in public issues and advocate particular positions was considered by the Buckley Court to be of:

> particular importance . . . candidates [must] have the unfettered opportunity to make their views known so that the electorate may intelligently evaluate the candidates' personal qualities and their positions on vital public issues before choosing among them on election day. 424 U.S. at 53.

Campaign finance reform should not be at the expense of free speech. This amendment—in trying to reduce the costs of political campaigns—could cost us so much more. It could cost us our heritage of political liberty.

Groups as diverse as the ACLU and the Heritage Foundation have united in their opposition to this constitutional amendment. The ACLU calls the amendment a ''recipe for repression'' and the Heritage Foundation characterizes it as an abridgement of our ''fundamental liberty.''

Mr. President, there are some who may believe that the First Amendment is inconsistent with campaign finance reform. I strongly disagree.

In fact, just the opposite is true. It is impossible to have healthy campaigns in a healthy democracy without freedom of speech as it is currently protected by our First Amendment. That is why I oppose the Hollings Amendment.

No. 3, the amendment will blur the distinction between express and issue advocacy.

This proposed constitutional amendment is so broad that it would also blur the distinction between express advocacy and issue advocacy.

The Supreme Court in Buckley held that any campaign finance limitations apply only to ''communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office.'' [Buckley, 424 U.S. at 44]. Communications without these electoral advocacy terms have subsequently been classified by courts as ''issue advocacy'' entitled to full First Amendment strict scrutiny protection.

This constitutional amendment is drafted in a such a manner that pure issue advocacy will be swept up in regulation. In fact, the Amendment is so broad that it would allow regulation of political speech, even if such speech doesn't refer to a particular candidate. If a statement implies that a candidate is for or against an issue, that speech could fall under expenditure limits authorized by this provision.

This is a compete reversal of the ''bright line'' test established by the Supreme Court that protects issue advocacy from regulation unless it uses words that expressly advocate the election or defeat of a clearly identified candidate. It is also a complete reversal of the view now encompassed in law that government has no real interest in restricting the free flow of speech and ideas.

Now, supporters of this constitutional amendment may tell us that they are all for ending the distinction imposed by Buckley between express advocacy and issue advocacy and that it is in practice unworkable. Well, they are in part right. Sometimes it is a hard line to draw. But this ''bright line'' test does have the great benefit that if error exists, it falls on the side of free speech.

Look, nothing in this world is perfect, particularly in the world of campaigns and politics. So if we err, if we make mistakes, doesn't make sense to create a system where the mistake results in the over-protection of a fundamental constitutional right?

If we believe that the distinction between issue and express advocacy is unworkable, then the solution is to protect both under the strictest of safeguards. Each, in my view, should have the highest First Amendment protection—and I believe that this is the direction that the Supreme Court will eventually take.

I believe the adoption of this constitutional amendment is wrong.

Amending the Constitution should not be done lightly. And amending the First Amendment should only be done for the most compelling, exigent reasons. These reasons are not present.

If S.J. Res. 4 were ratified, pre-existing first amendment jurisprudence would be overturned and Congress and the States would have unprecedented, sweeping and undefined authority to restrict speech currently protected by the first amendment.

This constitutional amendment places State and Federal campaign finance law beyond the reach of first amendment jurisprudence. All that Congress and the States would have to demonstrate to the Court is that their laws restricting political speech were ''reasonable.'' No longer would Congress have to demonstrate a ''compelling interest'' in order to infringe on our citizens first amendment liberties.

If S.J. Res. 4 is adopted, Congress and State legislatures could easily distort the political process. Indeed, the ACLU, not an institution that I always agree with, in reflecting on a nearly identical proposed constitutional amendment in 1997, noted that incumbents could pass laws virtually guaranteeing their reelection. I quote:

> Congress and state governments could pass new laws that operate to the detriment of dark-horse and third party candidates. For example, with the intention of creating a ''level playing field'' Congress could establish equal contribution and expenditure limits that would ultimately operate to the benefit of incumbents who generally have a higher name recognition than their opponents, and who are often able to do more with less funding. Thus, rather than assure fair and free elections, the proposal would enable those in power to perpetuate their own power and incumbency advantage to the disadvantage of those who would challenge the status quo.

Moreover, ratification of this constitutional amendment could very well destroy the freedom of the press. Let me quote the ACLU again:

> [The Amendment] would also give Congress and every state legislature the power, heretofore denied by the First Amendment, to regulate the most protected function of the press—editorializing. Print outlets such as newspapers and magazines, broadcasters, Internet publishers and cable operators would be vulnerable to severe regulation of editorial content by the government. A candidate-centered editorial, as well as op-ed articles or commentary printed at the publisher's expense are most certainly expenditures in support of or in opposition to particular political candidates. The amendment, as its words make apparent, would authorize Congress to set reasonable limits on the expenditures by the media during campaigns, when not strictly reporting the news. Such a result would be intolerable in a society that cherishes the free press.

Let me point out again that the proposed amendment appears to reach not only expenditures by candidates but also independent expenditures by individual citizens and groups. These independent expenditures are the very type of speech that the first amendment was designed to protect.

Madam President, I am sure the authors of this amendment are very sincere and that they mean well by the amendment. I have no doubt about that. I know my colleague from South Carolina, and he is a good man and a fine Senator. I think he probably believes that no Congress of the United States would go beyond certain reasonable limits and neither would any State legislature.

But what guarantees do we have, should this amendment pass, that a bunch of radicals would not be able to take control of the House and Senate or respective State legislatures? And if they do, how are we going to be assured that the Supreme Court will set things right if this amendment passes and becomes part of the Constitution?

I would hope that people elected to the Congress would never act inappropriately. I would hope that people elected to State legislatures would never act inappropriately or that they would not act so as to take away basic fundamental rights of people. But if this amendment passes, there is no guarantee that we will not someday have that type of radicalness that will take over in some States first and then ultimately perhaps even in the Congress.

There is a wide disparity of beliefs sometimes between the far left and the far right over what are fundamental rights. I have to tell you, if either of them really got control, under this amendment it could be a real mess.

Plus, this amendment basically, it seems to me, makes it very difficult for those who are challenging incumbents to be able to make a challenge that really the first amendment anticipates they should be permitted to make.

I have talked long enough. For reasons I have set forth this afternoon, it is my view that adoption and ratification of this amendment would fundamentally change our constitutional Republic. The censorship power of government would inalterably be enlarged. Free speech and free elections would be endangered. As sincerely brought as this amendment is, I still believe it is a very dangerous amendment in the overall scope of things. Perhaps if we had 100 people exactly like the distinguished Senator from South Carolina, this amendment would work just as well as could be. But I do not think we can always rely on that. I am concerned about that. Plus, I do not think that you should take away rights that really are speech rights when it comes to elections.

In contrast, of course, I am the author of the constitutional amendment to permit Congress to ban the physical desecration of our flag. A number of

times this Congress has passed legislation, with overwhelming support, to stop that, but each time it has been declared unconstitutional.

Frankly, I do not believe that urinating on our flag or desecrating our flag by somebody defecating on it or by burning it, that that is what you would call speech, but that is what the Supreme Court has said. In that case, we do need a constitutional amendment.

Unlike the Hollings amendment, the flag amendment would not affect the first amendment.

Some have suggested that my opposition to the Hollings amendment is inconsistent with my strong support for the flag protection amendment. Nothing could be further from the truth.

Unlike the Hollings amendment, the flag protection amendment simply restores the first amendment to what it meant before two recent 5-to-4 Supreme Court decisions. Before the 1989 Texas v. Johnson case and the 1990 United States v. Eichman decision, the U.S. Supreme Court and numerous state supreme courts had upheld laws punishing flag desecration as compatible with both the letter and the spirit of the first amendment. Such laws had been on the books for most of this country's 200-year history.

The flag protection amendment respects the difference between pure political speech and physical acts. It is extremely narrow, allowing Congress only the power ''to prohibit the physical desecration of the flag of the United States.'' Any law passed pursuant to the amendment could extend no further than a ban on acts of physical desecration, and would not affect anyone's ability to participate in the political process.

Unlike political contributions, the physical ruination of a flag adds nothing to political discourse. Whether good or bad, the reality of modern American politics is that money is essential to advocacy. Broadcasting a message—whether in print, on television or radio, or even over the Internet—costs money. A constitutional amendment prohibiting political donations would undeniably restrict people's ability to convince others of their point of view. But lighting fire to the flag is different. It is not an essential part of any message. In fact, often the audience for such demonstrations does not understand what policy or idea that motivated the burner to burn. The flag protection amendment leaves untouched everyone's right to articulate—and advocate publicly for—their point of view.

In sum, passage of the flag amendment would overturn two Supreme Court decisions: Johnson and Eichman. It would leave the Constitution exactly intact as it was understood prior to 1989. It would do nothing else. In contrast, the Hollings amendment would be a radical alteration of Americans' fundamental right to participate in the democratic process.

Let me end with this. The McCain-Feingold bill is defective inasmuch as it does provide a means whereby you can limit the free speech rights of people with regard to soft money. I do think probably the Supreme Court would uphold the Hagel approach to it, although I question whether even a cap on soft money to the tune of $60,000 per individual would be upheld by the Supreme Court; but it could be.

Probably my friend from South Carolina feels the same way, that without a constitutional amendment change, it is just a matter of time until McCain-Feingold will be overturned. I believe it will be overturned, should it pass in its current form. And one reason it will be overturned is because of the limitation of real speech rights.

Frankly, Buckley v. Valeo, I don't think is wrong. With that, I hope my colleagues will vote against this amendment, as well intentioned as it is.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HATCH. I yield whatever time the Senator needs.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank the distinguished chairman of the Judiciary Committee. Once again, he has gone right to the heart of the matter. I hope the people were listening to his comments at the conclusion of his remarks in which he summed up, very succinctly, the issues with which we are wrestling.

Yes, we wish money were not such a significant part of being able to get out your message in America. I do not have any personal wealth I can put into getting out my message, but it is a way to get out that message. As Senator HATCH said, this deals with real speech.

This proposed constitutional amendment is breathtaking in its reach. It flat out says that Congress and State legislatures—incumbent politicians—can pass laws that would limit their opposition's right to raise money and to speak out during an election cycle. That is what we are talking about. That is what McCain-Feingold does without proposing a constitutional amendment.

What Senator HOLLINGS has wrestled with over the years is a constitutional amendment that he believes would allow the Congress constitutionally to be able to restrict the right of people to come together to assemble, to print out press beliefs that they have, or to project them and amplify them over radio and television. They say this is not an infringement on the most historic freedom, the cornerstone of American freedoms: the right to speak out.

I think this, if passed, would be a colossal blunder of historic proportions. I think this proposed amendment, if passed, would reflect the greatest constitutionally proposed threat to liberty and freedom that I have known in my lifetime, maybe since the founding of this country, of speech and the press and assembly.

We should not do this. If we say this Congress can stop the current constitutional right of free Americans to come together, raise money, and buy and amplify their speech on radio or TV, Internet, and so forth, to advocate their views, we will have made a major move away from freedom in this country.

Senator HATCH said in his remarks that without a doubt the censorship power of the Government will have been enlarged. I remain stunned, really, that persons whom I admire as champions of liberty, such as the distinguished Senator from South Carolina, can miss this. Maybe I am missing it. I don't know. I can't see that I am missing it. I don't think I am missing it. Maybe I am. I don't think this is an itty-bitty issue. I think it is a historic and defining issue.

I am wondering: Where are our liberal friends? Where is the free speech crowd? What about our law school deans and professors, are they reading this? The ACLU has picked it up. They call it a recipe for repression. They see it for what it is. I respect them for that. They generally can be fully counted on in free speech issues. They believe depiction of child pornography is free speech and should be protected. I don't know that that is speech.

I know the Founding Fathers fundamentally wanted to protect political speech. This amendment sets up a construction that would allow the constraint of political speech during an election of all times.

I didn't want to be too involved in all this debate. I try not to get involved in everything that goes on on the floor. This is an issue in which I am interested, but I have spoken once already on a particular issue. I just want to be on record, I want it recorded on this floor for my constituents and my children, that I was standing here and being counted on this one. I want it on the record that this Senator will not support a constitutional amendment to restrict the right of people to assemble, raise money, and speak out during an election cycle. That is just fundamental to what America is about. It is important. I believe it is an issue on which I have an obligation to speak.

It has been suggested, that this is not an amendment to the first amendment. Well, I suggest it is an amendment to the first amendment. They say: Well, it is going to be amendment No. 20 something; it is not going to be written right up there on the first amendment. You are not going to strike out any words in the first amendment. Well, it is going to be in the Constitution. It is going to be given equal play with the first amendment. And since it passed subsequent to it, it will be defined by the courts that if it is in any way contrary to the first amendment, then the Hollings amendment will be given precedence because it was designed to modify the problems that have arisen

which courts have concluded that certain campaign finance laws people are so determined to pass infringe on the first amendment.

That is what Buckley says. Buckley was based on the first amendment. That is why the Court ruled the way they did. They didn't conjure it out of thin air.

It is not just the Buckley case that would be reversed. There are a plethora of cases, Buckley progeny, that have upheld Buckley and gone further than Buckley. All of them would be undermined or overruled by this law if it were to become a part of our Constitution.

They say that rich people have more rights because they can afford to buy time and they have special interests. Let's be frank about it; everybody has a special interest. That is what we all are. As human beings, we have interests; we have beliefs. We want to see those made law. Whether it is dealing with low taxes, or abortion, or gun ownership, or redistribution of wealth, or the military, or drug laws, or health care, or education, we all have beliefs for which we want to fight. Everything is a special interest of a sort.

I note in passing that some elite groups, some wealthy entities, apparently will not be covered—at least it is said they will not be, although the ACLU thinks they might. I suggest that some of those groups, such as NBC, CBS, ABC, Fox, New York Times, Washington Post, the Los Angeles Times, all the Gannett chain, all the big newspaper chains, they can go on and run full-page ads day after day, full-page editorials slamming the Senator from Alabama and saying he is a terrible person. Apparently, if your money wasn't consistent with the way the Congress says, a group of people couldn't go into that newspaper and buy a full-page ad to respond to their full-page editorial.

Throughout the history of this country, newspapers have gone off on tangents for one thing or another they steadily believed in, biased their news articles, editorialized every day on things in which they believed. It has been protected by the first amendment. These wealthy groups of elite intellectuals and power interests have a right to propagate, I suppose, right up to election day. Surely, under this proposed amendment, they wouldn't say they couldn't do that, their newspaper couldn't run an editorial on the day of the election to say who to vote for, but they apparently are saying that another corporation, no less noble or no less venal than the New York Times, can't publish an editorial or buy an ad in the newspaper to rebut that article.

This freedom to speak out is particularly valuable in times of persecution or oppression and discrimination against an unpopular minority. Is not the ability of a minority group that might be subjected to oppression sometime in the future—isn't their ability to defend themselves, to get their message out, undermined if they can't assemble and raise money and speak out against a candidate they believe threatens their very existence?

I have mentioned that when I ran for office, my opponent was a skilled trial lawyer. One of my lawyer friends said: JEFF, I think you threaten our business. You don't believe in lawsuits like we do.

I said: Well, I guess I don't.

They spent over $1 million raising money to beat up on me. What is wrong with that? They thought I threatened the way they wanted to do business as lawyers. They thought changes on tort reform that I might favor threatened their business, and they wanted to defend themselves. Apparently, under this rule, they could be constricted substantially in their ability to complain during an election cycle about a politician who threatens them. That is just a group. That didn't deal with actual repression, but it could be a matter in the future of actual repression.

We ought not to pass a constitutional amendment that would limit the rights of persons in the future to defend themselves against actual oppression. It constrains not only the ability to raise money but the expenditures of money. It says the legislature and the Congress can pass reasonable laws that would control expenditures ''in support of or in opposition to a candidate.'' That is a serious matter, saying independent, free Americans cannot come together and assemble and speak out during an election in opposition to or in favor of a candidate. That is really a change. It does affect the first amendment because the first amendment has constrained Congress from doing that, and that is why this amendment has been placed here, to allow Congress to do that very thing.

I know the Senator from Utah, Mr. HATCH, the Judiciary Committee chairman, mentioned the flag burning amendment. We have Members of this body who believe the physical act of burning a flag or desecrating a flag is speech. They object to any amendment that would protect the flag. I will just say that I think Chief Justice Rehnquist is right that if it is speech to burn or desecrate a flag, it is at best a grunt or a roar.

But the amendment before us today and, in fact, in large part the McCain-Feingold bill is a bill that goes to the heart of political speech. And when do they want to control it? During the election cycle. That is when they want to control it. Oh, it is all right to have violent, pornographic videos and images. They say that is speech and it must be defended to the death. But you can't have a group of people get together in this country and propose that the Senator from Alabama is dead wrong and ought to be thrown out of office. If Richard Nixon proposed a law and Congress passed the law, when we were having protests during the Vietnam war, when I was in college and law school and all these professors, the great constitutional scholars that they were—I wonder what they would have said if Nixon had proposed an amendment that would keep people from raising money and speaking out. I think they would have been upset. I wonder where they are today.

I was shocked that, in 1997, 38 Senators in this body voted for this amendment. Last year, I was pleased to note that the number had dropped to 33. I hope that number will continue to fall.

Madam President, freedom is scary. It allows things to get a bit out of control, when people are free to just go and say what they want to. And you can't quite manage it as we in Congress like to manage things, because we want to have it just right so there will be no spoilage, and we don't want any corruption here or any unfair threat to us. We just want to control this thing. But we are a nation of freedom, of liberty, of independence, free to speak out and say what we want, especially in an election cycle.

But over the long haul of our Nation, this free debate, this challenging of everybody's positions and issues, and debate has been healthy for us. It strengthens us as a nation. We must not turn back the clock by adopting an amendment, or some of the language in McCain-Feingold, that I believe likewise constrains freedom unjustifiably.

So the censorship power of our Government would be greatly enlarged if this amendment were to pass. It would allow the constriction of debate on the core issues of America, political, philosophical issues of intellectual power and breadth that affect the future of our country. That debate would be restricted significantly.

I think it would be wrong to pass the Hollings constitutional amendment. As written, McCain-Feingold, without this amendment, has a slim chance of being sustained. I think it will have to be either defeated or amended.

I thank the Chair for the time and yield the floor.

Mr. HATCH. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. FITZGERALD). There are 55 minutes under the control of the Senator from Utah, 24 seconds for the Senator from South Carolina.

Mr. HATCH. Senator BIDEN would like to speak in favor of the amendment. As a courtesy, I am certainly going to yield some time to the Senator. Senator REED, who also wants to speak in favor, I will yield him 5 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. HATCH. I ask unanimous consent that following that, Senator FEINGOLD be given the floor and I will give him 5 minutes as well.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I would like to begin today by praising my distinguished colleague from South Carolina for the leadership and determination that he has brought to this debate.

I would also like to apologize to him. Apologize that he has to come to this floor yet again to cut through all the rhetoric, and high-minded talk, to get to the single most important fact in this debate. And that is, nothing will change in our campaign finance system until we have the Constitutional ability to limit spending in congressional campaigns.

And the only way that we can do that other than through voluntary limits is by standing with Senator HOLLINGS to pass this Constitutional amendment.

We've been down this road many times, Mr. President. As the Senator from South Carolina will tell you, he and I have stood on this floor urging the Senate to take this first fundamental step by passing his amendment. We have recited fact after fact to illustrate how the spending in last election cycle was far worse than the previous cycle. And each time that we stand here, the story get's worse and worse.

The truth is, unless we adopt Senator HOLLINGS' amendment and pass the McCain-Feingold bill, we will back here in 2 years—reciting a new round of statistics to illustrate how bad the system got in 2002.

Mr. President, our system is spiraling out of control. And it will continue this spiral, unabated, until we pass needed reforms. But nothing can fundamentally change the way in which our process works until we have the ability under the law to limit the amount of money that is spent on campaigns.

Twenty-five years ago, the Supreme Court ruled that spending money was the same thing as speech. The Court said that writing a check for a candidate was speech, but writing a check to a candidate is not speech.

The Supreme Court made a supremely bad and, I believe, supremely wrong decision. By saying that Congress shall make no law abridging the freedom to write a check, the Court is saying that Congress cannot take the responsible step of limiting how much money politicians can spend in trying to get elected. We have to start putting limits on spending, Mr. President, because money is beginning to overtake the system.

In the twenty-five years since the Supreme Court's ruling, the general cost of living has tripled, but the total spending on Congressional campaigns has gone up eightfold. Think about it: eight times!

For the winning candidates, the average House race went from $87,000 to $816,000 in 2000. And here on the Senate side, winners spent an average of $609,000 in 1976, but last year that average shot up to $7 million.

And the Federal Election Commission estimates that last year more than $1.8 billion dollars in federally regulated money was spent on federal campaigns alone, and that doesn't even count the huge amount of soft money that was used in an attempt to influence federal elections.

Yes, these numbers are staggering. But even more so, is the thought that they will continue rise unless something is done. And I belive that the single most important thing that we can do from a purely practical sense is to amend the Constitution and give us the right to limit the amount of money that candidates are able to spend.

I don't approach this lightly, Mr. President. Amending our Constitution is not a trivial matter. We have seldom done it in our history, and we have only done so when it was truly needed. Reluctantly, I have reached the conclusion that it is needed, now. For if we do not take this opportunity to seize control of our system, we will be right back here merely debating the problem, instead of solving it. And when we return 2, 4, maybe 6 years from now, the problem will be even worse than it is today, and as a result, much harder to solve.

Mr. President, the sooner we take action, the sooner we will be able to restore the public's faith in our democracy. I urge all of my colleagues to stand with the distinguished Senator from South Carolina and adopt this Constitutional amendment as a first, and fundamental, step toward reclaiming our political system for the American people.

Mr. President, let's get something straight here. The first amendment is not absolute. No amendment is absolute. When there is a Government interest, in this case of curbing corruption, there is a Government rationale to be able to deal with what the Court refers to as speech. I think Justice Stevens got it right in a case decided 24 years after Buckley v. Valeo, I say to my friend from Alabama. He said money is not speech, money is property. Money is property. We are talking about speech.

All the folks sitting up here in the gallery are in fact interested in free speech. But it does not go unnoticed that their ability to speak freely and be listened to depends upon how much money they have. You can be as free-speaking as you want. You can stand in a corner or in a park with a megaphone and go on and on about what you think should be done. You can seek free press. But you are unable to go into the Philadelphia media market and pay $30,000 for a 30-second ad to say my good friend from Alabama is a chicken thief or is a war hero. You are not able to do that. That takes money. Money talks. Money talks. Money is property. Money is not speech, money is property.

The fact of the matter is, in this context, if you look at my friend from Alabama, and others, the Court, in the progeny of Buckley, has allowed us to regulate campaign contributions under certain circumstances. So this notion that it is absolute is absolutely inaccurate. I will not go into further detail because of the time constraints here.

Let me say again that I thank my friend from South Carolina because, when all is said and done, this is the only deal in town. It is fascinating. If you look at what happened here, we can pass the McCain-Feingold bill—and I am for it—but I promise you, we are going to be back here in a year or two, or three, on a simple proposition. The simple proposition is that the cost of campaigning has gone up eightfold in the same time that we have been in a system where the cost of inflation has gone up significantly less than that. Since 25 years ago, at the time of the Supreme Court ruling, the general cost of living has tripled, the cost of running a campaign has gone up eightfold. Now, for a winning candidate, the average of a House race 25 years ago was $87,000. This time around, it is $816,000, average.

Let me tell you, if you have a lot of money, you can speak a lot louder, your voice is heard more. If you don't have a lot of money, you are not heard. I didn't think that is what the founders had in mind when they talked about speech. They didn't sit down and say, by the way, landowners with a lot of money should be able to be heard more than the guy who is the shoemaker in the village, or the village cobbler. They didn't say that. Money is property. Money is property. It is not speech.

On the Senate side, let's take a look at what happened. When I ran in 1972—and I won't even go back that far—I spent $286,000 in the election. The Senate race in Delaware combined cost over $13 million—not my race; I am not up until this time.

Let's get something else straight. One of the reasons our friends aren't so crazy about this amendment is all of us who hold public office now are in pretty good shape without this amendment.

It is not merely what the other guy can do to you. You sit there and say: That interest does not like me, so they will spend a lot of money. If you are popular enough in your home State, guess what. They are worried what you will do to them.

I am not going to have any trouble raising money as long as I stay relatively popular. Right now I am relatively popular. Guess what. I would hate to be getting starting now to try to run in Delaware. I do not know how they do it. How do they do it? How do they raise a minimum of 2 million bucks or probably, if it is a race, $5 million, in a little State with only 400,000 registered voters? Heck, we could go out and pay everybody. We could go out and give them all a bonus, increase their standard of living if we took that $13 million and spread it among 400,000 voters.

This is getting obscene. What is going to control? What is the deal here? I know this amendment is not going to pass this time, but I want to

be on the side of right on this one, like I have from the very beginning when my friend from South Carolina proposed this. If, in fact, the average cost of a Senate election—catch this—in 1976, the average cost of a State election was $609,000. Do you know what it was this last cycle? Seven million dollars. Did you hear what I said? Seven million dollars. Give me a break—free speech, whoa.

You better have won the genetic pool, as the distinguished financier from the great State of Nebraska says. You better have won the genetic pool and inherited a whole lot of money, or you better have an awful lot of very rich friends, people with a lot of money, otherwise how do you get in the game? How could I possibly—maybe this is a good reason not to have the amendment—but how could I as a 29-year-old guy, coming from a family with no money—I am the first U.S. Senator I ever knew in effect—how could I have gotten elected? How could I do it now? I have been here now for 28 years. Obviously, the people of Delaware do not think I have done a real bad job. How could I have gotten here if, in fact, I had to go out and raise $2 million, $3 million, $4 million, $5 million, or $9 million? I will tell you what happens.

You engage in an incredible exercise of rationalization. You go out there and say: I am going to stick to my principles. I will give a specific example.

When I ran the first time, at the very end—and my friend from South Carolina knows because he headed up the campaign committee and he is more responsible for my being here than anyone in the Senate because he helped me. We narrowed the race down to a percentage point with 10, 11 days to go. My brother Jim, 24 years old, was raising my money and said: JOE—we had no TV ads—the radio station called and the ads come off the air on Friday—this is 10 days before the election and my ads were working. You need $20,000. We have no money.

He set up a meeting with a bunch of good people, decent, honorable men my age, maybe a little older, very wealthy people in my State who were, like me, opposed to the war in Vietnam, pro-environmental movement, and thought women's rights should be expanded. They were basically Republicans, but they were moderate Republicans.

I drove out to a place called Greenville, DE. I walked in to this investment banking operation in a beautiful area, one of the wealthiest areas in America. My friend knows it well. I sat down with six or eight fine men. They offered me a drink. I sat there and had a Coke. We talked about my position on promoting the rights of women, the equal rights amendment because they were for it. I talked about the environmental questions. I talked about the war in Vietnam, et cetera. Then one guy said: JOE, what is your position on capital gains? No one here will remember except my friend from South Carolina, but at that time it was a big issue in the 1972 campaign. Nixon either wanted to eliminate it or drastically reduce it, I cannot remember.

Guess what. I knew all I had to say was: You know, gentlemen, I really think we should have a cut in capital gains. But because I was young enough and stupid enough not to think, I immediately said: No, I oppose a cut in the capital gains tax.

No one said anything except: JOE, lots of luck in your senior year. Good talking to you. So long.

I will never forget riding down the pike with my brother Jim. My brother turned to me and said: I hope you really feel strongly about capital gains because you just blew an election.

I truly believed—and only someone who has run for office can really understand this—I truly believed everything I had worked for I had just blown by telling the truth. I almost wanted to turn the car around and go back.

I think of myself as a principled man, but I started to rationalize. I started to say: Isn't it better for me to get elected with 95 percent of my values intact, a guy who will fight to stop the war, promote the rights of women, fight for civil rights, a guy who will blah, blah, blah? Capital gains is not that big a deal.

That is how insidious this process is. No one buys us. No one goes out and pays and says: If you do this, I will pay you. But it is insidious. It is insidious, and the only people who have a lot of money to be involved in campaigns, whether they are people I support such as labor unions or big business are people who have an interest.

I ask unanimous consent to proceed for 2 more minutes. My friend is not here.

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

Mr. BIDEN. Mr. President, I conclude by pointing out the following: Last year, we spent $1.8 billion—$1.8 billion—on the elections. You tell me, take soft money, hard money, no money, up money, down money, any money—if you take it out, you take a piece of it out and you do not limit the amount we can spend, I promise you—I will bet my career—2 years from now, we are going to be standing here, and I am going to say: We just spent $1.9 billion, and the average cost of an election has gone to $7.1 million.

Average people have no shot of getting in the deal. They have no shot of getting in the deal.

Money is property. Money is not speech. I cannot believe the Founders sat there and said: You know, if I win the genetic pool, I am entitled to have a greater influence in my country and in the electoral process than if I am not in that genetic pool; I was born into land wealth or mercantile wealth. I cannot believe they believed that. I cannot believe that was the case.

I conclude by saying we have the ability under a controlling government interest to deal with corruption in our electoral process. I defy anyone to look me straight in the eye and say they believe all this additional money in the electoral process is not polluting and corrupting the process. It puts honorable young women and men in the Republican and Democratic Parties who are getting into the process in the position of shaving their views very nicely before they get there. No one is going to pay them off, but they are not stupid. I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the Senator from Rhode Island is recognized for 5 minutes.

Mr. REED. I thank the Chair. Mr. President, I thank the Senator from Utah for graciously yielding me this time.

I rise in strong support of the Hollings amendment. Senator HOLLINGS recognizes that in the early seventies, in the wake of Watergate, this Congress passed what they thought was a comprehensive system of campaign finance reform. The two principal pillars of that reform were a limit on contributions by individuals to candidates and a limit on expenditures in the campaign by candidates. Just before the system even started, the Supreme Court struck down a major pillar in that structure, and this system has collapsed and has been falling apart since then.

The evidence is clear. Every election we see a huge explosion in spending because there are no limits on campaign expenditures. For candidates, it is almost akin to the nuclear arms race: You can never have enough money. You can never have enough because your opponent might get a little more, and unless we stop this race for dollars, we will not have true campaign finance reform in this country. We will not have a system of campaign finance reform.

Every time we pass legislation—and I commend wholeheartedly Senator MCCAIN and Senator FEINGOLD for their effort, and their effort is important, but we need this amendment to ensure we can create a system of campaign finance reform that will truly work.

As I said, and my colleague pointed out, there has been a huge explosion in spending. What has this done? Again, as Senator BIDEN pointed out, it certainly has put out of reach for so many Americans the idea of actually running for public office, at not just the Federal level but all levels.

It has done something else, something insidious: Questioning, in the minds of the American public, the legitimacy of what we do and for whom we do it. The idea of our Government is that we are servants of the people. Yet in the minds of so many Americans they see us as servants of special interests.

I was particularly struck by a poll taken by Princeton Survey Research Associates immediately after the election in 1996. Special interest groups in

politics were rated a major threat to the future of this country. It was second only to international terrorism. In the minds of so many Americans, special interest politics is just as threatening to the future of this country as international terrorism.

We have to do something. We have to, I believe, support Senator HOLLINGS in this amendment. He recognized that until we have the ability to truly create a system of campaign finance, we will always have this escalation of spending, this escalation of continued distrust by the American public of their political system.

The Court, in Buckley v. Valeo, made the presumption or the assumption that speech equals money or money equals speech. Frankly, that is not always the strain of constitutional theory that the Court has presented. For example, in 1966, in Harper v. Virginia Board of Elections, the Court struck down a poll tax of $1.50 in Virginia, declaring, ''Voter qualifications have no relation to wealth. . . .''

Later, in 1972, in Bullock v. Carter, they struck down candidate filing fees ranging from $150 to $8,900 for local office in Texas because the theory was that one should not have to pay to be a candidate, one should not have to have his or her test of qualification, even to vote or to run, based upon money.

The reality today is that to be a candidate, you have to have money. We spend a great deal of time trying to get that money.

The Court in Buckley v. Valeo erred dramatically. I do not think—and I am shared in this view by my colleague from Delaware—that money equals speech. In fact, I am a bit confused on constitutional theory why a contribution to a candidate can be limited, even though I might be making that my form of speech, yet we cannot limit the overall spending of a candidate in an election.

The Court in Buckley v. Valeo was wrong. The only way we get out is to pass the Hollings amendment and give them a way clear so they will, under the Constitution, recognize that not only should we but we can craft a comprehensive system of campaign finance reform.

This view is not particularly radical. In the 25 years since Buckley, more and more people have come to the conclusion that it was wrongly decided and that, in fact, we can and should impose limits on expenditures. Constitutional scholars, public officials at every level, State attorneys general, secretaries of state, all have suggested we can and should put a limit on expenditures. The States have acted. They have created legislatively a limit on expenditures. It was challenged in court, but for the first time a judge looked seriously at the record, a district court judge, and conditioned that perhaps there was a justification for this limit but, being a district court judge bound by the opinion in Buckley v. Valeo, struck down the provision.

Similar provisions are being litigated and have been litigated in Ohio, and they are being litigated today in the context of an Albuquerque, NM, city ordinance which provides for a limit.

We can give our colleagues and the Court the benefit of this amendment. We can give them the rationale to go ahead and do what I think should be done, to be able to limit expenditures so that every candidate has the right to spend a certain amount, but the spending will not overwhelm the true test of a race, which is the quality of their ideas and positions.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for 5 minutes.

Mr. FEINGOLD. Mr. President, I know we are not debating the bankruptcy bill when I am in agreement with the Senator from Utah and the Senator from Alabama. We clearly moved not only to campaign finance reform but today to a very worthy discussion about the advisability of adopting an amendment to the U.S. Constitution concerning campaign financing.

I oppose Senate Joint Resolution 4, but I do so with some reluctance, given the tremendous respect I have for the Senator from South Carolina. I appreciate the sincerity in which he offers this resolution. But more importantly, he has been passionate on the issue of campaign finance reform for a very long time—long before I came to this body—and I have always looked up to him on this issue.

I understand the frustration and realities he is looking at that lead him to propose a constitutional amendment, and I know both the Senator from South Carolina and the Senator from Pennsylvania, who also supports this resolution, are strong supporters of campaign finance reform. I thank them for that, and I thank them specifically for their help on this bill, and I appreciate the comments of the Senator from South Carolina, who, of course, is concerned about what the U.S. Supreme Court will do with the McCain-Feingold bill if they get it but who at least left open the possibility that they may look upon it favorably.

There are just two reasons I am uncomfortable voting for this constitutional amendment. The first has to do with my belief that it does actually amend the Bill of Rights for the first time in our Nation's history. I understand the arguments that this is such a serious problem it is justified. When I first came to the Senate, I actually voted for the Hollings amendment the first time. Then in 1994, a group of Congressmen and Senators were elected in what was known as the Contract With America Congress, and they proposed so many amendments to the U.S. Constitution, it made your head spin. In fact, a lot of them were going to amend the Bill of Rights.

I disagree with the distinguished chairman of the Judiciary Committee who says the flag amendment does not amend the first amendment but this does. Both of them do. Both would be the first changes to our fundamental doctrine of the Bill of Rights in our Nation's history. I am uncomfortable with this approach. I understand how people get to the point where they don't believe we can ever deal with the problems of our campaign financing system and they want to do it. My belief is that it is better not to tamper with the Bill of Rights and to solve the problem legislatively.

That leads to my second point. I am more optimistic, more sanguine about the possibility that we will prevail; that McCain-Feingold, if it gets to the U.S. Supreme Court, will be held constitutional. In fact, I can't really believe anyone on the floor is seriously arguing anymore that the most important provision of the McCain-Feingold bill, the ban on party soft money, will be held unconstitutional. It is not credible.

In the Missouri Shrink PAC case in January of 2000, the Court ruled 6–3 that even a $1,000 contribution in Missouri today is a sufficient figure to justify the possibility of the appearance of corruption. Surely a $100,000, $200,000, $500,000, or $1 million contribution would be regarded the same by that very strong, 6–3 majority in that Court.

I believe, although certainly our bill doesn't solve a lot of the problems that have been discussed today, at least regarding the abuse of soft money in our society, that the U.S. Supreme Court—this U.S. Supreme Court—would see it our way. I believe this bill can solve some of the problems that have been identified in the system. For those reasons, I will oppose this constitutional amendment. I do not think we need to amend the Constitution in order to have effective campaign finance reform.

Our colleague Senator HOLLINGS has been calling for meaningful campaign finance reform but perhaps longer than any other Member of the Senate. I disagree with this particular approach. But I want to pay tribute to his sincerity and commitment to reform.

This resolution was a constitutional amendment is a serious proposal, not casually offered, and not offered in hopes of sabotaging our bill, as some amendments have been. But I must oppose it.

Back in 1993, Senator HOLLINGS offered a sense-of-the-Senate amendment to take up a constitutional amendment similar to the one before us today. After a short debate, I voted with the Senator from South Carolina on that day. I did so because I believed that other than balancing the Federal budget, there was no more fundamental issue facing our country than the need to reform our campaign finance laws.

And I was frustrated at that time with the failure of the Congress to pass meaningful campaign finance reform.

But I immediately realized, even as I was walking back to my office after

voting, that I had made a mistake. I started rethinking right away whether I really wanted the Senate to consider amending the first amendment.

Later, I was privileged to join the Senate Judiciary Committee, and then the 104th Congress became a teeming petri dish of proposed amendments to the Constitution. On the Judiciary Committee, I had a good seat to witness first hand the radical surgery that some wanted to perform on the basic governing document of our country, the U.S. Constitution.

It started with a balanced budget constitutional amendment, and soon a term limits constitutional amendment, a flag desecration amendment, a school prayer amendment, a super majority tax increase amendment, and a victims rights amendment, and on it went. In all, over 100 constitutional amendments were introduced in the 104th Congress. This casual proliferation of amendments has tapered off somewhat, but persists to this day.

As I saw Members of Congress suggest that all sorts of social, economic, and political problems, great and small, be solved with a simple constitutional amendment, I chose to oppose this serious and earnestly considered constitutional amendment from Senator HOLLINGS, along with others that have casually and sometimes recklessly threatened to undermine our most treasured founding principles.

The Constitution of this country was not a rough draft. We have sometimes lately been treating it as such, and Senator HOLLINGS' worthy effort appears in that context, so I believe we should oppose it, lest we encourage less serious efforts.

Even if we were to adopt this constitutional amendment, and the states were to ratify it, which we all know is not gong to happen, it will not deliver effective campaign finance reform. It would empower the Congress to set mandatory spending limits on congressional candidates that were struck down in the landmark Buckley v. Valeo decision.

And if this constitutional amendment were to pass the Congress and be ratified by the States, would campaign finance reformers have the necessary 51 votes—or more likely the necessary 60 votes—to pass legislation that includes mandatory spending limits?

Probably not—let's remember that it took us years to get to 60 votes on the McCain-Feingold bill.

But this week we have before us a bipartisan campaign finance proposal that has been meticulously drafted within the guidelines established by the Supreme Court. We are confident that the McCain-Feingold bill is constitutional and will be upheld by the courts.

Our original proposal, unlike the law that was considered in Buckely v. Valeo, included voluntary spending limits, but the centerpiece of our bill is a ban on soft money, the unlimited contributions from corporations, unions and wealthy individuals to the political parties. There is near unanimity among constitutional scholars that the Constitution allows us to ban soft money. The Supreme Court's decision in the Shrink Missouri case makes it abundantly clear that the Court will uphold a soft money ban. We don't need to amend the Constitution to do what needs to be done.

Until this year, the desire of a majority of Senators to bring a campaign finance reform bill to a final vote has been frustrated by a filibuster. So the notion that this constitutional amendment will pave the way for legislation that includes mandatory spending limits simply ignores the reality of the opposition that campaign finance reformers would face here in the Senate if they tried to enact those limits.

This proposed constitutional amendment would change the scope of the first amendment. I find nothing more sacred and treasured in our Nation's history than the first amendment. It is the bedrock of the Bill of Rights. It has as its underpinning the notion that every citizen has a fundamental right to disagree with his or her government. I want to leave the first amendment undisturbed.

Nothing in this constitutional amendment before the Senate today would prevent the sort of abuses we have witnessed in recent elections Allegations of illegality and improprieties, accusations of abuse, and charges of selling access to high-ranking Government officials would continue no matter what the outcome of the vote on this constitutional amendment. Only the enactment of legislation that bans soft money contributions will make a meaningful difference.

The Senate will have another opportunity to address this issue. We have had many debates on campaign finance reform, and if we pass the McCain-Feingold bill, the general issue of campaign finance will reappear from time to time. But, today, in March 2001, the way to address the campaign finance problem is to pass constitutional legislation, not a constitutional amendment. We are poised to give the people real reform this year, not seven or more years from now.

I urge the Members of the Senate to vote against the resolution for a constitutional amendment of the Senator from South Carolina. It is not necessary to amend the Constitution to accomplish campaign finance reform. I greatly admire the sincerity and commitment of the Senator from South Carolina, but ultimately I do not think his amendment will bring us any closer to achieving viable, real reform in the way that political campaigns are financed in the United States.

I conclude by thanking the Senator from South Carolina for his leadership and knowledge on this subject.

Mr. HATCH. I yield 15 minutes to the Senator from Kentucky.

BIPARTISAN CAMPAIGN REFORM ACT

Mr. BUNNING. Mr. President, for a week now we have been debating campaign finance reform. It has been a healthy debate, and a debate I am glad we are having. Some want dramatic changes by overhauling the whole system. Others want simple reforms around the edges. Some want to limit soft money. Some want to ban it. Some want full disclosure. Others want none. Some want to raise the ceiling on hard money given by individuals. Others want to leave hard money limits alone. Some want to protect paychecks of union members from having their dues used for political activities. Some do not want to ensure that protection at all.

But let's all agree on one thing. We all think our present campaign finance system needs reforming. However, the underlying McCain-Feingold bill, S. 27, is an attack on the rights of average citizens to participate in the democratic process. Attacking these rights only enhances the power of wealthy individuals, millionaire candidates, and large news corporations.

McCain-Feingold hurts the average citizen's participation in the process because it targets and imposes restrictions on two key citizen groups: issue advocacy groups and political parties. These two groups serve as the only effective way through which average citizens across America can pool their $10, $20, $100 donations to express themselves effectively. One individual alone in the public arena can accomplish little with his or her small donation. But the small donations of thousands of like-minded individuals can accomplish a lot when they work together.

The right to associate is fundamental in our democratic Republic, and the ability of the average citizen across America to effect public policy is very important. It is so important that the U.S. Supreme Court has recognized it as a fundamental right with constitutional protections. If McCain-Feingold succeeds as it is now, the influence of average citizens would be drastically reduced. Associations with like-minded individuals is essential to engaging in the debate of public policy, but under McCain-Feingold the average citizen would be buried in the tomb of nonparticipation and the rich and powerful would run politics.

Under McCain-Feingold, the power of the giant news media corporations is not eliminated. Their editorial content and news coverage are protected by the first amendment. And the wealthy multimillionaires will not be prohibited from spending their money to self-finance their campaigns or express their views on public policy issues. The media and the wealthy have all the power and money they need to pay for communications about issues. Therefore, the campaign finance reform as proposed by McCain-Feingold strips power from the average citizen and allows the wealthy and powerful to retain their influence.

Although well intended by the bill's sponsors, the underlying bill does not present us with a clear and level playing field for all Americans. There are winners and there are losers. The losers are the citizens of average means, citizens' groups, advocacy organizations, labor unions, and political parties. The winners are the wealthy, major news corporations, and incumbent politicians.

Think about who supports this bill. The wealthiest of America's foundations and individuals are supporting this bill. The mainstream media is the prime cheerleader of this bill, and many incumbent politicians are attracted to this bill. The majority of average citizens e-mailing my office, calling me and writing me, overwhelmingly oppose this bill.

To try to level the playing field in elections with superwealthy candidates, I cosponsored an amendment with Senators DOMENICI and DEWINE and others. That amendment, known as the wealthy candidate amendment, would have allowed a candidate running against a wealthy candidate who self-financed his or her campaign to increase the contribution limits from individuals and PACs.

This amendment, thankfully, passed. It is a great improvement to the base bill and helps to level the playing field and take advantage away from the superwealthy candidate who sometimes pours tens of millions of dollars into their own campaign to win a House or Senate seat.

This amendment helps those candidates who are not millionaires, or wealthy, to have the limits raised on what they can accept from individuals and PACs. I think it is a commonsense and bipartisan reform provision, and that it will do much to create freer elections and confidence of the public in those elections where the superwealthy spend millions and millions of dollars.

There are other campaign reform measures that should be enacted as well to enhance and not stifle the voice of citizens. The hard dollar individual contributions have not been raised since 1974. This limit needs to be raised and indexed for inflation. One thousand dollars just does not buy what it used to in 1974. This limit must be raised substantially, especially if soft money to the parties is going to be reduced. The limit should be raised to $3,000 from the current $1,000. Raising this limit would enable more individual citizens to run for office, enable all candidates to concentrate more on the job at hand and less on fundraising. It may also remove some of the incentive for interest groups to make independent and issue advocacy expenditures. While a $1,000 contribution may have been high in 1974 when it was imposed, it would be worth about $3,000 today.

In addition, the aggregate hard money individual contribution limit should be raised higher than it is already in the bill. McCain-Feingold raises current law from a $25,000 limit to $30,000, but, like the hard dollar limits for individuals, this limit should be raised higher and indexed for inflation.

The Hagel-Landrieu bill raises this amount from $25,000 in current law to $75,000. I would feel much better about supporting a measure which raises these two amounts to strengthen the voice of the individual citizen.

Finally, the heart of campaign finance reform must be disclosure. We have seen in recent years TV blitzes and ad wars in campaigns. Many people wonder who puts out these ads and commercials, and how much money is spent on ad blitzes, and who in the world is paying for them. For American citizens to make a better informed decision in their voting, they deserve to know who is sponsoring these ads and especially who is paying for them and how much they cost. We have the ability to make this information available over the Internet instantly.

The Federal Election Commission can and should make this information available on the Internet as soon as possible but no later than 24 hours after the information is received by the FEC. Full disclosure will instill better confidence in our citizenry.

This provision is something many of us have advocated in the past, and it is part of the Hagel-Landrieu proposal, which I hope becomes part of this underlying bill.

We have spent a week on campaign finance reform, and we have another week to go. I hope we can make some real effort and progress in strengthening the voice of the average citizen.

I fear that so far we still have an unequal playing field, and that the underlying bill still favors the wealthy incumbents and the media.

We need to enhance, not squelch, the voice of the people in their elections. Free political speech is the best campaign finance reform. It is the very core of what James Madison drafted and the Framers adopted when they guaranteed to the people that ''Congress shall make no law abridging the freedom of speech.''

If we are going to pass campaign finance reform, then we need to ensure that average citizens are not absolutely out of the system. We must pass a bill that does not restrict the freedom of speech of any American.

I urge my colleagues to make sure that happens when we pass this bill. If it doesn't have those features in it, I suggest that we vote against McCain-Feingold. If it has those features, then I suggest that we vote for the underlying bill.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HATCH. Mr. President, I yield 4 minutes to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank the Senator from Utah for his generosity and courtesy.

Right to the point with respect to the big bugaboo about the first time in our history that we are amending the first amendment, we are not amending any first amendment on speech. I will emphasize that in just a second. But if we were, it would not be the first time. And the distinguished Senator from Kentucky and others understand that. They continue to raise that bugaboo to intimidate the Senators about the seriousness of this by saying it is the first time that we carved and etched out of the first amendment since the founding of our country and the passage of the Bill of Rights.

I know that the Senator from Kentucky and others who use that expression know about the limits, about the Tillman Act in 1907, about Teddy Roosevelt, or the Taft-Hartley Act, and limits on speech by union activity. They also know about the limits with respect to the obscene, the seven dirty words in the specific case where we gave the FEC the power to control these kind of words, and about speech on the airwaves with respect to false and deceptive advertising. Everybody believes in the Federal Trade Commission.

I have given a dozen examples of where there is already limited speech. But our particular resolution, S.J. Res. 4, is not an amendment, as the Senator from Alabama would infer. He says, of all things, that even during campaign times this amends the right to speak. It doesn't amend anything. It is merely a joint resolution, and not even signed by the President but referred to the States for ratification to give Congress the power to legislate. It legislates nothing. It doesn't approve of McCain-Feingold. It doesn't disapprove of it. It doesn't approve of any particular legislation. It only gives the power back to us to stop this money chase, and the corruption of the system.

You can see it here this afternoon already. We have had a pretty good debate, relatively speaking. But everybody has been out, and they are allowed to stay out until 6 o'clock in order to chase the money. We used to vote all day Monday when I first got here, and all day Friday. Those two days are gone. Tuesday morning is gone. Usually it is after lunch on Tuesday when we really start. Then we have a window on Wednesday and a window on Thursday, both at lunch and in the evening.

The entire time is not spent on doing the job of a U.S. Senator, but of keeping the job. You have to raise $7 million over six years; $3,000 every day for six years, including Sunday and Christmas Day. That is obscene.

This gives the Congress the power to deal with that particular problem for the first time. Those who would oppose this amendment have no idea of controlling that spending.

I yield the floor. I thank my distinguished colleague from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I always enjoy listening to my colleague from South Carolina. I disagree with him that all we do in the Senate is go out and raise money. I think Senators work very hard. I have to admit that we generally don't have to vote on Monday until after 5 o'clock in the evening. There is a reason for that, because Senators are returning. Not all of us live in close proximity to the District of Columbia. I know this. When I go to Utah, my time isn't spent raising money. Most of my time is spent going to town meetings, meeting with people in my offices, and working with staff and others who do the job that we have to do. I think most Senators around here, including the distinguished Senator from South Carolina, spend inordinate hours here during the week. I generally get to the office around 6 a.m. I don't know many days when I am home before 7 or 8 o'clock at night. The days are completely filled meeting with people.

Yes, you have to raise money. But everybody has to do that. That is part of the process. It is not a bad part of the process. There are just a few who do it illegally. If that is the sole thing that you do, then you are selling your vote for money. But I don't know of one Senator in this body who has ever sold his or her vote for money. I believe there is no question that money does talk in the sense that groups support you and support Senators around here. Generally the groups that have donated to my campaigns do that because they agree with my position. Certainly, I am happy to have their help, because you do have to raise enough money to run.

But the Senator is right in one respect; that is, it is costing a fortune to run for the U.S. Senate now. The average Senate race is at least $4 million. That makes it very difficult for incumbents. But if we pass the McCain-Feingold bill, it makes it even worse in some respects, especially if you do not increase the limits. Those limits were set back in 1974, I believe, and just by the rate of inflation, the limits should be raised no less than three times, and probably as much as five or six times.

The cost of elections have gone up dramatically. Back in 1976, a couple of years after the rules were set, when I ran for Senate, I have to say that my opponent spent in hard dollars somewhere around $570,000. I raised in hard dollars about $569,000, if I recall it correctly. It cost me more money to raise it than it did to spend it, because I had to use direct mail because nobody knew who I was. I had to win that race by out-working and out-performing the incumbent. But today, if I was to try to do the same thing, I wouldn't even consider it, because I would have to start at least $1 million, or $2 million. I would have to have a lot more support than I have today. It is going up every year.

It is not a bad thing to have to raise money. I am a perfect illustration that it isn't money that always talks because I bet that I did not spend over $100,000 in real terms in that race back in 1976. My opponent, who I think took me for granted, and made a terrible mistake in doing that, he had at least $600,000, it seemed to me, in actual dollars to spend, plus he had the support of all kinds of soft money groups that came into the State and assisted him as well. So it was really a lot more money than that.

The worst race I had was in 1982, when the mayor of Salt Lake, who is a wonderful person, and a good man, ran against me. It was a very tight race. I raised close to $4 million in that race. He admitted he raised probably at least $2.3 million, if I recall it correctly. But that was only part of the story. The trade union money came into that State. According to sources, they had as many as 100 dues-paid political operatives operating there in Utah, who spent all kinds of money trying to assist my opponent in defeating me, something that Republicans just do not have on their side.

When we get out the vote, we have to raise the money ourselves, we have to spend it ourselves. We do not have outside groups doing it for us. In the case of Democrats, at least in that race—and I think in many other races—the get-out-the-vote money, the advertising money, a lot of other things come from the trade unions. I think that is their right. They believed in my opponent. He had voted virtually a straight union line for them, and they supported him. I can't say I disagreed with their right to do that.

In our worries about having to raise all this money, we don't want to throw out the baby with the bath water. We don't want to infringe upon first amendment rights or freedoms.

In relation to this particular constitutional amendment, however, let me conclude with this simple observation. Free speech and free elections are one and the same. This constitutional amendment involves speech no matter how you write it, because Buckley v. Valeo said that money in politics is a form of speech. This constitutional amendment would hurt free speech by giving Congress—535 Members of Congress—and the respective State legislatures—they call it ''the States'' but it is really, in effect, the State legislatures—too much power to change the Supreme Court cases that protect free speech.

Make no mistake about it, this amendment, if it would pass, would do away with Buckley v. Valeo and would send us down that road of allowing State legislatures to determine just what can or cannot be spent in political campaigns, and allow the Congress of the United States to determine what can or cannot be spent in political campaigns.

I suspect that is going to create a system that is a lot worse than our current system. Because if you ban soft money for the two parties—where you would want the money to be spent; where it is accountable; where they have to be accountable—they have to explain what they are doing—you can look at it and see whether you want to support the parties or not—if you take the soft money away from them, and leave it in the hands of everybody else in society, then basically what you are doing is, I think, stultifying the electoral process and certainly the party process, which all of us ought to be encouraging. Because under our current rules, the parties have to disclose the moneys that they receive. Under our current rules, many of the outside groups do not have to disclose the soft moneys they use in political campaigns. And some of them use them in reprehensible ways.

This amendment says that

> Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

The same language for the State legislatures.

In essence, this would overrule Buckley v. Valeo. If you got the wrong people in Congress, this could mess up the whole process. But if you do not think Congress is capable of doing it, think of what the State legislatures might be willing to do in certain States that have completely different viewpoints from say my State of Utah.

So one of the things our Founding Fathers were most concerned about was absolute majoritarian control of our country. They were absolutely concerned that a straight majority control could lead to mob control similar to what happened in the French Revolution that occurred later. They were concerned about that.

So they set up checks and balances. They set up the Senate as a check and balance, in a sense, because in the Senate every State has equal rights with suffrage. It is not proportional. Every State, no matter how large or small, has two Senators. Wyoming with 700,000 citizens has the same number of Senators as California with now approaching 33, 34 million citizens. They did that to have these checks and balances so that there would be no way that one side or majoritarian group would run away with the process. This amendment would allow them to do so.

We have 5 minutes left. I see the distinguished chairman here. I yield the remainder of my time to the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the distinguished Senator from Utah, the chairman of the Judiciary Committee, for his fine work on this amendment again this year. We have had this debate a few times, I say to my friend from Utah.

Let me just sum it up. This is a unique opportunity for a large majority of the Senate to vote against a proposal and be in concert with the Washington Post, Common Cause, Senator FEINGOLD, and Senator MCCONNELL. That is truly a unique opportunity in the course of this debate.

I commend the Senator from South Carolina. His intentions are clear and honorable. He understands that in order to do what is sought in McCain-Feingold you need to amend the first amendment for the first time in over 200 years, or the first time ever—carve a niche out of it to give both the Congress and State legislatures an opportunity to get complete control of all of this pernicious speech that is going on out there that offends us. That is at the core of this debate.

This is a constitutional amendment. It should be overwhelmingly defeated, as it was last year when we had the same vote. There were 67 Senators who voted against it and only 33 Senators who voted for it. I thought the 67 Senators exercised extraordinarily good judgment. I hope that will be the case again when the roll is called at 6 o'clock.

I do not know if anyone else wishes to speak.

Mr. President, is all the time used on this side?

The PRESIDING OFFICER. There are 2½ minutes under the control of Senator HATCH.

Mr. HATCH. I yield back the time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. HATCH. 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. HATCH. Mr. President, I ask that we proceed with the vote.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS) and the Senator from Colorado (Mr. ALLARD) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BURNS) would vote ''no.''

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BAUCUS) would vote ''aye.''

The result was announced—yeas 40, nays 56, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—40

Bayh	Dayton	Mikulski
Biden	Dodd	Miller
Bingaman	Dorgan	Murray
Boxer	Durbin	Reed
Breaux	Feinstein	Reid
Byrd	Graham	Rockefeller
Cantwell	Harkin	Sarbanes
Carnahan	Hollings	Schumer
Carper	Inouye	Specter
Cleland	Kerry	Stabenow
Clinton	Levin	Stevens
Cochran	Lieberman	Wyden
Conrad	Lincoln	
Daschle	McCain	

NAYS —- 56

Akaka	Frist	Murkowski
Allen	Gramm	Nelson (FL)
Bennett	Grassley	Nelson (NE)
Bond	Gregg	Nickles
Brownback	Hagel	Roberts
Bunning	Hatch	Santorum
Campbell	Helms	Sessions
Chafee	Hutchinson	Shelby
Collins	Hutchison	Smith (NH)
Corzine	Inhofe	Smith (OR)
Craig	Jeffords	Snowe
Crapo	Johnson	Thomas
DeWine	Kennedy	Thompson
Domenici	Kohl	Thurmond
Edwards	Kyl	Torricelli
Ensign	Leahy	Voinovich
Enzi	Lott	Warner
Feingold	Lugar	Wellstone
Fitzgerald	McConnell	

NOT VOTING—4

Allard	Burns
Baucus	Landrieu

The PRESIDING OFFICER. On this vote, the yeas are 40, the nays are 56. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the joint resolution is rejected.

Mr. MCCONNELL. I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—Continued

AMENDMENT NO. 145

The PRESIDING OFFICER. Under the previous order, there are 15 minutes of debate on the Wellstone amendment. The time is to be divided between the sponsor and Mr. FEINGOLD of Wisconsin.

Mr. WELLSTONE. Mr. President, I think we are in a critical time regarding the direction and prospects for this bill. This is an important piece of legislation. It started out weaker than it once was. It is still a very important effort.

The question is whether or not reformers will support amendments that are proreform that will improve the bill or whether we will go in the direction, for example, of taking the caps off hard money and having yet more big money in politics.

This amendment improves this bill. This amendment says when you have the prohibition on soft money in parties and then you have a very important effort by Senator SNOWE and Senator JEFFORDS to also apply that prohibition of soft money to the sham issue ads when it comes to labor and corporations, in the Shays-Meehan bill, that prohibition on soft money applies to all the groups and organizations. In the other McCain-Feingold bill, it applied to all of these organizations.

If you don't have that prohibition of soft money, you will take the soft money from parties and it will all shift to a proliferation of the groups and organizations that are going to carpet bomb our States with all these sham issue ads. This is a loophole that must be plugged.

My amendment is what is in the Shays-Meehan bill.

Third, colleagues, I want to be very clear. I have written this amendment in such a way that severability applies. Even if a Supreme Court in the future were to say this amendment is not constitutional, there is complete severability here and it would not apply to any other provisions, including the Jeffords-Snowe provision.

Also, looking over at my colleague from the State of Tennessee, Senator THOMPSON, we accepted the millionaire amendment which will in all likelihood be challenged by the courts. That is why I am so clear there is severability of principle that applies to this amendment.

Finally, if we are going to pass this bill and we are going to try to get some of the big money out of the politics, please let's not, when we have a chance to fix a problem, not fix it. Don't let the soft money no longer apply to parties and all shifts to these sham ads. Let's be consistent.

I do not believe that an effort to improve this bill is an effort to kill this bill. The argument that if the majority of Senators vote for this amendment and improve the bill, then later on the majority of Senators who voted for this amendment will vote against the bill that the majority just voted for on the amendment, doesn't make any sense. I have heard this argument too many times. We ought to fix this problem.

I hope I will have your support.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Reluctantly, I move to table this amendment, both for concerns of its constitutionality and also the practical considerations of what it will take to get our piece of legislation through this Senate and maintain the bipartisan spirit and reality that it has had.

With regard to the issues of constitutionality, I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Let me also add to what Senator FEINGOLD said. I agree with Senator WELLSTONE, that what he is trying to do makes a great deal of sense in terms of basic equity and fairness. The problem is that 501(c)(4) corporations, at which his amendment is aimed, have not been treated the same by the U.S. Supreme Court as unions and for-profit corporations.

Snowe-Jeffords is very carefully crafted to meet the constitutional test of Buckley v. Valeo. Basically, it meets the two fundamental requirements of Buckley:

First, that there can be a compelling State interest. The Buckley Court found that exactly what is being done with Snowe-Jeffords constituted a compelling State interest.

Second, it be narrowly tailored. Snowe-Jeffords is limited to the 60 days before the election. It is narrowly tailored, limited to broadcast advertising.

It also requires the likeness or name of the candidate to be used.

What has been done with Snowe-Jeffords is a very careful effort to make sure the constitutional requirements of Buckley v. Valeo have been met. In fact, they have been met. It is not vague; it establishes a very clear bright-line test so we don't have a vagueness constitutional problem. We also don't have a problem of substantial overbreadth because all of the empirical evidence shows 99 percent of ads that meet the test are, in fact, election campaign ads and constitute electioneering.

Snowe-Jeffords has been very carefully crafted. It is narrow. It specifically meets the requirements of Buckley v. Valeo, the constitutional requirement.

The problem with what Senator WELLSTONE is attempting to do is there is a U.S. Supreme Court case, the FEC v. The Massachusetts Citizens for Life, that is directly on point, saying that these 501(c)(4)s have a limited constitutional right to engage in electioneering to do campaign ads. There are some limits, but unfortunately if you lump them in with unions and for-profit corporations, you create a very serious constitutional problem because the U.S. Supreme Court has already specifically addressed that issue.

So the reason Senator FEINGOLD and Senator MCCAIN are opposing this amendment is the same reason that I oppose this amendment: It raises very serious constitutional problems. The U.S. Supreme Court, in fact, in 1984 specifically ruled on this question.

What we urge the Members of the Senate to do is not support this amendment, to vote for tabling. Those people who are in favor of real and meaningful campaign finance reform we hope will support Snowe-Jeffords, support McCain-Feingold, and vote to table the Wellstone amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this is a situation that is very similar to what happened in the other body when they sought to pass the Shays-Meehan bill. There were times that amendments that were very attractive had to be defeated to maintain a coalition to pass the bill. They were tough votes. Members of the House on both sides of the aisle stuck together and made sure the most important consideration was that the reform package pass.

We also face a political test with this amendment. Those who remember the debate we had a few years ago will remember that Senators SNOWE and JEFFORDS developed their provision and then joined the reform effort while under enormous pressure to kill reform by voting for the so-called paycheck protection proposal. They agreed to work with us and to vote with us to defeat those unfair proposals once the Democratic caucus agreed to the Snowe-Jeffords language. And our entire caucus voted to add this provision to the McCain-Feingold bill in place of the previous provision that would have treated 501(c)(4) advocacy groups the same as for-profit corporations, similar to the approach and effect of the amendment of the Senator from Minnesota.

I think we saw last week that the Senators from Maine and Vermont, along with other Republican supporters of reform, have been true to their word. If we adopt this amendment, in a way, we will be going back on our word. I have worked for years with the Senator from Maine and the Senator from Vermont on this bill. I know how sincerely they want to pass it. So I stand with them to defend the Snowe-Jeffords provision which I have come to believe is our best chance of making a significant difference on this issue of phony issue ads and also the best chance we have, as the Senator from North Carolina has so well expressed, to actually have this provision approved by the U.S. Supreme Court in the inevitable court challenge that will ensue if we manage to get this bill all the way over there.

Once this bill has been enacted and upheld by the courts, and once we see whether and how the Snowe-Jeffords provision works, I would have no objection to revisiting the issue with the Senator from Minnesota and others to see if there is a way we can constitutionally expand this to include these other groups that have traditionally been treated by the courts differently from the corporations and the unions.

For now, I think we should stick with the provision that is in our bill and vote against this well-intentioned amendment.

I understand under the unanimous consent agreement it is only appropriate to have an up-or-down vote on this amendment; is that correct?

The PRESIDING OFFICER. The agreement did not specify. It simply said a vote would occur in stacked sequence.

Mr. FEINGOLD. The amendment was offered in good faith. I see no reason to avoid the request, and instead of moving to table at the appropriate time, I will simply ask my colleagues to vote no on the Wellstone amendment.

Mr. WELLSTONE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes 19 seconds.

Mr. WELLSTONE. I yield 1 minute to the Senator from Louisiana, 1 minute to the Senator from Illinois, and reserve the remainder of my time for myself and Senator HARKIN.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. One of the most popular misconceptions of the underlying bill is we are eliminating soft money in Federal elections. Nothing could be further from the truth. The Senator from Minnesota is absolutely correct in what he is attempting to do.

There are literally hundreds, if not thousands, of organizations, single interest, special interest organizations, which will be able to continue to raise unlimited amounts of soft dollars to argue their cause after this underlying bill would be passed.

You all remember the Flo ads, Citizens For Better Medicare. There is nothing in the underlying bill, without the amendment of the Senator from Minnesota, that would prohibit Flo and all of our citizens for Medicare from doing exactly what they did, attack Members across the board time after time after time. There are literally thousands of groups that are not affected without the amendment of the Senator, that would continue to use soft money to affect elections, unrestricted. We are not going to be able to do anything with that unless the amendment of the Senator from Minnesota is adopted.

Mr. WELLSTONE. I thank my colleague.

The Senator from Illinois?

Mr. DURBIN. Mr. President, it is naive to believe we can eliminate soft money from candidates and political parties and that that money will disappear. That money will find its venue in these issue ads that we will then face. Believe me, the voters of your home State will not be able to distinguish where the soft money is being spent. It is going to be soft money spent for the purpose of influencing political campaigns.

The Senator from Minnesota has adopted the Snowe-Jeffords standard in terms of these ads. It is not changing it in any respect. I say, with all due respect to my colleague from North Carolina, the Senator from Minnesota has included a severability clause. If we are wrong, if this is unconstitutional, it can be stricken without having any damage to the rest of this McCain-Feingold bill as written.

In 1974, when the Senate and House presented to the Supreme Court our version of campaign finance reform, they decided spending limitations were unconstitutional but, in terms of contribution limitations, they were constitutional. When it comes down to it,

they can make that same decision on this provision.

I hope if it is in the bill they will leave it there because then we will clearly takeout all soft money. Unfortunately, the Senator from Minnesota is not part of the bargain today. What he has brought before us is not something that has been bargained for by those who have written this bill. But his is a good-faith and valuable addition to this, and I hope my colleagues will vote for it.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 54 seconds.

Mr. FEINGOLD. Let me be clear. When the Senator from Illinois argues that there is a severability clause, the fact is there is going to be an effort on this floor to make this entire bill nonseverable. That raises the stakes to the point of threatening the entire piece of legislation because if any one piece of this bill—if we lose on nonseverability—is determined to be unconstitutional, the whole bill falls. I think we are going to win on the severability issue, but if we do not, this amendment raises the very distinct prospect, which I believe all of us fear, that the entire effort will fall if the U.S. Supreme Court finds one defect. This is a critical amendment in that regard.

Mr. SARBANES. That is not true. Does the Senator have any time?

Mr. WELLSTONE. Mr. President, how much do I still have?

The PRESIDING OFFICER. The Senator has 1 minute 43 seconds.

Mr. WELLSTONE. I am glad to yield.

Mr. SARBANES. Mr. President, I want to get campaign finance reform, but I am not going to be bum-rushed down a path where you forgo all analytical abilities. This severability issue is an important issue. In 1974, we passed campaign finance legislation and the Supreme Court threw out a number of very important provisions in that legislation and totally changed the scheme. Much of what we are suffering today is a consequence of that Court's decision.

Now we are being told you can't have nonseverability; you have to stick with this thing through thick or thin. I am told, suppose the Court throws out a minor provision. You want the whole bill to go down?

The answer to that is no. But then the question is, Suppose the Court throws out a major provision. Suppose the Court throws out a major provision. Do you want the whole bill to go down there?

The Senator from Minnesota has made an exceedingly good-faith effort because he has included the provision if the Court throws out this amendment, the rest of the bill will stand. I do not understand these arguments on the constitutionality, given that provision of the Senator's amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WELLSTONE. This is a reform. The soft money, it doesn't let it channel into all these sham ads. It makes the bill stronger, I say to my colleagues.

Mr. GRAMM. Regular order.

The PRESIDING OFFICER. Who yields time?

Mr. FEINGOLD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 seconds.

Mr. FEINGOLD. I yield the remaining time to the Senator from North Carolina.

Mr. EDWARDS. Mr. President, I say in response to what the Senators from Maryland and Illinois said, without regard to severability, we also have a responsibility not to pass an amendment that the U.S. Supreme Court has already ruled is unconstitutional, black and white, in 1984. That is the issue.

Mr. WELLSTONE. Will my colleague yield? That amendment applied to broadcasting. The Senator knows that.

Mr. FEINGOLD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 145. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS) is necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BURNS), would vote ''no.''

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BAUCUS), would vote ''aye.''

The PRESIDING OFFICER (Mr. ALLEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—51

Allard	Dorgan	Lott
Bennett	Durbin	McConnell
Biden	Fitzgerald	Murkowski
Bingaman	Frist	Murray
Bond	Gramm	Nelson (FL)
Boxer	Grassley	Nelson (NE)
Breaux	Gregg	Nickles
Bunning	Harkin	Reed
Byrd	Hatch	Santorum
Cantwell	Hollings	Sarbanes
Cleland	Inhofe	Smith (NH)
Clinton	Inouye	Smith (OR)
Cochran	Johnson	Stevens
Conrad	Kennedy	Thurmond
Craig	Kerry	Torricelli
Dayton	Leahy	Warner
Domenici	Lincoln	Wellstone

NAYS—46

Akaka	Chafee	Edwards
Allen	Collins	Ensign
Bayh	Corzine	Enzi
Brownback	Crapo	Feingold
Campbell	Daschle	Feinstein
Carnahan	DeWine	Graham
Carper	Dodd	Hagel
Helms	McCain	Snowe
Hutchinson	Mikulski	Specter
Hutchison	Miller	Stabenow
Jeffords	Reid	Thomas
Kohl	Roberts	Thompson
Kyl	Rockefeller	Voinovich
Levin	Schumer	Wyden
Lieberman	Sessions	
Lugar	Shelby	

NOT VOTING—3

Baucus	Burns	Landrieu

The amendment (No. 145) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, is the Fitzgerald amendment the pending business?

The PRESIDING OFFICER. It is the pending amendment.

Mr. MCCONNELL. I inquire of the Senator from Illinois if he has plans for that amendment.

Mr. DODD. Mr. President, I thought maybe my colleague might want to inform our Members as to what the program is tonight and tomorrow.

Mr. MCCONNELL. I inform all of our colleagues that the next amendment to be dealt with is the Hagel-Breaux amendment which will be laid down shortly. It is my understanding that it is agreeable on both sides to have very limited debate on that amendment tonight, with the remainder of the debate coming in the morning and a vote before the noon policy luncheons tomorrow. I say to my friend from Connecticut, is that his understanding as well?

Mr. DODD. It is, Mr. President. We may have additional requests. I think 10 minutes is what Senator HAGEL wanted. We may have a request for 15 or 20 minutes over here tonight because people want to be heard. After the Hagel amendment, Senator KERRY of Massachusetts has been waiting. We would be prepared to offer his amendment after the consideration of the Hagel amendment.

Mr. MCCONNELL. Mr. President, that is where we stand for the evening. I believe the Senator from Illinois would like to dispose of his amendment.

Mr. MCCAIN. Mr. President, may I ask what the parliamentary procedure will be?

Mr. MCCONNELL. Mr. President, I say to my friend from Arizona, what I thought I would do is give the Senator from Illinois a chance to withdraw his amendment; is that correct?

Mr. FITZGERALD. Mr. President, I would like consent to withdraw it and resubmit it. I am still working on getting it so that it technically complies with all I want to achieve.

Mr. MCCONNELL. I say to my friend from Arizona, what I had hoped was to enter into an agreement where there would be 10 minutes on the side of the Hagel amendment.

Mr. DODD. Fifteen minutes is what I need.

Mr. MCCONNELL. Fifteen minutes opposed to the Hagel amendment, with the remainder of the time being reserved. We would go into session at 9 o'clock in the morning; is that correct?

After consultation with the leader, the thought was that we would come in at 9:15 and resume debate on the Hagel amendment, with the remainder of the time on each side reserved for the morning. Is my friend from Arizona comfortable with that arrangement?

Mr. MCCAIN. Yes. I thank the Senator.

Mr. MCCONNELL. Mr. President, for the purposes of withdrawing his amendment, I yield the floor. I see the Senator from Illinois is here.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 144, WITHDRAWN

Mr. FITZGERALD. Mr. President, I ask unanimous consent to withdraw the amendment I introduced on Friday, to be resubmitted later in the week, as there are now some technical glitches.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. FITZGERALD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that tonight there be 10 minutes of debate on the proponents' side of the Hagel-Breaux amendment and 15 minutes on the side of the opponents of the Hagel-Breaux amendment. I see Senator HAGEL is present.

I yield the floor.

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

Mr. HAGEL. Mr. President, may I ask the Senator from Kentucky: Senator BREAUX, I believe, wanted to speak. He may need 5 minutes. We may not use all of the time, but is that agreeable for an additional 5 minutes?

Mr. MCCONNELL. I say to the Senator from Nebraska, he may carve up that 10 minutes any way he would like.

AMENDMENT NO. 146

(Purpose: To amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes)

Mr. HAGEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. HAGEL] proposes an amendment numbered 146.

Mr. HAGEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The text of the amendment is printed in the RECORD of Friday, March 23, 2001, under ''Amendments Submitted.'')

Mr. HAGEL. Mr. President, in this final week of debate on campaign finance reform, we have an opportunity to achieve something relevant and important. Our hope has always been to get a bipartisan bill approved by the Senate that brings reform to the system, is constitutional, does not weaken political parties, and that our President Bush will sign.

It is in that spirit that we offer our amendment, my colleagues and I, Senators BREAUX, BEN NELSON, LANDRIEU, DEWINE, KAY BAILEY HUTCHISON, GORDON SMITH, THOMAS, ENZI, HUTCHINSON, ROBERTS, ALLARD, BROWNBACK, CRAIG, and VOINOVICH.

Whatever we do this week to reform our campaign finance system, we must look to expand, not constrict, opportunities for people to participate in our democratic process.

The amendment we offer today is very similar to the legislation we first offered in the fall of 1999. It will improve the way Federal campaigns are finance and has three main components.

First, hard money limits:

This is just a matter of fairness and common sense. Today's hard money contribution limits are worth less than one-third of their value when the 1974 act was passed. They haven't been adjusted in more than 26 years. Hard money is the most accountable method of political financing. Every dollar contributed and every dollar spent is fully reported to the Federal Elections Commission. The individual limit of $1,000 in 1974 now equates to $3,300 in today's purchasing power. Our amendment raises this limit to $3,000 and indexes it for inflation.

Second, our amendment focuses on disclosure. This is the heart of real campaign finance reform. We start from a fundamental premise that the problems in the system do not lie with political parties or candidates' campaigns but with unaccountable, unlimited outside monies and influence that flows into the system where there is either little or no disclosure.

In recent years, we have seen an explosion of multimillion dollar advertising buys by outside organizations and individuals. These groups and wealthy individuals come into an election, spend unlimited sums of money and leave without anyone knowing who they were or how much they spent or why.

Our amendment increases disclosure requirements for candidates, parties, independent groups, and individuals. We ensure that the name of the individual, or the organization, its officers, address, phone numbers, and the amount of money spent are made public.

It is a very relevant question. Why do we want to ban soft money only to political parties—that funding which is accountable and reportable now? This ban would weaken the parties and put more control in the hands of wealthy individuals and independent groups that are accountable to no one.

Our amendment caps soft money contributions to political parties to $60,000 per year—far below the unlimited millions that are now poured into the system. This is a very real and very significant limit. The Wall Street Journal recently reported that nearly two-thirds of the soft money contributions in the last election cycle came from those who gave more than the $120,000 election cycle soft money ban that would be in our bill. Two-thirds of the soft money contributions, or a total of nearly $300 million, in the last election cycle would have been prohibited by this cap.

Regarding the State parties, our amendment codifies a defined list of activities that State parties must pay for with a percentage of hard dollars. For activities that promote candidates in Federal elections, State parties would follow a funding formula determined by the number of Federal candidates. For example, if 50 percent of the candidates promoted are Federal candidates, then 50 percent of the funding must come from Federal, or hard dollars. We agree with curbing the abuse of soft money.

Finally, we believe our campaign finance reform proposal would pass constitutional muster. As Senator SARBANES said on the floor of the Senate a half hour ago, what good does it do to pass legislation we know will be struck down by the courts?

I look forward to debating the merits of our proposal with my Senate colleagues.

Now I turn to my friend and colleague from Louisiana, who was an original cosponsor of this bill in October of 1999, Senator JOHN BREAUX.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the distinguished Senator from Nebraska for his contribution in working so diligently to try to bring a degree of reform to our system and yet at the same time recognizing the practicalities of what we do in the real world. One of the most popular misconceptions that members of the press, as well as many Members of this body, the other body, and many people in the general public have of the underlying bill, the McCain-Feingold bill, is that somehow it takes the so-called soft money out of Federal elections.

It simply does not do that. It only does it, as the distinguish Senator has pointed out, to probably the two most responsible organizations out there involved in Federal elections, and that is the Democratic Party, of which I am a member, and the Republican Party, of which the Senator from Nebraska is a member.

It takes the so-called soft money out of the party operations, but it leaves it available to every other group in the United States, all of the so-called 501(c)(4) organizations and the 527 organizations, which under the McCain-Feingold bill would continue to be able

to raise large sums of money—that is, unrestricted as to the amounts—to be used in Federal elections and, in most cases, against Federal candidates. I do not know how anybody writing about what we are doing in this body tonight can say that this type of a bill, which leaves all of those areas unrestricted, somehow eliminates soft money in Federal elections. If you look at the list of groups that are single issue groups, special interest groups, that have been running ads since January of 1999—just that group—I have two columns of print that is so small I can hardly read it without putting it as far away from my eyes as I possibly can. But every group on this list would be untouched by the McCain-Feingold amendment—at least outside of 60 days before the election—with the adoption of the Wellstone amendment.

It is very clear that most of the damage these groups do is not within 60 days of an election; it is the year before the election. It is the 2 years before the election. As in my State of Louisiana, when the election is not until the next November, one of these groups is already on the air running television advertisements, using soft dollars, unrestricted—unrestricted today and after if the McCain-Feingold bill were to be adopted. They would do the same thing right up until the election. At that time, they don't need to do it anymore. The damage is done, and the impression is created about a particular candidate, whether he or she is good or bad. Sixty days means nothing to them because they have already accomplished their purpose for the 2 years prior to that time when they did the damage, armed with all of the soft money they would want. That is one of the reasons why I am concerned.

I will mention very briefly the type of ads that will still be allowed under McCain-Feingold and the damage they can do. If they are unanswered by our State parties and the Republican Party and the Democratic Party, they will do serious damage to the integrity of our elections.

Rather than say we are taking ourselves away from the shackles of special interests, I daresay that candidates will be more prone to listen to all of these special interests, single interest organizations, which will continue to use all of the money that they need.

Now pick your poison because they have them from both sides. But these groups would continue to be able to do anything they want with soft dollars up until 60 days. Here are the National Abortion Rights League and the National Right To Life. Which side would you want attacking you in your State? Do you remember the TV ads with Harry and Louise on the Clinton health plan? Some of the folks on that side of the aisle thought they were great but not this side. Harry and Louise represented the Health Insurance Association of America. They would do exactly what they did 2 years ago and 4 years ago. Somebody said candidates would not be able to help them raise money. Does anybody think they need candidates to help them raise money—the Health Insurance Association of America? They will have more money than they know what to do with.

Do you remember Flo? She did a terrific job. On my side of the aisle, they didn't like what Flo had to say. Citizens For Better Medicare was Flo. It is a 501(c)(4) organization. They will continue to raise unlimited amounts of money and do exactly what they did several years ago.

Therefore, I think the Hagel-Breaux approach—we will call it that for the purpose of our discussion tonight—is a balanced and proper approach and one that makes a great deal of sense. It is real reform, and it is something that should merit our support.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I rise in strong opposition to this amendment proposed by the Senator from Nebraska. The Hagel amendment is very simply antireform. Over the course of this debate, many Members of this body have proposed thoughtful, and even provocative, amendments that have made important contributions to the substance of the McCain-Feingold bill. I thank my colleagues sincerely for their efforts.

But this amendment clearly does not contribute to the strength of the bill. On the contrary, the Hagel amendment would weaken McCain-Feingold beyond recognition. My colleague from Nevada, Senator REID, has said he can't imagine a system worse than the one we have today. I think we have found it today in the Hagel amendment.

I am sorry to say that because I know my friend Senator HAGEL is sincere in his attempt to improve the campaign finance system. As many colleagues know, the centerpiece of the McCain-Feingold bill is a ban on soft money. The ban on soft money defines the legislation. Banning soft money is the most vital reform we can enact and, without it, all the effort that the Senate has put into the bill would be meaningless.

Make no mistake, as we vote on this amendment, the Hagel amendment simply guts the soft money ban. Under Hagel, the soft money that is so outrageous to the public, and that so few Members of this body are even willing to defend at this point, is suddenly, permanently, forever written into our law. That is unacceptable, and it is certainly not reform.

We can't be credible to the American people if we are going to characterize as reform changes in the law that give even more power to the wealthiest people in our country.

We are not here to sanction or institutionalize the soft money system. We are here to stop it. We did not fight for 6 years to get to the place where we are today, within a few days of passing a bill to ban soft money from our system, only then to step back at the last minute and say: Never mind; soft money creates a dangerous appearance problem for Members of this body.

It is sad to say—you know it, Mr. President, and I know it—we pick up the phone to raise soft money with one hand and we vote with the other hand. Is the answer for the Congress to officially sanction this system, to say it is OK forever for Members of Congress to ask for $50,000 checks from corporations and unions, and make it live forever? That is what this amendment will allow. I think most of my colleagues understand that for this body to have any credibility with the American people, the answer to that question must be a resounding no.

When this body succeeded in stopping the appearance of corruption in the past, we did not do it with half-hearted measures that sanctioned our own behavior. When the Senate responded to concerns about the honoraria system, the Senate banned honoraria. It did not say we would just take a little less in speaking fees than we did before.

When the Senate responded to the public's concern about Members receiving lavish gifts from outside interests, we enacted the gift ban. We did not say the system that was in place was OK and open a new and permanent loophole.

We did not take the easy way out in those circumstances because we knew the American people would see through any attempt to dodge the reforms that needed to be made.

Those were important moments where the Senate acted to renew the people's faith in us and the work we do. We sent the message with those reforms that we understood that just because something is standard practice around here does not make it right. We understood that our inaction fostered the appearance of corruption, and so on those occasions we took decisive action to change the system.

I say to my colleagues, we are only going to get credit where credit is due. The American people may not be following every nuance of this debate and every detail of each amendment, but they know phony reform when they see it. If we simply engrave soft money into law and allow soft money to continue to flow unchecked to State parties, we are not fixing the system; we are perpetuating it. We are continuing to allow, in effect, two sets of books: The hard money system and the soft money system; if you will, a second secret-secret fund that involves enormous amounts of money.

That is not why we are here. I for one cannot go home to Wisconsin to one of my listening sessions and town meetings and say to a constituent: We just passed campaign finance reform in the Senate; isn't that great?

It used to be legal for a couple to give up to $100,000 in an election cycle to candidates, parties, and PACs, and now it is $540,000 per cycle. That is what the Hagel bill does. That is what the Hagel

amendment does. It allows every couple in America to give $540,000 every 2 years of hard and soft money combined.

I do not know about the other States—actually, I think I do. It would seem ridiculous to the people of any State to suggest you could have a campaign finance reform bill that allowed any couple in America to give $540,000 every 2 years. I could not say it with a straight face, and I think every other Member of this body would be in the same boat.

My friend from Nebraska says this amendment at least limits the amount of soft money. I am sorry to say that just is not the case. While it is true the Hagel amendment caps what a corporation or union or wealthy individual can give to the national parties in soft money, that same soft money can still be raised and spent by the State parties—by the State parties—on Federal elections. It leaves a gaping, complete loophole for wealthy donors to funnel unlimited money to the States.

In contrast, the State loophole is sealed shut in the McCain-Feingold bill, and it is not even addressed by the Hagel bill. McCain-Feingold does not prohibit States from spending their money on campaigns as long as it does not relate to Federal elections, but when it comes to States spending money on Federal elections, soft money is strictly prohibited.

I know this provision in our bill has led to a new argument, a new charge that I have had some fun debating with the Senator from Nebraska. The new charge is that our bill ''federalizes'' State election law.

Let's put this matter to rest right now. We only address State spending on Federal elections—on Federal elections. Federal elections should be conducted under Federal rules, and that is what McCain-Feingold ensures. You cannot leave open loopholes that we already know exist, as the Hagel amendment does, and somehow purport to be doing something about or limiting soft money. It just is not true. That is just a roadmap. The Hagel amendment is just a roadmap to the parties to just restructure their operations and continue what they have been doing.

I ask my colleagues whether they think the donors on this chart might send soft money donations to the States under the Hagel amendment. What do they think? Look at the growth under each of these amounts. For donors of $200,000 or more, $400,000 or more, or $500,000 or more, one can see the enormous growth from 9 people who gave $500,000 or more to 167 people giving $500,000 or more. Do we really think these donors will just reduce their contributions to $60,000 per year if the Hagel amendment becomes the law? Of course they will not, and they will not have to because the Hagel amendment tells them exactly how to get the rest of that cash to whom they want it to get to just running it through the State parties that can spend it freely on Federal elections, every dime under the Hagel amendment.

It is a roadmap for continuing to exert influence over the Congress and the administration by contributing all that money to the State parties and then having it spent on the Federal elections.

I thought this category of donor deserved its own chart because this is phenomenal. Since the 1992 election cycle, the number of $1 million donors—I say to the Senator from Connecticut, when I came here, I could not even imagine—and I came here only 8 years ago—the idea of a $1 million donor. I did not think it possible to even give $25,000. Million-dollar donors have developed in the last few years, and it has gone through the roof.

This chart shows the astronomical growth of these mega-donors. There was only one in 1992. I did not know about it when I got here. It sure did not help me. In 1996, it rose to seven—seven $1 million donors. In the year 2000 cycle, it was really moving: 50 different groups, interests, corporations, unions, or individuals gave over $1 million— 50.

I have a feeling that some of these donors would be very happy to exploit the State loophole under the Hagel amendment. Members of Congress will, unbelievably, still be able to ask for these contributions.

Members of this body are allowed under the Hagel amendment to call somebody up, to call a CEO, or the president of a labor union or an individual and say: We need a million-dollar check from you. That is what the Hagel amendment would permit; it just has to be done through the State laws. They will still be able to ask for them because, unlike the McCain-Feingold bill, the Hagel amendment does not contain any restriction on Federal officials or officeholders raising soft money, and to me that is the very worst thing about this whole system, that people elected to this institution are allowed not only to do this, but they are pressured into asking for those contributions every day by their political parties and by their political leaders.

Finally, I think some of these donors would certainly be giving soft money to the States under the Hagel amendment. I think this chart shows better than any how savvy soft money donors are. They can have it both ways because they can give unlimited amounts to both parties. They pay tribute to both of the parties and exert influence on the entire Congress. These are the kinds of donors who will choose to take the State soft money route mapped out for them under the Hagel amendment—Federal Express, Verizon, AT&T, Freddie Mac, Philip Morris—all giving to both parties, covering their bets. Believe me, they will proceed through the loophole in the Hagel bill with every dime they want to contribute.

We can hardly be naive enough to think that just because the soft money to the national parties would be capped, soft money donors would not give heavily to State parties, as plenty of soft money donors already do.

As I mentioned, there is another crucial difference between McCain-Feingold and the Hagel proposal. We prohibit officeholders and candidates from raising this soft money. The Hagel amendment does nothing to address this problem. Under the Hagel bill, for the first time in American history, we would legitimize soft money, having politicians call up every CEO and every corporate head, saying ''I need your $60,000.'' That is what you can give. That is the price of admission.

It has been the wisdom of the Nation for 100 years, starting with Teddy Roosevelt, that we should not do that. Under the Hagel amendment, it becomes the norm; it becomes standard procedure. Call up the union and say it is time for your $60,000. Call up a corporation and say it is time for your $60,000. I hope we do not go down that road.

I have been asked whether I think the Hagel bill is better than nothing at all. With all due respect to my colleague from Nebraska, that is exactly how I feel. The Hagel amendment doesn't pass the commonsense test. If there is one thing Americans have plenty of, it is common sense. We can't support the Hagel amendment and call the bill reform. If anybody wants to go home to their State to tell people that our answer to the soft money problem was to sanction soft money and ensure that it lives forever, good luck. You will need it.

The Hagel bill also triples the hard money limits from the current $2,000 a donor can give a candidate per cycle. To most Americans, $2,000 is still a large sum of money; $2,000 is what an individual can give to a single candidate in an election year under the current law. They can give $1,000 in the primary and another $1,000 in the general election. This bill is about closing loopholes that allow the wealthiest interests in our country to exert undue influence in our political system.

As I said before, it is only a first step to cleaning up the system. There are many provisions we can consider down the road that affect our campaigns. I know some in this body would like to increase the amounts that donors can give to our campaigns. But a tripling of the hard money limits, combined with a codification of the soft money system, is simply beyond the pale. There is no way a bill that contains those two provisions can be called reform.

Finally, what is most troubling about the Hagel amendment is that it allows corporations and unions to give directly to parties. That is what writing soft money into the law would achieve. It actually sends the campaign finance laws back in time to the very beginning of the 20th century before the Tillman Act banned direct corporate donations to the parties and before Taft-Hartley banned direct labor

contributions to the parties. I know this is understood with the Hagel amendment. People don't seem to give it a second thought.

I think it is worth pausing to consider just what a throwback the Hagel amendment really is. How often do lawmaking bodies consciously dismantle reforms that have stood for nearly 100 years. The Hagel amendment isn't just a codification of the soft money status quo; it is actually a step backward in time. Teddy Roosevelt signed the Tillman Act in 1907, in the days when the public was so concerned about the power of certain corporate interests, the power of railroads and the trusts. It was a landmark reform that has helped to shape everything that has come after it. It wrote into law the understanding, the most important part about this whole bill, that direct corporate contributions to the parties create enormous potential for corruption. With the stroke of a pen, Teddy Roosevelt wrote that into law and now we are considering whether to write it out of the law.

I say to my colleagues, that would be a grave mistake and an embarrassment for this Senate. I hope my colleagues will take a careful look at the amendment, and I hope the Senate will soundly reject it. The Hagel amendment undermines McCain-Feingold in every conceivable way. McCain-Feingold bans soft money while Hagel makes sure we can have it forever, unlimited amounts through a loophole to the State parties.

Hagel combines the codification of soft money with a tripling of the hard money limits, allowing a couple to give $540,000 in donations to a given cycle. I almost can't say it without laughing at that amount of money.

Finally, the Hagel proposal would undue the ban on corporate and union contributions to the parties that are at the very foundation of the campaign finance reforms of the last 100 years.

There are some reform proposals in the Hagel bill that deserve some consideration, but a vote for the Hagel amendment is simply a vote to unravel the most basic reforms of the McCain-Feingold bill.

The Hagel amendment would remove the ban on corporate and union contributions to the parties, replacing it with a soft money system that would have the Senate's stamp of approval. I urge my colleagues to think about what it means to turn back the clock on the laws that protect the integrity of this government.

This campaign finance debate is about moving forward, not going back. We must defeat this amendment and bring this debate to a conclusion. It is time to pass real reform. The Hagel amendment must not be adopted.

Mr. MCCONNELL. As the manager of the bill on this side and a supporter of the Hagel-Breaux amendment, I ask unanimous consent the last 5 minutes prior to the vote be under my control.

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

Mr. MCCONNELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as the Senate continues consideration of campaign finance reform this week, I want to commend Senator LOTT and Senator DASCHLE for their leadership in bringing this important issue before the Senate for a full and open debate. And I thank Senator MCCAIN and Senator FEINGOLD for their commitment and hard work in crafting meaningful, bipartisan campaign finance reform legislation.

The enormous amounts of special interest money that flood our political system have become a cancer in our democracy. The voices of average citizens can barely be heard. Year after year, lobbyists and large corporations contribute hundreds of millions of dollars to political campaigns and dominate the airwaves with radio and TV ads promoting the causes of big business.

During the 2000 election cycle alone, according to Federal Election Commission records, businesses contributed a total of $1.2 billion to political campaigns. A recent Wall Street Journal article reported that $296 million, almost two-thirds of all ''soft money'' contributions given in the last election, came from just over 800 people each of whom gave an average of $120,000. With sums of money like this pouring into our political system, it's no surprise that the average American family earning $50,000 a year feels alienated from the system and questions who's fighting for their interests.

The first step in cleaning-up our system is to close the gaping loophole that allows special interests to bypass existing contribution limits and give huge sums of money directly to candidates and parties. These so-called ''soft-money'' contributions have become increasingly influential in elections. From 1984 to 2000, soft money contributions have sky-rocketed from $22 million to $463 million an increase of over 2000%. We cannot restore accountability to our political system, until we bring an end to soft money. McCain-Feingold does just that.

Another vital component of meaningful reform is ending special interest gimmickry in campaign advertising. Today, corporations, wealthy individuals, and others can spend unlimited amounts of money running political ads as long as they do not ask people to vote for or against a candidate. These phony issue ads—which are often confusing and misleading—have become the weapon of choice in the escalating war of negative campaigning. The limits McCain-Feingold places on these ads will help clean-up the system and make it more accountable to the American people.

So far, all the Republican leadership in Congress and the President have proposed is reforming the system to allow more money in politics, not less. Increasing hard money contribution limits across-the-board and legalizing soft-money will not restore the public's confidence in our political system. Instead, it will only enhance the influence of big corporations and other special interests.

What is even more troubling are Republican efforts to use campaign finance reform as an excuse to silence working families and to prevent their unions from speaking up on the issues they care about. In the 2000 election, corporations outspent labor unions 14–1, yet Republicans would have us believe that muzzling unions—the voice for working families is real campaign finance reform.

The reality is that the Republican amendments offered last week to regulate union dues are not reform, but revenge for the extraordinary grassroots effort that the labor movement exerted in the last three Presidential campaigns. Fortunately, the Senate stood up for working families by defeating these anti-union amendments.

For the first time in over two decades, the Senate has a real chance to meaningfully reform our campaign finance laws. We will learn a lot during the debate this week about who is committed to real reform and who is committed to maintaining the status quo.

Finally, Mr. President, I happen to be one who, along with Senator Scott and Senator Stafford in 1974, offered public financing for House, Senate, and Presidential campaigns. That was in the wake of the Watergate financial scandals. The Senate took a good deal of time debating those issues. We were successful in passing it. So we would have had public financing for primaries for the House of Representatives, the Senate, and the Presidency.

In the course of those negotiations with the House of Representatives, we were unable to get movement in the House of Representatives. As a result, we eliminated the public financing for the House and Senate and took a partial public financing for the Presidential elections, which is the basis of a good deal of the challenge we are trying to face today.

I personally believe we are not going to get real reform until we have a public financing program. Many people say—and I have heard it here on the floor—if we do that, we are using the public's money in politics and somehow this is evil and wrong. They say politics should not include the public's money.

The tragic fact of the matter is that the public is paying for campaigns, and they are paying for them every day with the large loopholes that are being written into our Tax Code day after day, year after year, that are favoring many of the special interests that are making the largest campaign contributions.

We would save the American public, I believe, a good deal in terms of their taxes, should we move toward a public finance kind of system. That is not the issue that is before the Senate now, but

I do believe that the steps that were included in the proposed legislation before us provide for some progress. I intend to support it. I do believe that ultimately we are going to have to come to some form of system for public financing. I hope this will not require that we have a change in the Constitution. There will be those who will debate this issue this afternoon who think that is absolutely essential.

At this point, I do not support those changes, but we need to take the necessary steps to address the larger issues, which I think will include public financing, in order to get a handle on this situation.

I am a strong believer that public officials ought to be accountable to the people, not to financial interests. We ought to have the debates on the floor of the Senate and the House of Representatives with people who are representing their own best judgment and the interest of their States rather than—which I am afraid is too much the case—the interests driven by special interests and the largest contributors.

Until we return to that kind of integrity in the financing of our election system, we are going to have difficulty assuring the American electorate that we are really meeting our responsibilities and have an institution that is of the people, by the people, and for the people, and responsive only to the people.

I thank the Chair, and I yield the floor.

Mr. MCCONNELL. Mr. President, I would like to refer to an article by David Tell which recently appeared in the March 26, 2001 edition of The Weekly Standard entitled ''Shut Up, They Explained.'' In it, Mr. Tell explains the tenth amendment problems that would result from McCain-Feingold's federalization of State and local campaign activities, and he notes the first amendment problems with the bill's restrictions on outside groups. This article begins:

This week and next, the U.S. Senate will consider amendments to a piece of omnibus campaign finance reform legislation—and then approve or reject the result by a majority vote.

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The substantive pretext for a soft-money prohibition has always been deeply flawed. To pay for an expensive campaign of nationwide image advertising, the 1996 Clinton-Gore reelection effort organized an unprecedented harvest of soft-money contributions to the Democratic National committee. Eventually publicized, the scheme became infamous for its abuses, responsibility for which the Democratic party was thereafter eager to evade. The problem, they told us over and over, was bipartisan: ''the system.'' And McCain-Feingold was the reform that would make it go away. Except that all the misdeeds charged to Clinton and Gore in 1996 were illegal under existing law. And it was the irrationality of a previous ''reform''—the suffocating donation and expenditure limits imposed on publicly financed presidential campaigns—that inspired those misdeeds in the first place. Soft money per se had nothing to do with it.

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The Democratic and Republican parties exist to do more than elect members of the House and Senate. They are national organizations with major responsibilities, financial and otherwise, to state and local affiliates that act on behalf of candidates for literally thousands of non-federal offices—in campaigns conducted according to non-federal laws, most of which still permit direct party contributions by businesses and unions. The McCain-Feingold soft-money ban would criminalize those contributions by requiring that virtually all state-party expenditures, during any election in which even a single candidate for federal office appears on the ballot, be made with money raised in strictly limited increments, and only from individual donors. By unilaterally federalizing all American electioneering practices, in other words, the McCain-Feingold bill would violate our Constitution's Tenth Amendment.

Even so stalwart a Democratic interest group as the AFL–CIO has lately adopted some form of this argument. Since it happens to be true, it would be nice to hear it echoed more broadly.

As it would be nice to hear more widespread warnings about a still more pernicious feature of the McCain-Feingold bill as presently constituted: its harsh assault on independent political activity by business, union, and non-profit issue groups. Some sympathy is certainly due to congressmen and senators who find themselves, late in a reelection campaign, subjected to a televised barrage of soft-money-funded criticism from such groups. Constrained by hard-money rules, most incumbents are never able to respond at equal volume. Nevertheless, this problem, real as it is, cannot possibly justify the elaborate and draconian restrictions McCain-Feingold seeks to impose on private citizens who might so dare to criticize their elected officials: rules about whom the critics are allowed to consult or hire before they open their mouths in public, for example, and other rules about what they can say, and with whose money, when they do.

An unbroken, quarter-century-long line of Supreme Court jurisprudence makes clear: Under the First Amendment, all this stuff is unconstitutional.

Mr. President, I would like to refer to an article from November 15, 1999 from The New Republic written by Professor John Mueller entitled ''Well Off. Good riddance, McCain-Feingold.'' In it, Professor Mueller notes that the influence of ''special interests'' in the democratic process is not ''a perversion of democracy,'' but ''it's the whole point of it.'' He also notes that ''campaign finance reform'' will not be able to stifle the special interests; if certain forms of political speech are suppressed, citizens groups will simply use other methods.

The article begins:

Once upon a time, carping about campaign finance abuse was mainly the province of Democrats.

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But it is the defenders of money in politics, the ones so widely reviled in the elite press, who speak the truth about campaign finance reform. In a democratic system of government, there will always be some inequality of influence. Yet that is not necessarily a flaw, and it is rarely as debilitating to good government as reformers would have you believe. When you dig beneath the rhetoric of campaign finance reform, you discover that the ''reforms'' being proposed would, in practice, constitute anything but an improvement.

The essential complaint of reformers is that the present system gives too much influence to so-called special interest groups. This is also the most popular complaint. Who, after all, supports special interests? Actually, we all should. Democracy is distinguished from autocracy not as much by the freedom of individual speech—many authoritarian governments effectively allow individuals to petition for redress of grievances and to complain to one another, which is sometimes called ''freedom of conversation''—as by the fact that democracies allow people to organize in order to pursue their political interests. So the undisciplined, chaotic, and essentially unequal interplay of special interest groups that reformers decry is not a perversion of democracy—it's the whole point of it.

Nor is campaign finance reform likely to subdue special interests. People and groups who seek to influence public policy do so not for their own enjoyment but because they really care about certain issues and programs. If reformers somehow manage to reduce the impact of such groups in election campaigns, these groups are very likely to find other ways to seek favor and redress, no matter how clever the laws that seek to inconvenience them are. For example, if Congress prohibited soft money donations to political parties—which is what the ill-fated McCain-Feingold bill promised to do—special interests would merely spend more money on their own advertising and get-out-the-vote efforts, which are known in the political business as ''independent expenditures.''

* * * * *

What makes the philosophy of campaign finance reform so ironic is that the laws have such a poor track record of rooting out the alleged abuses they are intended to eliminate. In fact, many of the ills reformers now seek to address are the byproducts of earlier attempts to clean up the system.

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Reformers of all stripes argue that political campaigns cost too much. But the real question is, compared with what? The entire cost of the 1996 elections was about 25 percent of what Procter & Gamble routinely spends each year to market its products. In what sense is this amount too much? Some people do weary of the constant barrage of advertising at election time, but democracy leaves them entirely free to flip to another channel, the same method used so effectively by anyone who would rather not learn about the purported virtues of Crest toothpaste.

There is also the related gripe that the ever-increasing need for donations means that politicians spend too much of their time raising money. But much of this problem arises from the absurdly low limit the reformers have placed on direct campaign contributions. If anything, rather than restricting soft money (as the McCain-Feingold bill would have), it's time to raise or eliminate altogether the $1,000 limit on individual contributions to candidates. Politicians seem to find it politically incorrect to advocate this sensible change, even though it would probably reduce the amount of time they spend campaigning or campaign funds. Getting rid of special interest influence by other means—say, by regulating independent groups' expenditures—would only work if reformers successfully dispensed with the right to free speech. Since the advocacy of special interests is the very stuff of the democratic process, the unintended goal of the campaign reformers ultimately seems to be the repeal of democracy itself.

Mr. President, I would like to refer to an excerpt from an article by Washington Post columnist David Broder

that ran on February 21 of this year entitled ''Campaign Reform: Labor Turns Leery.'' In it, Mr. Broder notes that Big Labor has echoed my concerns about the unconstitutionality of the McCain-Feingold bill. Specifically, Mr. Broder writes that:

Last week the AFL–CIO, which in the past had endorsed a ban on soft money contributions, announced that it has serious misgivings about other provisions of the McCain-Feingold bill. Limiting ''issue ads'' that criticize candidates by name—even if not calling specifically for their defeat—in the period before an election would inhibit its ability to communicate freely with union members, the memo said. Other sections would make it impossible for labor to coordinate its voter-turnout efforts with those candidates it supports. None of these concerns is trivial. But they point up some of the very same constitutional objections Mr. McConnell and other opponents—including a variety of conservative groups and, yes, the American Civil Liberties Union—have made for years.

Lastly, Mr. President, I would like to refer to another article by Professor Kathleen Sullivan, professor of constitutional law and dean of Stanford Law School. This article is entitled ''Sleazy Ads? Or Flawed Rules?'' and appeared on March 8, 2000 in the New York Times. In this article, Professor Sullivan notes the controversy that surrounded the running of television ads last year by supporters of then-candidate George W. Bush. She explains why the real problem with today's campaign finance system is the quarter-century-old contribution limits, and that real reform would be to raise these limits, bringing them into the 21st century. Specifically, Professor Sullivan notes:

Many have professed to be shocked, shocked that recent television commercials attacking Senator John McCain's environmental record turned out to be placed by Sam Wyly, a wealthy Texas investor who has been a strong supporter of Gov. George W. Bush.

Predictably, many have called for more campaign finance reform to stop such stealth politics, and Senator McCain filed a formal complaint on Monday with the Federal Election Commission, alleging that the ads, though purportedly independent, were in reality a contribution to the Bush campaign that exceeded federal contribution limits.

Such calls for greater regulation of campaign donations, however, ignore the real culprit in the story: the campaign finance laws we already have. Why, after all, would any Bush supporter go the trouble of running independent ads rather than donating the money directly to the Bush campaign? And why label the ads as paid for by Republicans for Clean Air, rather than Friends of George W. Bush?

The answer is the contribution limits that Congress imposed in the wake of Watergate and that the Supreme Court has upheld ever since. The court held that the First Amendment forbids limits on political expenditures by candidates or their independent supporters, but upheld limits on the amount anyone may contribute to a political campaign.

The result: political money tries to find a way not to look like a contribution to a political campaign. Unregulated money to the parties—so-called soft money—and deceptive independent ads are the unintended consequence of campaign finance reform itself.

This result is not only unintended but undemocratic. Contribution limits drive political money away from the candidates, who are accountable to the people at the voting booth toward the parties and independent organizations, which are not.

If Governor Bush places sleazy ads misleading the voters about Senator McCain's record on clean air, voters can express their outrage through their votes. No similar retribution can be visited on private billionaires who decide to place ads themselves.

The answer is not to enlist the election commission to sniff out any possible ''coordination'' between the advertisers and the official campaign, or to calculate whether the ads implicitly supported Mr. Bush.

It is unseemly in a democracy for government bureaucrats to police the degrees of separation between politicians and their supporters. And it is contrary to free-speech principles for unelected censors to decide when an advertisement might actually incite voters to vote. What else, after all, is political speech supposed to do?

The solution is simple: removal of contribution limits, full disclosure and more speech. If it had been clear from the outset that the dirty ads on dirty air had come from Mr. Wyly, a principal bankroller of the Bush campaign, the voters could have discounted them immediately—with vigorous help from the vigilant press and the McCain campaign. A requirement that political ads state their sources clearly is far less offensive to free-speech principles than a rule that the ad may not run at all.

Better yet, the removal of contribution limits would eliminate the need for stealth advertising in the first place. If Mr.. Wyly could have given the money he spent on the television spots directly to the Bush campaign, the campaign alone would have been held responsible for any misleading information that might have been put out. And such accountability would have made it less likely that such ads would have run at all.

As it turned out, Senator McCain was able to use the Wyly commercials to attack Governor Bush's campaign tactics. So, in the end, who gained more from the flap? All Mr. McCain really needed to preserve his competitive edge was the First Amendment, which protects his right to swing freely in the political ring. The people are far more discerning than campaign finance reformers often give then credit for; they can sift out the truth from the cacophony.

Mrs. MURRAY. Mr. President, I rise to indicate that if I were present last Friday, March 23, I would have voted ''yes'' on the motion to table amendment No. 141, to the campaign finance reform bill, offered by Senator JESSE HELMS of North Carolina.

I was unable to participate in Friday's session because I flew home to Seattle to attend the funeral services for Grace Cole. Grace served on the Shoreline School Board for 13 years and represented North Seattle in the Washington House of Representatives for 15 years.

Grace was my mentor and led the way for advocates like me to follow her from the local school board to the Washington State legislature. Grace made a difference for thousands of families throughout our State by standing up for education, the environment and social justice.

Mr. ALLARD. Mr. President, I would like to announce that I was unable to cast a vote on rollcall vote No. 47, due to unavoidable airline delays. If I was present, I would have voted ''no.''

MORNING BUSINESS

Mr. MCCONNELL. I ask unanimous consent there be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

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

RESPONSE TO PRESIDENT'S PROPOSAL TO CUT FUNDING FOR CHILDREN'S PROGRAMS

Mr. DODD. Mr. President, I rise to discuss an issue that came to light at the close of business last week in an article that appeared in the New York Times by Robert Pear, ''Bush's Budget Would Cut Three Programs to Aid Children.'' It goes on to describe child care, child abuse programs, early learning programs, and children's hospitals that would receive significant cuts in the President's budget proposal when that proposal arrives.

We haven't seen the budget yet. My hope is that maybe the administration might reconsider these numbers that we are told are accurate. I tried to corroborate this story with several sources, and while no one wants to step up and be heard publicly on it, no one has also said that the numbers are wrong. I suspect they are correct.

The President campaigned on the promise to leave no child behind. If we heard it once, we heard that campaign slogan dozens and dozens of times all across the country. I don't recall seeing the President campaigning when he didn't have that banner behind him saying: Leave no child behind.

Those of us who took the President at his word were shocked, to say the very least, by the news on Friday that the President intends to cut funding for critical children's programs, programs that address basic survival needs of these young people and their families.

Certainly his actions beg the question, when he pledged to leave no child behind, which children did he mean? Apparently not abused and neglected children, since he would cut funding for child abuse prevention and treatment by almost 20 percent.

Almost 900,000 children are victims of child abuse each year in America. Is the President going to ask those children to choose amongst themselves which 20 percent of them shouldn't have their abuse investigated? Is he going to ask them to decide which 20 percent are going to have their abusers brought to justice?

When the President promised to leave no child behind, he must not have meant sick children. The President would cut funding for children's hospitals by some unspecified ''large'' amount. I am quoting from the story. This funding, which supports the training of doctors who care for the most seriously ill children in our country, had

tremendous bipartisan support when it was first appropriated last year. A cut in this program of any size would be a huge step back for chronically ill children and their families.

When the President promised to leave no child behind, he must not have meant the thousands of children who are warehoused every year in unsafe child care settings. He is proposing to cut child care funding by $200 million and to cut all $20 million for the funding of the new early learning program sponsored by Senator STEVENS of Alaska and Senator KENNEDY of Massachusetts. If the President's proposed cuts prevail, 60,000 families with babies and toddlers will be denied child care assistance. At a time when our goal is to give low-income working families the support they need to stay off welfare, such a proposal is unfathomable in my mind.

The President justifies these cuts by saying that instead families will get tax breaks. Allow me to point out a few reasons why I find this justification wrongheaded.

First, this answer conveniently ignores the fact that 43 percent of the tax cut, as we all know, goes to the top 1 percent of the wealthiest families in America, not usually the families who have the biggest problem finding affordable child care or getting good health care when their children are sick.

Secondly, while tax cuts when done in a fair and responsible way can be helpful, they are not the panacea for children's needs. The last time I checked, tax cuts didn't prevent child abuse or make child care safer or make sick children well. The last time I checked, there were proven programs in place, enacted with bipartisan support in this body and the other Chamber, that were addressing those very problems. Yet these are the very programs the President has decided apparently to cut.

The President described himself as a compassionate conservative. Yet every day, with every action over the past 2 months, the evidence seems to be mounting that while he is long on conservatism, he seems a little short on compassion at this point.

Next week the Senate will take up the budget resolution, our blueprint for spending for next year. It is my fervent hope and my intention that these are the kinds of issues we will air and that, with the choices I will be asking us to make, we will have a chance to restore some of this funding when those proposals come up. If they are presently included at the levels that have been suggested, I will be offering appropriate language to address them.

I can't help but notice the presence of my friend from Pennsylvania on the floor, who I know is here to address the matter before the Senate, the Hollings proposal. I thanked him in his absence, and I thank him publicly. It was the Senator from Pennsylvania who last year, when the child care funding levels were going to be raised to full funding of $2 billion, made that happen.

He and I have worked on these issues for 20 years together, from the days when we first identified the issue and then crafted the legislation. In fact, Senator HATCH, who will be coming to the floor shortly, was the original cosponsor with me of the child care development block grant program.

When I express my disappointment, I don't do so in a partisan way because I have worked closely over the years with Members who understand the value of decent child care and the value of children's hospitals, the value of early learning, as Senator STEVENS of Alaska has, as champion of that particular issue.

My hope is that the administration, in the days remaining before they submit the budget to Congress, will listen to some of us who urge them to take a second look at these issues before sending us a budget proposal that sets the clock back at a time when we need to be doing more for families who are struggling to hold their families together to make ends meet.

I didn't mean to raise the name of the Senator from Pennsylvania particularly, but I saw him and I wanted to thank him for the tremendous work he has done on these issues over the years.

I ask unanimous consent to print in the RECORD an editorial entitled ''The Mask Comes Off,'' by Bob Herbert.

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

[From the New York Times, Mar. 26, 2001]

THE MASK COMES OFF

(By Bob Herbert)

Is this what the electorate wanted?

Did Americans really want a president who would smile in the faces of poor children even as he was scheming to cut their benefits? Did they want a man who would fight like crazy for enormous tax cuts for the wealthy while cutting funds for programs to help abused and neglected kids?

Is that who George W. Bush turned out to be?

An article by The Times's Robert Pear disclosed last week that President Bush will propose cuts in the already modest funding for child care assistance for low-income families. And he will propose cuts in funding for programs designed to investigate and combat child abuse. And he wants cuts in an important new program to train pediatricians and other doctors at children's hospitals across the U.S.

The cuts are indefensible, unconscionable. If implemented, they will hurt many children.

The president also plans to cut off all of the money provided by Congress for an ''early learning'' trust fund, which is an effort to improve the quality of child care and education for children under 5.

What's going on?

That snickering you hear is the sound of Mr. Bush recalling the great fun he had playing his little joke on the public during the presidential campaign. He presented himself as a different kind of Republican, a friend to the downtrodden, especially children. He hijacked the copyrighted solgagn of the liberal Children's Defense Fund, and then repeated the slogan like a mantra, telling anyone who would listen that his administration would ''leave no child behind.''

Mr. Bush has only been president two months and already he's leaving the children behind.

There are many important reasons to try to expand the accessibility of child care. One is that stable child care for low-income families has become a cornerstone of successful efforts to move people from welfare to work.

Members of Congress had that in mind when they allocated $2 billion last year for the Child Care and Development Block Grant. That was an increase of $817 million, enabling states to provide day care to 241,000 additional children.

Now comes Mr. Bush with a proposal to cut the program by $200 million.

Is that his idea of compassion?

The simple truth is that the oversized tax cuts and Mr. Bush's devotion to the ideologues and the well-heeled special interests that backed his campaign are playing havoc with the real-world interests not just of children, but of most ordinary Americans.

Mr. Bush is presiding over a right-wing juggernaut that has already reneged on his campaign pledge to regulate carbon dioxide emissions (an important step in the fight against global warming); that has repealed a set of workplace safety rules that were designed to protect tens of millions of Americans but were opposed as too onerous by business groups; that has withdrawn new regulations requiring a substantial reduction in the permissible levels of arsenic, a known carcinogen, in drinking water; and that has (to the loud cheers of the most conservative elements in the G.O.P.) ended the American Bar Association's half-century-old advisory role in the selection of federal judges, thus making it easier to appoint judges with extreme right-wing sensibilities.

The administration of George W. Bush, in the words of the delighted Edwin J. Feulner, president of the conservative Heritage Foundation, is ''more Reaganite than the Reagan administration.''

Grover Norquist, a leading conservative strategist, said quite frankly, ''There isn't an us and them with this administration. They is us. We is them.''

Mr. Bush misled the public during his campaign. He eagerly donned the costume of the compassionate conservative and deliberately gave the impression that if elected we would lead a moderate administration that would govern, as much as possible, in a bipartisan manner.

Last October, in the second presidential debate, Mr. Bush declared, ''I'm really strongly committed to clean water and clean air and cleaning up the new kinds of challenges, like global warming.''

And he said, as usual, ''No child should be left behind in America.''

He said all the right things. He just didn't mean them.

ADMINISTRATION DECISION REGARDING THE AMERICAN BAR ASSOCIATION

Mr. KERRY. Mr. President, I am disturbed by the Bush Administration's announcement last week that he will eliminate the American Bar Association's essential role in reviewing and providing advice on the qualifications of potential judges before those nominations are sent to the Senate for confirmation.

For the past 53 years the American Bar Association has played a critical role in the judicial nominations process by evaluating potential candidates,

first for the Senate in 1948, and then in 1952 for President Dwight D. Eisenhower and his eight successors, Democrat and Republican. The ABA's 15-member Standing Committee on Federal Judiciary has examined the candidates' experience and legal writings and then confidentially interviewed judges and lawyers who have worked with the candidates in order to assess their professional reputation.

President Eisenhower's motivation for seeking the ABA's recommendations is precisely the reason I am disturbed by the Bush Administration's move to skewer the ABA's role in screening new judges: President Eisenhower sought to insulate the judicial nomination process from political pressures by inviting the American Bar Association to give him ratings of candidates' professional qualifications. Over the years the ABA's assessments of judicial nominees have been invaluable, and I for one do not support the Bush Administration's retreat from injecting more, not less, information about the competency, temperament, and integrity of the potential judges into the nominations process.

Until this year, the bar association has been given advance word from the administration on potential judges. The ABA's special team of lawyers has been able to analyze the candidates' career, assess their professional reputation, and rate the prospective nominees as qualified, well qualified, or not qualified. This process is totally confidential and enables the colleagues of nominees to answer the questions fairly and honestly.

The White House's decision not to release the names of potential judges to the ABA before they are announced to the public is a tragedy. The nomination process will be severely impaired by President Bush's decision. With this move, the President has lost the opportunity to learn as much as possible about nominees early on in the nominations process.

What I fear most and what I believe will happen is that public confidence in the judicial nominations process will fade. And I'd point out, that confidence in the judicial system and in the objectivity of the court is imperative in the wake of the 5–4 Supreme Court ruling that determined the outcome of the last Presidential election. I would expect President Bush to work diligently to disabuse the country of the notion that the law is a subset of politics, not serve to reinforce that impression.

It is my belief that President Bush's decision signals a retreat from impartiality in the judicial nomination process. No longer will the President be troubled with the objective recommendations of the ABA, but will be free to nominate whichever candidates pass political muster. The ABA vetting process is important to reassure the public that selecting judges for the federal bench is not just the work of a small inner-circle of politicians and advisors who are looking for a person of a certain political persuasion.

The White House legal team has already interviewed nearly 60 lawyers for new judgeships and has done so without consulting the ABA. Most of the interviews undertaken so far have been for the 29 vacancies on the courts of appeal, which as you know Mr. President, is the level just below the Supreme Court. I don't want to return to the days before the ABA was brought into the process to make it more fair and objective, but I fear that's exactly where we have ended up.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, March 23, 2001, the Federal debt stood at $5,734,215,116,583.82, Five trillion, seven hundred thirty-four billion, two hundred fifteen million, one hundred sixteen thousand, five hundred eighty-three dollars and eighty-two cents.

One year ago, March 23, 2000, the Federal debt stood at $5,729,459,000,000, Five trillion, seven hundred twenty-nine billion, four hundred fifty-nine million.

Twenty-five years ago, March 23, 1976, the Federal debt stood at $599,190,000,000, Five hundred ninety-nine billion, one hundred ninety million, which reflects a debt increase of more than $5 trillion, $5,134,549,116,583.82, Five trillion, one hundred thirty-four billion, five hundred forty-nine million, one hundred sixteen thousand, five hundred eighty-three dollars and eighty-two cents, during the past 25 years.

ADDITIONAL STATEMENTS

ED HILL, J.J. BARRY AND JERRY O'CONNOR

• Mr. HARKIN. Mr. President, I congratulate Ed Hill, the new president of the International Brotherhood of Electrical Workers, IBEW, on his election, and thank the outgoing president, J.J. ''Jack'' Barry, for his years of dedicated service to IBEW.

When I think about all the hard work and long hours presidents Hill and Barry have put in over the years, I am reminded of a story that one of my heroes, the great Hubert H. Humphrey liked to tell.

It was Humphrey's 65th birthday, and he was celebrating with his grandchildren. One of the grandkids looked up and said, ''Grandpa, how long have you been a Democrat?''

Humphrey thought about that for a moment, and replied, ''Well, I've been a Democrat for 70 years.''

His grandson said, ''Grandpa, how could you have been a Democrat for 70 years when you're only 65 years old?''

''Easy,'' Humphrey answered, ''I've put in a lot of overtime.''

Well, these men have put in a lot of overtime on behalf of the IBEW and on behalf of all Americans.

You know, I like to tell people, you go to any town in America, rural or urban, big or small, and you'll see the IBEW's work on display. Whether it's lighting our homes, or heating our schools, or bringing the Internet to our libraries, it's clear that the IBEW's work is critical to our families and our economy.

I welcome the new leadership and express my gratitude to the outgoing leadership.

Ed Hill hails from Beaver County, PA, and he has a long history with the IBEW. Ed joined IBEW Local 712 in his hometown back in 1956 and worked his way up to business manager in 1970. He became part of the IBEW staff in 1982, and, by 1994, he was a Vice President in charge of operations in Pennsylvania, New York, New Jersey and Delaware.

In 1997, Ed became the IBEW's second highest-ranking officer, and he worked hard to bring the latest technology to IBEW's operations. He also spent long hours building the membership of IBEW–COPE to record levels and making new strides in grassroots activism and communications.

Ed is a talented leader, and he has a strong foundation to build on. IBEW's outgoing president, J.J. Barry, had a long, impressive tenure at the IBEW. Jack is from Syracuse, NY and joined Local 43 in Syracuse in 1943. He served on the executive board and became business manager in 1962. In 1968, he began serving as International Representative and then, in 1976, became International vice president of the third district which includes New York, New Jersey, Pennsylvania, and Delaware.

Jack was a virtuoso organizer, and during his tenure, he began a number of important, new initiatives in education and training for IBEW members. He was widely respected and honored throughout this country and around the world for his outstanding work. While I will miss him in his position as president, I look forward to working with him in a new capacity in the coming years.

I also recognize Jerry O'Connor who was appointed to take Ed's place as IBEW secretary-treasurer. Jerry has been on the IBEW staff since 1987 and has served as International vice president of the IBEW's sixth district covering Illinois, Indiana, Michigan, Minnesota and Wisconsin since 1995. He was initiated into IBEW Local 701 in Wheaton, IL in 1959, and he served his local as business manager-financial secretary from 1978 until he joined the IBEW staff. I look forward to working with him in his new position.

For over 100 years, the IBEW has been a leader in the union movement in America. Whether they were providing energy to our war efforts during World War II, creating one of the best apprenticeship programs around, or providing workers with the cutting edge skills they need to keep up with current electricity needs, IBEW was always ahead of the times.

I know that the newest generation of IBEW leadership will continue this

proud tradition. I thank them for their dedication and commitment, and I look forward to working with them in the coming years.●

HONORING THE LATE LT. GEN JAMES T. CALLAGHAN

● Mr. LUGAR. Mr. President, on my last trip to Indiana, I received news that a trusted friend and a great American, Jim Callaghan, had died. I was pleased to have had the time to call at the funeral home and spend some time with the Callaghan family and would like to take a moment here, with my friend Senator BAYH to pay tribute to Lieutenant General James T. Callaghan.

I came to know the General after he retired from the Air Force and settled in Indianapolis in 1993. He was a valuable member of my Service Academy Merit Selection Committee for the last several years and through those efforts I gained a great respect for this man who had given so much for his country, and yet wanted to give more of himself and ensure that the armed services that he had served so loyally for 34 years continued to flourish with the best officer candidates Indiana could produce.

I think to gain a full appreciation of this man's dedication and service to the United States of America and the United States Air Force, I have to describe a litany of duty stations, qualifications, and awards. I quote liberally from his active duty Air Force bio:

General Callaghan was born in Chicago in 1938 and grew up there. He graduated from the University of Detroit in 1959 where he was also commissioned through the ROTC program. He received a masters from The George Washington University in 1971 and was further educated at the Naval War College the National War College and the University of Houston.

Following pilot training and follow-on instructor duty at Laredo AFB, TX and duty with the 6th Fighter Squadron at Eglin AFB. The air force pilot set off for Vietnam in 1966, flying in more than 425 combat missions in Southeast Asia. He returned from Vietnam in October 1967, to staff assignments in Washington DC.

F–4's were next, and in 1975 he joined the 50th Tactical Fighter Wing at Hahn Air Base, West Germany, eventually rising to command the 86th Tactical Fighter Group based at Ramstein. In 1979, after War College, he joined the Joint Staff's Operations Directorate and in June 1981 became deputy director for regional plans and policy and director of the Ground-Launched Cruise Missile Planning Group in the Directorate of Plans, Air Force headquarters.

From 1983 to 1986 General Callaghan was commandant of the Air Force Institute of Technology and of the Defense Institute of Security Assistance Management, both located at Wright-Patterson Air Force Base, OH. His next assignments were in Korea, including chief of staff of the U.N. Command and of the Republic of Korea/U.S. Combined Forces Command, Seoul.

In July 1988, the general was transferred back to Germany, and assumed the duties of director, plans and policy, Headquarters U.S. European Command, in Stuttgart. His last active duty assignment was as commander, Allied Air Forces Southern Europe, and deputy commander in chief, U.S. Air Forces in Europe for the Southern Area, with headquarters in Naples, Italy from December 1990 until his retirement in January 1993, which put him in command of the northern area of operations in Operation Desert Shield and Storm and subsequently Northern Watch.

The general, a command pilot with more than 4,500 flying hours was decorated with the Defense Distinguished Service Medal, Distinguished Service Medal, Silver Star, Defense Superior Service Medal with oak leaf cluster, Legion of Merit with oak leaf cluster, Distinguished Flying Cross, Bronze Star Medal, Meritorious Service Medal with oak leaf cluster, Air Medal with 16 oak leaf clusters, Air Force Commendation Medal and Army Commendation Medal. General Callaghan also wears the Parachutist Badge with bronze star. The bronze star was awarded for his combat jump in Vietnam in February 1967 while serving as air liaison officer to the 173rd Airborne Brigade.

Over the last 8 years, Jim served in a number of civic organizations, the American Legion, the Air Force Association, the Order of Daedalians, and the Indy 500 Festival Memorial Service Committee. He is survived by his wife, Ann, his sons James T. the third, and D. Christian; his daughter Elizabeth Cooke; his mother Ruth Callaghan; his brothers John, William, Michael and Patrick and his sister Ruth Tushkowski. He and Ann have six grandchildren.

In closing, let me add that the while the works of men like General Callaghan often go unheralded, it is because they do not seek the limelight. As I speak these words today, I think the General would want me to make mention of the men and women with whom he served and who worked for him during his 34 years of service, those still on active duty and the many veterans and retirees who have served, to whom we owe a great debt of thanks for the peace and freedoms we enjoy today. So, as I salute General Callaghan today, on his behalf I salute his service, the United States Air Force and all those who have worn the uniform of the United States Armed Forces.●

● Mr. BAYH. Mr. President, I rise today along with my senior colleague, Senator RICHARD LUGAR, to honor the life of a fellow Hoosier and distinguished veteran of the United States Air Force, Lieutenant General James T. Callaghan, who recently passed away.

As those who knew Lt. Gen. Callaghan can attest, his strong commitment to his country is reflected in his long and distinguished service in the Air Force. Over his career, which spanned more than three decades, he served with valor in the Vietnam and Gulf Wars. During his service he received many combat awards, including the Silver Star, the Distinguished Flying Cross, and the Bronze Star.

In the late 1980s, Lt. Gen. Callaghan commanded U.S. air troops in Korea and later during the Gulf War, he served as the southern commander of the North Atlantic Treaty Organization's Allied Air Forces. Lt. Gen. Callaghan exhibited extraordinary bravery and exceptional leadership on the eve of the Gulf war. He personally flew a test combat mission that night in an effort to assess the situation before committing his young troops to battle.

In addition to his combat service, Lt. Gen. Callaghan aided the U.S. Armed Forces in many other capacities. He served as president of the Air Force Institute of Technology at Wright-Patterson Air Force Base, as director of plans and policy for the U.S./European Command, and also held several high-ranking positions at the Pentagon.

After retiring from the Air Force in 1993, Lt. Gen. Callaghan continued his service to his country and fellow citizens. He worked with many organizations in the Indianapolis area, most notably the Indianapolis 500 Festival Memorial Service Committee and Senator LUGAR's Military Academy Merit Selection Board.

Lt. Gen. James T. Callaghan was a true hero that the State of Indiana and nation will miss tremendously. Senator LUGAR and I commend the late Lt. Gen. James T. Callaghan for his lifelong service to our Nation.●

RECOGNITION OF FT. BRAGG, SEYMOUR JOHNSON AIR FORCE BASE, AND CAMP LEJEUNE MARINE CORPS BASE

● Mr. EDWARDS. Mr. President, I rise today to recognize the outstanding achievement of three of North Carolina's military bases.

On Friday, Secretary Rumsfield announced the winners of the 2001 Commander in Chief's Awards for Installation Excellence. Of the five awards, three went to bases in North Carolina.

Ft. Bragg, located in Fayetteville, NC, was named the top Army post. Seymour Johnson Air Force Base, located in Goldsboro, NC, earned the honor of best Air Force post and Camp LeJeune in Jacksonville, NC, was chosen best Marine Corps base.

The Commander in Chief's Awards are highly competitive and a distinct honor for each of our outstanding North Carolina bases. The men and women who live and work at North Carolina's military installations put their country's interest ahead of their own each and everyday. These bases

have also worked hard to forge strong relationships with their communities. I have visited each of these bases and the surrounding communities and I know these bases are excellent neighbors.

I congratulate the men and women of Ft. Bragg, Seymour Johnson, and Camp LeJeune on their excellent achievement. We in North Carolina are fortunate to have such a strong relationship with these bases and we are so proud these men and women call North Carolina home.●

E.B. KENNELLY SCHOOL

● Mr. LIEBERMAN. Mr. President, I rise today to recognize the achievements of the E.B. Kennelly School, a public elementary school in Hartford, CT. I recently visited the Kennelly School and was truly impressed with the progress the school has made in improving the educational standards in recent years.

The Hartford School System has faced some difficult challenges in the past decade, including declining test scores, low parental involvement, and high poverty rates among its student population. In recent years, the faculty and staff of the Kennelly School, led by principal Dr. Zoe Athanson, have brought the school up to such high standards that it has completed a voluntary accreditation process for elementary schools through the New England Association of Schools and Colleges. This has made the Kennelly School one of two Hartford schools to become the first fully accredited elementary schools in a large city in the State of Connecticut. Through hard work, dedication, and an unwavering commitment to the students, the Kennelly School has demonstrated that city schools are able to achieve the same academic standards as their suburban counterparts, often against greater odds. The achievements of the Kennelly School serve as a model for troubled school systems throughout the country. With a commitment to excellence, anything is possible.

The people of Connecticut applaud the E.B. Kennelly School for its accomplishments. As the Kennelly School approaches its 100th Anniversary, we wish them much continued success in the future.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated on March 22, 2001:

EC–1123. A communication from the Secretary of Veteran Affairs, transmitting, pursuant to law, the delay of a joint report on the implementation of law dealing with sharing health care costs with the Department of Defense; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCONNELL, from the Committee on Rules and Administration:

Special Report entitled ''Review of Legislative Activity During the 106th Congress'' (Rept. No 107–6).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

On Friday, March 23, 2001, the following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BUNNING (for himself and Mr. MCCONNELL):

S. 608. A bill to amend the Tennessee Valley Authority Act of 1933 to provide for greater ownership of electric power generation assets by municipal and rural electric cooperative utilities that provide retail electric service in the Tennessee Valley region, and for other purposes; to the Committee on Energy and Natural Resources.

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. TORRICELLI:

S. 609. A bill to close loopholes in the firearms laws which allow the unregulated manufacture, assembly, shipment, or transportation of firearms or firearm parts, and for other purposes; to the Committee on the Judiciary.

By Mr. TORRICELLI:

S. 610. A bill to provide grants to law enforcement agencies to purchase firearms needed to perform law enforcement duties; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Ms. SNOWE, Mr. DORGAN, Ms. COLLINS, Mr. JOHNSON, Mr. SCHUMER, Mr. LEAHY, Mr. DODD, Mr. BINGAMAN, and Mr. DASCHLE):

S. 611. A bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. BOND):

S. 612. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to develop and implement an annual plan for outreach regarding veterans benefits, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FITZGERALD:

S. 613. A bill to amend the Internal Revenue Code of 1986 to enhance the use of the small ethanol producer credit; to the Committee on Finance.

By Mr. INHOFE:

S. 614. A bill to prohibit the Secretary of Transportation and the Administrator of the Federal Motor Carrier Administration from taking action to finalize, implement, or enforce a rule related to the hours of service of drivers for motor carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL:

S. 615. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage bond financing, and for other purposes; to the Committee on Finance.

By Mr. HUTCHINSON (for himself and Mr. BOND):

S. 616. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax on individuals, to raise the exemption for small businesses from such tax, and for other purposes; to the Committee on Finance.

By Mr. COCHRAN:

S. 617. A bill to amend the Elementary and Secondary Education Act of 1965 to improve student and teacher performance and access to education in the critically challenged Lower Mississippi Delta region; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER:

S. 618. A bill to designate certain lands in the Valley Forge National Historical Park as the Valley Forge National Cemetery; to the Committee on Energy and Natural Resources.

By Mr. DEWINE (for himself, Mr. HUTCHINSON, Mr. WARNER, Mr. ALLEN, Mr. HELMS, Mr. HAGEL, Mr. GRASSLEY, Mr. SANTORUM, and Mr. SESSIONS):

S. 619. A bill to establish a grant program that provides incentives for States to enact mandatory minimum sentences for certain firearms offenses, and for other purposes; to the Committee on the Judiciary.

By Mr. HARKIN (for himself and Mr. WELLSTONE):

S. 620. A bill to amend the Elementary and Secondary Education Act of 1965 regarding elementary school and secondary school counseling; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEVIN (for himself and Ms. STABENOW):

S. Res. 64. A resolution congratulating the city of Detroit and its residents on the occasion of the tercentennial of its founding; to the Committee on the Judiciary.

By Ms. SNOWE (for herself and Ms. MIKULSKI):

S. Con. Res. 28. A concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 41

At the request of Mr. HATCH, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 41, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

S. 155

At the request of Mr. BINGAMAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the

applicability of early retirement eligibility requirements to military reserve technicians.

S. 170

At the request of Mr. REID, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 177

At the request of Mr. AKAKA, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 177, a bill to amend the provisions of title 19, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 250

At the request of Mr. BIDEN, the name of the Senator from Indiana (Mr. BAYH) was added as cosponsor of S. 250, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 256

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 256, a bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers.

S. 264

At the request of Ms. SNOWE, the name of the Senator from South Carolina (Mr. THURMOND) was added as cosponsor of S. 264, a bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the medicare program to all individuals at clinical risk for osteoporosis.

S. 272

At the request of Mr. FEINGOLD, the name of the Senator from Oregon (Mr. WYDEN) was added as cosponsor of S. 272, a bill to rescind fiscal year 2001 procurement funds for the V–22 Osprey aircraft program other than as necessary to maintain the production base and to require certain reports to Congress concerning that program.

S. 280

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 280, a bill to amend the Agriculture Marketing Act of 1946 to require retailers of beef, lamb, pork, and perishable agricultural commodities to inform consumers, at the final point of sale to consumers, of the country of origin of the commodities.

S. 295

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 295, a bill to provide emergency relief to small businesses affected by significant increases in the prices of heating oil, natural gas, propane, and kerosene, and for other purposes.

S. 326

At the request of Ms. COLLINS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 326, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas.

S. 361

At the request of Mr. MURKOWSKI, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 361, a bill to establish age limitations for airmen.

S. 367

At the request of Mrs. BOXER, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 367, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 413

At the request of Mr. COCHRAN, the names of the Senator from Utah (Mr. HATCH) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 413, a bill to amend part F of title X of the Elementary and Secondary Education Act of 1965 to improve and refocus civic education, and for other purposes.

S. 534

At the request of Mr. CAMPBELL, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 534, a bill to establish a Federal interagency task force for the purpose of coordinating actions to prevent the outbreak of bovine spongiform encephalopathy (commonly known as ''mad cow disease'') and foot-and-mouth disease in the United States.

S. 539

At the request of Mr. LEVIN, the name of the Senator from Delaware (Mr. BIDEN) was withdrawn as a cosponsor of S. 539, a bill to amend the Truth in Lending Act to prohibit finance charges for on-time payments.

S. 596

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 597, a bill to provide for a comprehensive and balanced national energy policy.

S. 598

At the request of Mr. BREAUX, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 598, a bill to provide for the reissuance of a rule relating to ergonomics.

S. 604

At the request of Mr. COCHRAN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 604, a bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships.

S. 605

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 605, a bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system.

S.J. RES. 4

At the request of Mr. HOLLINGS, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S.J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S. RES. 44

At the request of Mr. COCHRAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Res. 44, a resolution designating each of March 2001, and March 2002, as ''Arts Education Month.''

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI:

S. 609. A bill to close loopholes in the firearms laws which allow the unregulated manufacture, assembly, shipment, or transportation of firearms or firearm parts, and for other purposes; to the Committee on the Judiciary.

Mr. TORRICELLI. Mr. President, today I introduce the Gun Parts Trafficking Act.

For years, I have fought along with many of my colleagues against the gun violence that has plagued America. We have sought to keep firearms from the hands of children and those who would use them to do harm. After long debate, we succeeded in enacting a ban on assault weapons, as well as the Brady bill requiring a criminal background at the time of a firearms purchase, positive steps in the effort to protect our communities from gun violence.

Gun violence, however, continues to have a devastating impact on our Nation. The statistics have been well documented, but bear repeating. In 1997 alone, more than 32,000 Americans were shot and killed. Fourteen children die

from gunfire every day. The economic toll of firearms deaths and injuries on our country, $33 billion each year, is astronomical.

In light of these staggering figures it seems obvious that we must do more, including regulating guns like any other consumer product. But while we look forward, we must also be mindful of attempts by some to subvert the progress we have made.

Some gun dealers are exploiting a loophole in current law that allows them to sell, through the U.S. mail, gun kits containing virtually every single item needed to build an automatic weapon. When we enacted a ban on these deadly automatic weapons, we exempted automatic weapons legally owned prior to the ban. We also allowed replacement parts to be legally sold so that these grand-fathered weapons could be repaired by their owners, and we allowed these parts to be shipped through the mail.

These provisions, however, have been exploited and replacement part kits that can convert a legally owned firearm into an illegal automatic weapon are readily available and heavily advertised in numerous publications. Some of these kits even go so far as to provide a template that shows how to make this conversion. This is a flagrant effort to evade the laws of the United States. This activity must be stopped in order to maintain the integrity of our ban on assault weapons and protect our communities from gun violence.

To that end, I am reintroducing the Gun Parts Trafficking Act, legislation that I first introduced in the 106th Congress. This bill is designed to close the loopholes in existing law and end the sale of kits designed to convert legally owned firearms into illegal automatic weapons. It will expand the definition of ''firearm'' to include the main components of the weapon and will prohibit the manufacture or assembly of guns by an individual who does not have a license to do so.

I urge my colleagues to join me in support of the ''Gun Parts Trafficking Act'' and ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 609

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Gun Parts Trafficking Act of 2001''.

SEC. 2. PROHIBITION AGAINST SHIPMENT OR TRANSPORTATION OF FIREARM PARTS, WITH CERTAIN EXCEPTIONS.

Section 921(a)(3) of title 18, United States Code, is amended by striking ''or (D) any destructive device.'' and inserting ''(D) any destructive device; or (E) any parts or combination of parts that when assembled on a frame or receiver would constitute a firearm, as defined in this paragraph.''.

SEC. 3. PROHIBITION AGAINST MANUFACTURE OR ASSEMBLY OF FIREARMS BY PERSONS OTHER THAN LICENSED MANUFACTURERS.

Section 922 of title 18, United States Code, is amended by adding at the end the following:

''(z) It shall be unlawful for any person other than a licensed manufacturer to manufacture or assemble a firearm.''.

SEC. 4. INCREASE IN FEE FOR LICENSE TO MANUFACTURE FIREARMS.

Section 923(a)(1)(B) of title 18, United States Code, is amended by striking ''$50'' and inserting ''$500''.

SEC. 5. PROHIBITION AGAINST POSSESSION OR TRANSFER OF CERTAIN COMBINATIONS OF MACHINEGUN REPLACEMENT PARTS.

Section 5845(b) of the Internal Revenue Code of 1986 (known as the National Firearms Act) is amended in the second sentence by striking ''designed and intended solely and exclusively, or combination of parts designed and intended,'' and inserting ''or combination of parts designed and intended''.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall apply to conduct engaged in after the 60-day period beginning on the date of enactment of this Act.

By Mr. TORRICELLI:

S. 610. A bill to provide grants to law enforcement agencies to purchase firearms needed to perform law enforcement duties; to the Committee on the Judiciary.

Mr. TORRICELLI. Mr. President today I introduce a bill that will reduce the number of firearms on the street and help keep guns out of the hands of criminals. In the wake of the tragic shooting this year outside of San Diego, we are reminded of what happens when the wrong people have access to guns. Such tragic shootings become even more troubling when they involve a former police gun or firearms previously involved in a crime.

It is vital that law enforcement agencies have the very best equipment available to ensure their safety and to protect America's communities, but purchasing new weapons can be expensive, particularly for smaller cash-strapped municipalities. Thus, to offset the costs of purchasing new weapons, law enforcement agencies have often in the last two decades either sold their old guns to dealers or auctioned them off to the public. However, this practice has led to an unintended result, increased risk that these guns would end up back on the streets and in the hands of criminals.

In the past 10 years, firearms once used by law enforcement agencies have been involved in more than 3,000 crimes throughout the United States, including 293 homicides, 301 assaults, and 279 drug-related crimes. In 1999, Bufford Furrow, a white supremacist, used a Glock pistol that was decommissioned and sold by a police agency in the State of Washington to terrorize and shoot children at a Jewish community center in Los Angeles and then kill a postal worker. Members of the Latin Kings, a violent Chicago street gang, used guns formerly owned by the Miami-Dade Police Department in Florida to commit violent crimes in Illinois. And a 1996 investigation by the New York State inspector general found that weapons used by New York law enforcement officers had been used in crimes in at least two other States.

It is time that we help our law enforcement agencies do what they are trying to do—get out of the business of selling guns. With the help of the bill I am introducing, law enforcement agencies will no longer be forced to resell their old guns or guns seized from criminals to help them obtain the new weapons that are necessary to carry out their duties. Instead, this bill would provide grants to State or local law enforcement agencies to assist them in purchasing new firearms. In order to receive these grants, the law enforcement agencies must simply agree to either destroy their decommissioned guns or not sell them to the public.

A growing number of States and cities have already decided to ban the practice of pouring old police guns into the consumer market. They recognize that the extra money gained from selling old police guns is not worth the possibility that those guns would contribute to additional suffering or loss of life. It is simply bad public policy for governments to be suppliers of guns and potentially add to the problem of gun violence in America. Regardless of where one stands on gun control, logic, common sense, and decency demand that we also recognize this simple truth and unite behind moving this bill to passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 610

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Police Gun Buyback Assistance Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Buford Furrow, a white supremacist, used a Glock pistol decommissioned and sold by a law enforcement agency in the State of Washington, to shoot children at a Jewish community center in Los Angeles and kill a postal worker.

(2) Twelve firearms were recently stolen during shipment from the Miami-Dade Police Department to Chicago, Illinois. Four of these firearms have been traced to crimes in Chicago, Illinois, including a shooting near a playground.

(3) In the past 9 years, decommissioned firearms once used by law enforcement agencies have been involved in more than 3,000 crimes, including 293 homicides, 301 assaults, and 279 drug-related crimes.

(4) Many State and local law enforcement departments also engage in the practice of reselling firearms that were involved in the commission of a crime and confiscated. Often these firearms are assault weapons that were in circulation prior to the restrictions imposed by the Violent Crime Control and Law Enforcement Act of 1994.

(5) Law enforcement departments in the States of New York and Georgia, the City of Chicago, and other localities have adopted the practice of destroying decommissioned firearms.

(b) PURPOSE.—The purpose of this Act is to reduce the number of firearms on the streets by assisting State and local law enforcement agencies in eliminating the practice of transferring decommissioned firearms to any person.

SEC. 3. PROGRAM AUTHORIZED.

(a) GRANTS.—The Attorney General may make grants to States or units of local government—

(1) to assist States and units of local government in purchasing new firearms without transferring decommissioned firearms to any person; and

(2) to destroy decommissioned firearms.

(b) ELIGIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), to be eligible to receive a grant under this Act, a State or unit of local government shall certify that it has in effect a law or official policy that—

(A) eliminates the practice of transferring any decommissioned firearm to any person; and

(B) provides for the destruction of a decommissioned firearm.

(2) EXCEPTION.—A State or unit of local government may transfer a decommissioned firearm to a law enforcement agency.

(c) USE OF FUNDS.—A State or unit of local government that receives a grant under this Act shall only use that grant to purchase new firearms.

SEC. 4. APPLICATIONS.

(a) STATE APPLICATIONS.—To request a grant under this Act, the chief executive of a State shall submit an application, signed by the Attorney General of the State requesting the grant, to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) LOCAL APPLICATIONS.—To request a grant under this Act, the chief executive of a unit of local government shall submit an application, signed by the chief law enforcement officer in the unit of local government requesting the grant, to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

SEC. 5. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General shall promulgate regulations to implement this Act, which shall specify the information that must be included and the requirements that the States and units of local government must meet in submitting applications for grants under this Act.

SEC. 6. REPORTING.

(a) IN GENERAL.—A State or unit of local government shall report to the Attorney General not later than 2 years after funds are received under this Act, regarding the implementation of this Act.

(b) BUDGET ASSURANCES.—The report required under subsection (a) shall include budget assurances that any future purchase of a firearm by a law enforcement agency will be possible without transferring a decommissioned firearm.

SEC. 7. DEFINITION.

In this Act:

(1) DECOMMISSIONED FIREARM.—The term ''decommissioned firearm'' means a firearm—

(A) that is no longer in service or use by a law enforcement agency; or

(B) that was involved in the commission of a crime and was confiscated and is no longer needed for evidentiary purposes.

(2) FIREARM.—The term ''firearm'' has the same meaning given that term in section 921(a)(3) of title 18, United States Code.

(3) PERSON.—The term ''person'' has the same meaning given that term in section 1 of title 1, United States Code.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $10,000,000 for each of the fiscal years 2001 through 2005.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Ms. SNOWE, Mr. DORGAN, Ms. COLLINS, Mr. JOHNSON, Mr. SCHUMER, Mr. LEAHY, Mr. DODD, Mr. BINGAMAN, and Mr. DASCHLE):

S. 611. A bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise today to talk about an issue that is very important to me, very important to my constituents in Maryland and very important to government workers and retirees across the Nation. I am reintroducing a bill to modify a cruel rule of government that is unfair and prevents current workers from enjoying the benefits of their hard work during retirement.

Under current law, a Social Security spousal benefit is reduced or entirely eliminated if the surviving spouse is eligible for a pension from a local, State or Federal Government job that was not covered by Social Security. This policy is known as the Government Pension Offset.

This is how the current law works. Consider a surviving spouse who retires from government service and receives a government pension of $600 a month. She also qualifies for a Social Security spousal benefit of $645 a month. Because of the Pension Offset law (which reduces her Social Security benefit by 2/3 of her government pension), her spousal benefit is reduced to $245 a month. So instead of $1245, she will receive only $845 a month. That is $400 a month less to pay the rent, purchase a prescription medication, or buy groceries. I think that is wrong.

My bill does not repeal the government pension offset entirely, but it will allow retirees to keep more of what they deserve. It guarantees that those subject to the offset can keep at least $1200 a month in combined retirement income. With my modification, the 2/3 offset would apply only to the combined benefit that exceeds $1200 a month. So, in the example above, the surviving spouse would face only a $30 offset, allowing her to keep $1215 in monthly income.

Unfortunately, the current law disproportionately affects women. Women are more likely to receive Social Security spousal benefits and to have worked in low-paying or short-term government positions while they were raising families. It is also true that women receive smaller government pensions because of their lower earnings, and rely on Social Security benefits to a greater degree. My modification will allow these women who have contributed years of important government service and family service to rely on a larger amount of retirement income.

In the last Congress, the Senate unanimously voted for and passed H.R. 5, The Senior Citizens' Freedom to Work Act of 1999. This legislation ensured that senior citizens who choose to work or who must work can earn income after retirement without losing a portion of their Social Security benefit. That law helps senior citizens who earn above $17,000 per year. In contrast, my bill specifically targets those with much lower retirement incomes, around $13,000 per year and less. I believe that we must work to ensure a safety net for all of our seniors, including those retired federal employees who every day are forced to make difficult choices between rent, food, and prescription drugs due to the drastic effects of the government pension offset.

Why do we punish people who have committed a significant portion of their lives to government service? We are talking about workers who provide some of the most important services to our community, teachers, firefighters, and many others. Some have already retired. Others are currently working and looking forward to a deserved retirement. These individuals deserve better than the reduced monthly benefits that the Pension Offset currently requires.

Government employees work hard in service to our Nation, and I work hard for them. I do not want to see them penalized simply because they have chosen to work in the public sector, rather than for a private employer, and often at lower salaries and sometimes fewer benefits. If a retired worker in the private sector received a pension, and also received a spousal Social Security benefit, they would not be subject to the Offset. I think we should be looking for ways to reward government service, not the other way around. I believe that people who work hard and play by the rules should not be penalized by arcane, legislative technicalities.

Frankly, I would like to repeal the offset all together. But, I realize that budget considerations make that unlikely. As a compromise, I hope we can agree that retirees who have worked hard all their lives should not have this offset applied until their combined monthly benefit, both government pension and Social Security spousal benefit, exceeds $1,200.

I also strongly believe that we should ensure that retirees buying power keeps up with the cost of living. That's why I have also included a provision in

this legislation to index the $1,200 amount to inflation so retirees will see their minimum benefits increase along with the cost of living.

The Social Security Administration recently estimated that enacting the provisions contained in my bill will have a negligible long-term impact on the Social Security Trust Fund, about 0.005 percent of taxable payroll. Additionally, my bill is bipartisan and is strongly supported by CARE, the Coalition to Assure Retirement Equity with 43 member organizations including the National Association of Retired Federal Employees, NARFE, the American Federation of Federal State County and Municipal Employees, AFSCME, the National Education Association, NEA, and the National Treasury Employees Union, NTEU.

I urge my colleagues to join me in this effort and support my legislation to modify the Government Pension Offset.

By Mr. FIENGOLD (for himself and Mr. BOND):

S. 612. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to develop and implement an annual plan for outreach regarding veterans benefits, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing a measure that will help ensure that all of our nation's veterans who earned benefits through their service receive those benefits. I am pleased to be joined today by the senior Senator from Missouri, Senator BOND. As chairman of the Appropriations Subcommittee on Veterans, Housing and Urban Development, he has long been a strong advocate for our veterans.

Late last year the Wisconsin Department of Veterans Affairs (WDVA) launched a statewide program called I Owe You. Under the direction of Secretary Ray Boland, the I Owe You program encourages veterans to apply, or re-apply, for benefits that they earned from their service to the United States.

As part of this program, WDVA held an outreach event in Milwaukee where veterans could apply for benefits—more than 1,500 veterans and family members attended the event and many started the process of receiving the benefits owed to them. This was only the first of their ''supermarkets of veterans benefits'' that they plan to hold across the State.

The State of Wisconsin is performing a service that is clearly the obligation of the Department of Veterans Affairs. These are federal benefits that we owe our veterans and it is the Federal Government's obligation to make sure that they receive them. Obviously, we must make a greater effort if more than 1,500 people in the Milwaukee area alone attended this event.

This bill calls upon the Department of Veterans Affairs to take on the responsibility of better informing our veterans about the benefits and services they have earned. Under the National I Owe You Act, the Secretary of the Department of Veterans Affairs will develop and implement a plan to encourage veterans to apply for their benefits, identify those entitled to benefits who aren't currently receiving them, and notify veterans of any modifications to veterans benefits programs.

The American people are indebted to our nation's veterans. As a result of their loyal service and sacrifice, we maintain our freedoms and rights. It's time that we do right by our veterans and honor the commitment that we made to the men and women who served our country in the Armed Forces.

I urge my colleagues to support the National I Owe You Act to ensure that this commitment is honored.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 612

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National I Owe You Act''.

SEC. 2. DEVELOPMENT AND IMPLEMENTATION OF ANNUAL PLAN FOR OUTREACH REGARDING VETERANS BENEFITS.

(a) FINDINGS.—Congress makes the following findings:

(1) The mission of the Department of Veterans Affairs includes acting as a principal advocate for veterans in order to assure that veterans receive the benefits to which they are entitled as a result of service to the nation.

(2) The Veterans Benefits Administration of the Department of Veterans Affairs is responsible for the timely and accurate distribution of benefits to veterans and their dependents.

(3) Only 2,600,000 of the 24,000,000 living United States veterans are receiving benefits through the Department of Veterans Affairs.

(4) There may be veterans entitled to veterans benefits who are not aware of their entitlement to such benefits.

(5) The Veterans Benefits Administration needs to take more aggressive actions to ensure that all veterans are aware of the veterans benefits to which they are entitled.

(6) The State of Wisconsin Department of Veterans Affairs recently initiated a program that permits veterans to apply at one location for benefits such as health care, disability compensation, education, and job training.

(b) ANNUAL PLAN.—Subchapter II of chapter 5 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 531. Annual plan for outreach regarding veterans benefits

''(a) DEVELOPMENT.—The Secretary shall, on an annual basis, develop a plan for the outreach activities of the Department regarding veterans benefits during the year covered by such plan.

''(b) PLAN ELEMENTS.—(1) Each plan under this section shall include the following elements:

''(A) A program to encourage veterans to apply for veterans benefits.

''(B) A program to identify veterans entitled to veterans benefits who are not currently receiving such benefits.

''(C) A program to notify veterans of any modifications to veterans benefits programs.

''(D) Such other programs or elements as the Secretary considers appropriate.

''(2) A plan under this section for a year may consist of an update of the plan under this section for the previous year, taking into account changes in circumstances over time.

''(c) CONSULTATION.—In developing a plan under subsection (a), the Secretary shall consult with directors of the veterans agencies of the States, appropriate representatives of veterans service organizations and other veterans advocacy groups, and such other persons as the Secretary considers appropriate.

''(d) IMPLEMENTATION.—The Secretary shall implement each plan developed under this section.

''(e) VETERANS BENEFITS DEFINED.—In this section the term 'veterans benefits' means benefits for veterans under the laws administered by the Secretary.''.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of that title is amended by inserting after the item relating to section 530 the following new item:

''531. Annual plan for outreach regarding veterans benefits.''.

By Mr. FITZGERALD:

S. 613. A bill to amend the Internal Revenue Code of 1986 to enhance the use of the small ethanol producer credit, to the Committee on Finance.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 613

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

SECTION 1. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) of the Internal Revenue Code of 1986 (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

''(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G.''.

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) of the Internal Revenue Code of 1986 (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking ''30,000,000'' each place it appears and inserting ''60,000,000''.

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) of such Code is amended by striking ''subpart D'' and inserting ''subpart D, other than section 40(a)(3),''.

(3) ALLOWING CREDIT AGAINST MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 of such Code (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In the case of the small ethanol producer credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

''(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).''.

(B) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by striking ''(other'' and all that follows through ''credit)'' and inserting ''(other than the empowerment zone employment credit or the small ethanol producer credit)''.

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 of such Code (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

''SEC. 87. ALCOHOL FUEL CREDIT.

''Gross income includes an amount equal to the sum of—

''(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

''(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).''.

(c) CONFORMING AMENDMENT.—Section 1388 of such Code (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. HUTCHINSON (for himself and Mr. BOND):

S. 616. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax on individuals, to raise the exemption for small businesses from such tax, and for other purposes; to the Committee on Finance.

Mr. HUTCHINSON. Mr. President, today I am proud to join with the Chairman of the Senate Small Business Committee, Senator KIT BOND, in introducing the Real AMT Relief Act of 2001. This legislation is intended to provide the hard working taxpayers of America relief from the onerous Alternative Minimum Tax, AMT.

The AMT, set up more than 30 years ago to help ensure that wealthy taxpayers paid their fair share of taxes, is hitting middle-income families the hardest. Most vulnerable are the hard working taxpayers with several children, interest deductions from second mortgages, capital gains, high state and local taxes, and incentive stock options.

While only 19,000 people paid the AMT in 1970, roughly 1,000,000 taxpayers had to pay it in 1999. According to the Joint Tax Committee, it is estimated that by 2011, more than 16 million taxpayers will have to struggle with the AMT.

Another group of taxpayers being slammed by the AMT are America's small business owners. As my good friend Senator BOND has said, the complexity of the AMT forces many small businesses to spend valuable resources on tax professionals and high priced accountants to determine whether or not the AMT applies to them. Many small business owners in Arkansas have told me that instead of spending the time and the money trying to comply with the AMT, they would rather use those resources to hire new workers and provide benefits to their workers.

The AMT has also had a dramatic impact on high tech communities all across the country. The recent stock market collapse has left many high tech employees, from executives to the rank and file, facing enormous AMT bills based on long-gone paper profits. Some who exercised incentive options and owe the tax may have no choice but to plunder 401(k)s, sell homes, borrow from parents, arrange IRS payment plans and consider bankruptcy.

In this scenario, the AMT is based on paper profits on the day you exercise the option and buy stock even if the stock later crashes and you lose the profits. It's triggered when you exercise an incentive stock option in one year and hold the stock into a later calendar year. One thing is clear about stock options: Too many people know too little about them. An Oppenheimer Funds survey last year indicated that 75 percent of stock-option holders weren't familiar with the Alternative Minimum Tax, and that 52 percent knew ''little'' or ''nothing at all'' about the tax implications of exercising options.

The time to help these taxpayers is now. The Real AMT Relief Act of 2001 provides badly needed relief to all taxpayers. Based on the recommendations of the IRS National Taxpayer Advocate, the Real AMT Relief Act of 2001 completely repeals the individual AMT. Eliminating 20 percent of the AMT each year until it is completely eliminated in 2006. This helps lift the burden off both the individual as well as the small business taxpayer. We further help to completely protect the small business owner by expanding the small business exemption from $5 million to $10 million.

I look forward to helping provide this badly needed tax relief to America's growing middle class. It is truly an honor to be joined in this effort with the distinguished Chairman of the Senate Small Business Committee, Senator BOND. His knowledge and passion for this issue is second to none. I urge my colleagues to support passage of the Real AMT Relief Act of 2001.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 616

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Real AMT Relief Act of 2001''.

SEC. 2. ALTERNATIVE MINIMUM TAX.

(a) REPEAL OF ALTERNATIVE MINIMUM TAX ON INDIVIDUALS.—

(1) IN GENERAL.—Section 55(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax imposed) is amended by adding at the end the following new flush sentence:

''For purposes of this title, the tentative minimum tax on any taxpayer other than a corporation for any taxable year beginning after December 31, 2004, shall be zero.''.

(2) REDUCTION OF TAX ON INDIVIDUALS PRIOR TO REPEAL.—Section 55 of such Code (relating to alternative minimum tax imposed) is amended by adding at the end the following new subsection:

''(f) PHASEOUT OF TAX ON INDIVIDUALS.—

''(1) IN GENERAL.—The tax imposed by this section on a taxpayer other than a corporation for any taxable year beginning after December 31, 2000, and before January 1, 2005, shall be the applicable percentage of the tax which would be imposed but for this subsection.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2001	80
2002	60
2003	40
2004	20.''.

(3) NONREFUNDABLE PERSONAL CREDITS FULLY ALLOWED AGAINST REGULAR TAX LIABILITY.—

(A) IN GENERAL.—Section 26(a) of such Code (relating to limitation based on amount of tax) is amended to read as follows:

''(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the taxpayer's regular tax liability for the taxable year.''.

(B) CHILD CREDIT.—Section 24(d) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2000.

(b) INCOME AVERAGING NOT TO INCREASE ALTERNATIVE MINIMUM TAX LIABILITY.—

(1) IN GENERAL.—Section 55(c) of the Internal Revenue Code of 1986 (relating to regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

''(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS.—Solely for purposes of this section, section 1301 (relating to averaging of farm income) shall not apply in computing the regular tax.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2000.

(c) EXPANSION OF THE EXEMPTION FROM THE ALTERNATIVE MINIMUM TAX FOR SMALL CORPORATIONS.—

(1) IN GENERAL.—Section 55(e)(1)(A) of the Internal Revenue Code of 1986 (relating to exemption for small corporations) is amended to read as follows:

''(A) $10,000,000 GROSS RECEIPTS TEST.—The tentative minimum tax of a corporation shall be zero for any taxable year if the corporation's average annual gross receipts for all 3-taxable-year periods ending before such taxable year does not exceed $10,000,000. For purposes of the preceding sentence, only taxable years beginning after December 31, 1997, shall be taken into account.''.

(2) GROSS RECEIPTS TEST FOR FIRST 3-YEAR PERIOD.—Section 55(e)(1)(B) of such Code (relating to exemption for small corporations) is amended to read as follows:

''(B) $7,500,000 GROSS RECEIPTS TEST FOR FIRST 3-YEAR PERIOD.—Subparagraph (A) shall be applied by substituting '$7,500,000' for '$10,000,000' for the first 3-taxable-year period (or portion thereof) of the corporation which is taken into account under subparagraph (A).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2000.

Mr. BOND. Mr. President, I rise today to join my colleague from Arkansas, Senator HUTCHINSON, in introducing the Real AMT Relief Act of 2001. This bill focuses on an issue of growing concern to many individual taxpayers and especially small business owners, the Alternative Minimum Tax, AMT.

The Real AMT Relief Act addresses the increasingly onerous consequences of the individual AMT as well as the corporate AMT. According to the Joint Tax Committee, in 1998, the most recent taxpayer data available, there were 853,000 individual tax returns that paid AMT. That number constituted 0.7 percent of all individual income tax returns—a relatively small number of returns. In contrast, the Joint Tax Committee estimates that by 2011, 11.2 percent of individual income tax returns will have AMT liability, that's more than 16 million taxpayers who will have to grapple with this burdensome tax.

Sadly, many of these AMT taxpayers will be individuals in the middle income brackets and not because they are taking advantage of special tax loopholes to avoid paying their share of taxes. No, these hardworking men and women will be hit with the AMT because they are taking advantage of the tax benefits that Congress accorded them, such as the child tax credit, the adoption tax credit, the dependent care tax credit, and the HOPE Scholarship and Lifetime Learning tax credit, to name a few. So instead of receiving a few extra dollars to help raise their children, these taxpayers lose much of these benefits and get to deal with the complex AMT rules as a bonus prize.

For other taxpayers, the AMT will not increase their tax bill. But because the AMT is a separate tax system, they will have to calculate their taxes twice, once under the regular rules and a second time under the AMT, just to make sure they do not owe additional taxes. With an already complicated set of tax rules for the regular tax, the last thing these individuals need is a second set of calculations.

Another significant group of taxpayers who have largely been forgotten in the AMT debate are the small business owners. According to recent IRS estimates, there were more than 20.7 million tax returns filed by sole-proprietorships, partnerships, and S corporations with receipts of less than $1 million. In contrast, there were 2.75 million C corporations. As a result, a whopping 88 percent of these businesses, with receipts under $1 million, are pass-through entities, businesses that are taxed only at the individual owner level.

For these sole proprietors, partners, and S corporation shareholders, the individual AMT increases their tax liability by, among other things, reducing depreciation and depletion deductions, limiting net operating loss treatment, eliminating the deductibility of State and local taxes, and curtailing the expensing of research and experimentation costs. In addition, because of its complexity, this tax forces small business owners to waste precious funds on tax professionals to determine whether the AMT even applies. Just think of the economic growth and new jobs that could be created if we could eliminate the compliance costs of the individual AMT.

The Real AMT Relief Act does just that. Based on the recommendation of the IRS National Taxpayer Advocate in his 2001 Report to Congress, the bill provides for the complete repeal of the individual AMT. This will be accomplished by eliminating 20 percent of the AMT each year until it is completely repealed in 2006. That's welcome relief for individual taxpayers and an enormous burden lifted off the shoulders of America's small businesses.

For small corporations, the AMT story is much the same, high compliance costs and additional taxes draining away scarce capital from their businesses. In fact, the Committee on Small Business, which I chair, received testimony at a hearing in the last Congress that the corporate AMT resulted in a $95,000 tax bill for one small business in Kansas City, all because the company purchased life insurance on the father, who was the primary owner of the business, to prevent the estate tax from closing the company down. That type of nonsense must come to an end here and now.

In 1997, Congress established an exemption from the corporate AMT for small businesses that are organized as taxable corporations if they meet certain gross receipt tests. Under that exemption, a corporation initially qualifies if its average gross receipts were $5 million or less during its first three taxable years beginning after December 31, 1993. Thereafter, a small corporation can continue to qualify for the AMT exemption for so long as its average gross receipts for the prior three-year period do not exceed $7.5 million.

With the growth and success of small corporations, it is time to expand that exemption and continue to provide these small enterprises with relief from the corporate AMT. Accordingly, for small corporate taxpayers, the Real AMT Relief Act increases the current exemption from the corporate AMT. As a result, a small corporation will initially qualify for the exemption if its average gross receipts are $7.5 million or less during its first three taxable years. In subsequent years, a small corporation will continue to qualify for as long as its average gross receipts for the prior 3-year period do not exceed $10 million.

Mr. President, small businesses represent more than 99 percent of all employers, employ 53 percent of the private work force, and create about 75 percent of the new jobs in this country. In addition, these small firms contribute 57 percent of all sales in this country, and they are responsible for 51 percent of the private gross domestic product. With that kind of performance, small businesses deserve tax relief and simplification. The Real AMT Relief Act comes through on both accounts. I applaud Senator Hutchinson for his leadership on this issue, and I am proud to be the chief co-sponsor of this important legislation.

By Mr. COCHRAN:

S. 617. A bill to amend the Elementary and Secondary Education Act of 1965 to improve student and teacher performance and access to education in the critically challenged Lower Mississippi Delta region; to the Committee

on Health, Education, Labor, and Pensions.

Mr. COCHRAN. Mr. President, today I am introducing the Lower Mississippi Delta Education Access and Improvement Act of 2001.

The character and fabric of our Nation have been significantly enhanced by the Mississippi Delta's unique blend of the talents that created blues music and Pulitzer Prize literature. But the problems facing this region today overshadow the triumphs of the past and foretell a future without hope. These problems include: below average reading skills among elementary school children, low graduation rates and ACT scores among high school students, lower levels of accreditation among teachers, and poor scores from the State Department of Education Performance Based Accreditation System. Poverty is another issue facing the school districts, evidenced by the fact that 86 percent of the students are eligible for free lunch.

However, there is a sense of optimism among community leaders and educators about overcoming the difficulties that confront the educational system of the area. Universities, community based organizations, and schools are developing comprehensive initiatives to achieve new success in teacher training and retention, preschool learning readiness, parental education, school-wide performance, birth to kindergarten preventative health care and immunization delivery. These are the people who best know their problems, and more importantly, how to solve them. In my opinion, these are efforts that deserve federal support.

This bill will authorize grants to institutions of higher learning located in the Lower Mississippi Delta for the improvement of education and student and teacher performance.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 617

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

SECTION 1. LOWER MISSISSIPPI DELTA EDUCATION ACCESS AND IMPROVEMENT.

Title XIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8601 et seq.) is amended by adding at the end the following:

''Part E—Lower Mississippi Delta Education Access and Improvement

''SEC. 13501. SHORT TITLE.

''This part may be cited as the ''Lower Mississippi Delta Education Access and Improvement Act''.

''SEC. 13502. DEFINITIONS.

''In this part:

''(1) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education—

''(A) that has a school or college of education located in the Lower Mississippi Delta; and

''(B) that has an established, working partnership or consortium with one or more local educational agencies and nonprofit and community organizations, with the purpose of such partnership or consortium being the improvement of education in the Lower Mississippi Delta.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001).

''(3) LOWER MISSISSIPPI DELTA.—The term 'Lower Mississippi Delta' means those counties designated as being part of the Delta Regional Authority jurisdiction in the States of Mississippi, Arkansas, Louisiana, and Tennessee.

''(4) MEDICALLY UNDERSERVED POPULATION.—The term 'medically underserved population' has the meaning given the term in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3)).

''SEC. 13503. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Secretary is authorized to award grants to eligible institutions to allow such eligible institutions to carry out the activities described in section 13506.

''(b) LIMITATION.—The Secretary may award not fewer than 1 or more than 4 grants under this part in each fiscal year.

''(c) PERIOD.—Grants under this part may be awarded for periods of up to 5 years.

''SEC. 13504. APPLICATION.

''(a) IN GENERAL.—Each eligible institution desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(b) CONTENTS.—Each application submitted under subsection (a) shall contain a description of the activities that the eligible institution desires to carry out using funds made available under this part, including a description of the specific population to be served by such activities.

''SEC. 13505. PRIORITY.

''In awarding grants under this part, the Secretary shall give priority to applications describing proposed projects in counties—

''(1) that possess no single incorporated municipality having a population of more than 75,000 people;

''(2) in which the local school districts serve populations of which more than 50 percent of all students are eligible for free or reduced priced lunches; and

''(3) in which more than 50 percent of the population is medically underserved.

''SEC. 13506. AUTHORIZED ACTIVITIES.

''(a) IN GENERAL.—Each eligible institution receiving a grant under this part shall use amounts received under the grant for activities that focus on research, development, and dissemination of programs, plans or demonstration projects designed to improve the following:

''(1) School-wide performance.

''(2) Teacher and administrator training.

''(3) Teacher retention.

''(4) Parent and mentor education.

''(5) Assessment.

''(6) Cultural based education and regional identity building.

''(7) Workforce.

''(8) Family literacy.

''(9) Preschool learning readiness.

''(10) Birth to kindergarten components of early preventative health care, educational intervention, and immunization delivery.

''(b) LIMITATION.—Grants awarded under this part shall be used for projects only in the predominately rural and agriculture-centered counties and communities of the Lower Mississippi Delta.

''SEC. 13507. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $18,000,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

By Mr. SPECTER:

S. 618. A bill to designate certain lands in the Valley Forge National Historical Park as the Valley Forge National Cemetery, to the Committee on Energy and Natural Resources.

Mr. SPECTER. Mr. President, today I renew my efforts that began on September 29, 1998, to authorize the creation of the Valley Forge National Cemetery. I am introducing this bill to coincide with a news conference that Congressman JOSEPH HOEFFEL is holding today in Montgomery County, PA, and I join with the entire Pennsylvania delegation in the House, in announcing our joint intention to see this matter resolved this year. Congressman HOEFFEL will introduce a companion bill, and I am pleased to join him in this effort. I had hoped to be with Congressman HOEFFEL at Valley Forge today, but was not able to join him due to a prior commitment. I nevertheless commend him, and the entire Pennsylvania delegation in the House, for their leadership in advancing this legislation. I am anxious to begin the fight for this worthy endeavor.

A national cemetery located at Valley forge would not only be a fitting final resting place for the Nation's veterans because of the area's historical significance, it would also provide the veterans of southeastern Pennsylvania and southern New Jersey with their only national cemetery burial option within a reasonable distance from the homes of their loved ones.

This legislation would designate 200 acres of land within the Valley Forge National Historic Park for use by the Department of Veterans Affairs, VA, to create a national cemetery. The cemetery would fall under the jurisdiction of VA's National Cemetery Administration, the agency charged with administering 119 national cemeteries nationwide.

The need for a national cemetery at or near Valley Forge first gained my attention in 1998. Back then, I joined with then-Congressman Jon Fox, and the entire Pennsylvania delegation in the House, in introducing legislation, S. 2530, to create the Valley Forge National Cemetery. Unfortunately, that measure was not acted on after its referral to the Senate Energy and Natural Resource Committee. It is my understanding that opposition to the legislation arouse due to concerns, misplaced concerns, in my estimation, that the presence of a veterans' cemetery might somehow be inconsistent with the historic nature of the Valley Forge Park site.

I am advised that the National Park Service, NPS, the agency charged with administering over 3,000 acres of federally owned land at the Valley Forge National Historic Park, has expressed reservations about giving up Valley Forge land for cemetery use. I am told that NPS is concerned that a cemetery

would denigrate the historical significance of the Park. While these concerns may be held in good faith, I believe the presence of national cemeteries at other historical sites proves that the historical significance of an event or area is heightened not degraded, by the presence of a cemetery honoring those who served in the military.

Two NPS-administered cemeteries, Gettysburg National Cemetery and Andersonville National Cemetery, prove my point. Although Gettysburg is not closed for new burials, it is the final resting place of veterans from all of the country's major wars; Andersonville is still open to new burials. Does the presence of deceased veterans at these Civil War sites detract from their solemnity? I think not. In any case, the acreage that would be transferred to VA under my bill is not the site of the original 1777 encampment of General Washington and his men.

The need for a national cemetery in the Philadelphia area is particularly acute. The three closest national cemeteries for Philadelphians—the Philadelphia, Beverly, and Finns Point national cemeteries—have been closed to new burials since the 1960s. The closest open national cemetery at Indiantown Gap, PA, is over 2 hours away and, at best, will only remain open for new burials until 2030.

Pennsylvania has the fifth largest 65-and-older veteran population in the United States. Estimates from the VA indicate that WWII veterans are passing away at a rate of 1,000 a day, and that the number of annual veteran deaths will reach its peak in 2008. Since national cemeteries take, on average, 7 years to build, we must move quickly to provide an appropriate burial option for Philadelphia-area veterans.

Our Nation's national cemeteries provide a lasting, dignified memorial to the service so many veterans have given to our country. I have received many letters from widows and family members of veterans explaining how much having their loved ones; service honored by an appropriate burial can mean. Providing lasting tributes to this country's heroes sends several messages to all our citizens. It reminds them that we uphold the virtues of serving in the military; we honor the sacrifices veterans have made; and we will never forget that our freedoms are linked with their sacrifices. It is time to move expeditiously to provide Philadelphia area veterans with the opportunity to be so remembered and honored by authorizing a national cemetery at Valley Forge.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 618

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

SECTION 1. DESIGNATION OF LANDS AS VALLEY FORGE NATIONAL CEMETERY.

(a) IN GENERAL.—Not more than 200 acres of land located within the Valley Forge National Historical Park on the day before the date of the enactment of this Act are hereby designated as the Valley Forge National Cemetery. Administrative jurisdiction over such lands is hereby transferred to the Secretary of Veterans Affairs and such lands shall be administered as a national cemetery in accordance with chapter 24 of title 38, United States Code (relating to national cemeteries and memorials).

(b) ADJUSTMENT OF PARK BOUNDARIES.—Subsection (b) of section 2 of the Act entitled ''An Act to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes'' (16 U.S.C. 410aa–1) is amended by striking ''map entitled 'Valley Forge National Historical Park', dated June 1979, and numbered VF–91,001'' and inserting ''map entitled 'Valley Forge National Historical Park', dated ___, and numbered ___''.

By Mr. DEWINE (for himself, Mr. HUTCHINSON, Mr. WARNER, Mr. ALLEN, Mr. HELMS, Mr. HAGEL, Mr. GRASSLEY, Mr. SANTORUM, and Mr. SESSIONS):

S. 619. A bill to establish a grant program that provides incentives for States to enact mandatory minimum sentences for certain firearms offenses, and for other purposes; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, today I rise to introduce Project Exile: The Safe Streets and Neighborhoods Act of 2001, along with my distinguished colleagues Senator HUTCHINSON from Arkansas, and Senators WARNER, ALLEN, HAGEL, HELMS, GRASSLEY, and SANTORUM. I introduced this bill in the 106th Congress, and today, we again are taking a commonsense step to reduce gun violence and help make our communities safer and more secure.

Often, in the heat of the rhetoric, the real issue in gun control debate has become lost in the flurry of words. We must not, however, lose sight of the real issue, that is the need to reduce gun violence. While gun control efforts are often controversial, there is nothing controversial about protecting our children, our families, our communities by keeping guns out of the wrong hands, not those of law-abiding citizens, but those of criminals and violent offenders.

Criminals with guns are killing our children. They are killing our friends and our neighbors. I am very troubled by gun violence. However, I firmly believe that the Bush Administration will aggressively go after those who commit crimes with a gun.

Right now, current law makes it a federal crime for a convicted felon to ever possess a firearm. It is also against federal law to use a gun to commit any crime, even a State crime. Under federal law, the sentences for these kinds of crimes are mandatory, no second chance, no parole.

In the late 1980s, President George Bush made enforcement of these gun laws a priority. His Justice Department told local sheriffs, chiefs of police, and prosecutors that if they caught someone committing a crime in which a gun was used, or even caught a felon with a gun, the Federal Government would take the case, and put that criminal behind bars for at least five years, no exceptions. During the last 18 months of the Bush Administration, more than 2,000 criminals with guns were put behind bars.

Unfortunately, consistent, effective enforcement ended once the Clinton administration took office. Between 1992 and 1998, for example, the number of gun cases filed for prosecution dropped from 7,048 to about 3,807, that's a 46 percent decrease. As a result, the number of federal criminal convictions for firearms offenses has fallen dramatically.

For 6 years, the Clinton Justice Department refused to prosecute those criminals who use a gun to commit State crimes, even though the use of a gun to commit those crimes could be charged as a Federal crime. The only cases they would prosecute were those in which a federal crime had been committed and a gun was used in the commission of that crime.

Even worse, some federal gun laws were almost never enforced by the prior administration. For instance, while Brady law background checks have stopped nearly 300,000 prohibited purchasers of firearms from buying guns, less than .1 percent have actually been prosecuted.

I questioned Attorney General Ashcroft during his recent confirmation hearing, as well as in private, about the aggressive prosecution of gun cases. He shared our view that current law prohibits violent felons from possessing guns, and so we should aggressively enforce the laws that take guns away from violent criminals. We should take those guns away before they use them to injure and kill people.

We have often heard that 6 percent of the criminals commit 70 percent of the crimes. Well, if you have a violent criminal who illegally possesses a gun, I can bet you that he is part of that 6 percent! He's one of the bad guys, and we should put him away before he has a chance to use that gun again.

Our goal should be to take all of these armed criminals off the streets. That is how we can reduce crime and save lives. And, we can do it now, before another student, or any American, becomes a victim of gun violence.

This bill offers the kind of practical solution we need to thwart gun crimes, now. It would provide $100 million in grants over 5 years to those States that agree to enact their own mandatory minimum five-year jail sentences for armed criminals who use or possess an illegal gun. As an alternative, a State also can qualify for the grants by turning armed criminals over for Federal prosecution under existing firearms laws. This would be done in the same manner in which it was done in the prior Bush administration. In our bill,

however, a State wishing to participate in this program has the option of prosecuting armed felons in either State or federal court.

Qualifying States can use their grants for any variety of purposes that would strengthen their criminal or juvenile justice systems' ability to deal with violent criminals.

This approach works, as Senators WARNER and ALLEN can tell you firsthand. In Virginia, for example, the State instituted a program in 1997, also called ''Project Exile.'' Their program is based on one simple principle: Any criminal caught with a gun will serve a minimum mandatory sentence of 5 years in prison. Period. End of story. As a result, gun-toting criminals are being prosecuted six times faster, and serving sentences up to four times longer than they otherwise would under State law. Moreover, the homicide rate in Richmond already has dropped 50-percent!

Every State should have the opportunity to implement Project Exile in their high-crime communities. The bill that we have introduced will make this proven, commonsense approach to reducing gun violence available to every State.

It will take guns out of the hands of violent criminals. It will make our neighborhoods safer. It will save lives. I urge my colleagues on both sides of the aisle to support and pass this legislation.

Mr. President, I ask that the full text of the bill be printed in the RECORD.

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

S. 619

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Project Exile: The Safe Streets and Neighborhoods Act of 2001''.

SEC. 2. FIREARMS SENTENCING INCENTIVE GRANTS.

(a) PROGRAM ESTABLISHED.—Title II of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1815) is amended—

(1) by redesignating subtitle D as subtitle E; and

(2) by inserting after subtitle C the following:

''Subtitle D—Firearms Sentencing Incentive Grants

''SEC. 20351. DEFINITIONS.

''In this subtitle:

''(1) FIREARM.—The term 'firearm' has the meaning given the term in section 921(a) of title 18, United States Code.

''(2) PART 1 VIOLENT CRIME.—The term 'part 1 violent crime' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault, as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

''(3) SERIOUS DRUG TRAFFICKING CRIME.—The term 'serious drug trafficking crime' means an offense under State law for the manufacture or distribution of a controlled substance, for which State law authorizes to be imposed a sentence to a term of imprisonment of not less than 10 years.

''(4) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

''(5) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' has the meaning given the term in section 901(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)).

''(6) VIOLENT CRIME.—The term 'violent crime' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault, or a crime in a reasonably comparable class of serious violent crimes, as approved by the Attorney General.

''SEC. 20352. AUTHORIZATION OF GRANTS.

''(a) IN GENERAL.—From amounts made available to carry out this subtitle, the Attorney General shall award Firearms Sentencing Incentive Grants to eligible States in accordance with this subtitle.

''(b) ALLOWABLE USES.—Grants awarded under this subtitle may be used by a State only—

''(1) to support—

''(A) law enforcement agencies;

''(B) prosecutors;

''(C) courts;

''(D) probation officers;

''(E) correctional officers;

''(F) the juvenile justice system;

''(G) the expansion, improvement, and coordination of criminal history records; or

''(H) case management programs involving the sharing of information about serious offenders;

''(2) to carry out a public awareness and community support program described in section 20353(a)(2); or

''(3) to build or expand correctional facilities.

''(c) SUBGRANTS.—A State may use grants awarded under this subtitle directly or by making subgrants to units of local government within that State.

''SEC. 20353. FIREARMS SENTENCING INCENTIVE GRANTS.

''(a) ELIGIBILITY.—Except as provided in subsection (b), to be eligible to receive a grant award under this section, a State shall submit an application to the Attorney General, which shall comply with the following requirements:

''(1) FIREARMS SENTENCING LAWS.—The application shall demonstrate that the State has implemented firearms sentencing laws requiring 1 or both of the following:

''(A) Any person who, during and in relation to any violent crime or serious drug trafficking crime, uses or carries a firearm, shall, in addition to the punishment provided for that crime of violence or serious drug trafficking crime, be sentenced to a term of imprisonment of not less than 5 years (without the possibility of parole during that term).

''(B) Any person who, having not less than 1 prior conviction for a violent crime, possesses a firearm, shall, for such possession, be sentenced to a term of imprisonment of not less than 5 years (without the possibility of parole during that term).

''(2) PUBLIC AWARENESS AND COMMUNITY SUPPORT PROGRAM.—The application shall demonstrate that the State has implemented, or will implement not later than 6 months after receiving a grant under this subtitle, a public awareness and community support program that seeks to build support for, and warns potential violators of, the firearms sentencing laws implemented under paragraph (1).

''(3) COORDINATION WITH FEDERAL GOVERNMENT; CRIME REDUCTION IN HIGH-CRIME AREAS.—The application shall provide assurances that the State—

''(A) will coordinate with Federal prosecutors and Federal law enforcement agencies whose jurisdictions include the State, so as to promote Federal involvement and cooperation in the enforcement of laws within that State; and

''(B) will allocate its resources in a manner calculated to reduce crime in the high-crime areas of the State.

''(b) ALTERNATE ELIGIBILITY REQUIREMENT.—

''(1) IN GENERAL.—A State that is unable to demonstrate in its application that the State meets the requirement of subsection (a)(1) shall be eligible to receive a grant award under this subtitle notwithstanding that inability, if that State, in such application, provides assurances that the State has in effect an equivalent Federal prosecution agreement.

''(2) EQUIVALENT FEDERAL PROSECUTION AGREEMENT.—For purposes of paragraph (1), an equivalent Federal prosecution agreement is an agreement with appropriate Federal authorities that ensures that 1 or more of the following:

''(A) If a person engages in the conduct specified in subsection (a)(1)(A), but the conviction of that person under State law for that conduct is not certain to result in the imposition of an additional sentence as specified in that subsection, that person is prosecuted for that conduct under Federal law.

''(B) If a person engages in the conduct specified in subsection (a)(1)(B), but the conviction of that person under State law for that conduct is not certain to result in the imposition of a sentence as specified in that subsection, that person is prosecuted for that conduct under Federal law.

''SEC. 20354. FORMULA FOR GRANTS.

''(a) IN GENERAL.—The amount available for grants under this subtitle for any fiscal year shall be allocated to each eligible State, in the ratio that the number of part 1 violent crimes reported by the State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all eligible States to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.

''(b) UNAVAILABLE DATA.—If data regarding part 1 violent crimes in any State is substantially inaccurate or is unavailable for the 3 years preceding the year in which the determination is made, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for the previous year for the State for the purposes of the allocation of funds under this subtitle.

''SEC. 20355. AUTHORIZATION OF APPROPRIATIONS.

''(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out this subtitle—

''(1) $10,000,000 for fiscal year 2001;

''(2) $15,000,000 for fiscal year 2002;

''(3) $20,000,000 for fiscal year 2003;

''(4) $25,000,000 for fiscal year 2004; and

''(5) $30,000,000 for fiscal year 2005.

''(b) LIMITATIONS ON FUNDS.—

''(1) USES OF FUNDS.—Funds made available pursuant to this subtitle shall be used only to carry out the purposes described in section 20352(b).

''(2) NONSUPPLANTING REQUIREMENT.—Funds made available pursuant to this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

''(3) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds made available

pursuant to this section for a fiscal year shall be available to the Attorney General for purposes of administration, research and evaluation, technical assistance, and data collection.

''(4) CARRYOVER OF APPROPRIATIONS.—Funds appropriated pursuant to this section during any fiscal year shall remain available until expended.

''(5) MATCHING FUNDS.—The Federal share of a grant awarded under this subtitle may not exceed 90 percent of the costs of a proposal as described in an application approved under this subtitle.

''SEC. 20356. REPORT BY THE ATTORNEY GENERAL.

''Beginning on October 1, 2001, and on each subsequent July 1 thereafter, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this subtitle. The report shall include information regarding the eligibility of States under section 20353 and the distribution and use of funds under this subtitle.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 2 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1796) is amended—

(1) by redesignating the item relating to subtitle D of title II as an item relating to subtitle E of that title; and

(2) by inserting after the item relating to subtitle C of title II the following:

''Subtitle D—Firearms Sentencing Incentive Grants

''Sec. 20351. Definitions.
''Sec. 20352. Authorization of grants.
''Sec. 20353. Firearms sentencing incentive grants.
''Sec. 20354. Formula for grants.
''Sec. 20355. Authorization of appropriations.
''Sec. 20356. Report by the Attorney General.''.

Mr. HUTCHINSON. Mr. President, I am honored to rise today as an original cosponsor of Senator DEWINE's legislation, Project Exile: the Safe Streets and Neighborhood Act 2001. This legislation will go a long way towards the goal of effectively reducing gun violence and saving lives.

Like many of my colleagues, I am extremely concerned about gun violence. However, unlike many of my colleagues, I do not believe that more gun control laws are needed to make our Nation safer. Rather, I agree with the thousands of Arkansans who have written asking me to simply enforce the laws already in effect. I also point to the experience of States and cities around the Nation which have seen reductions in violent crime when the existing gun laws were aggressively enforced.

The Project Exile legislation will provide the additional resources needed to expand this effort. It authorizes $100 million in block grants over 5 years to those States that agree to enact and enforce laws with mandatory minimum sentences for anyone who uses a firearm to commit any violent or drug trafficking crime as well as for any person convicted of a violent felony who is in possession of a firearm. If a State does not wish to change its laws, it can simply agree to ensure that these offenders will be turned over to the appropriate United States Attorney's office for prosecution under Federal firearms statutes.

For some time now, I have been working to see Project Exile implemented in Arkansas, and I support this legislation because it will authorize the additional funding necessary to allow Arkansas and other states to implement a program which has been proven to reduce gun violence. Finally, I support this legislation because it is the right approach.

By Mr. HARKIN (for himself and Mr. WELLSTONE):

S. 620. A bill to amend the Elementary and Secondary Education Act of 1965 regarding elementary school and secondary school counseling; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, you have heard the old saying that an ounce of prevention is worth a pound of cure. Today, I am introducing the Elementary and Secondary School Counseling Improvement Act of 2001 to provide that ounce of prevention.

After the unspeakable act of violence at Columbine High in 1999, CNN and USA Today conducted a public opinion poll of Americans. They asked what would make a difference in preventing a future outbreak of violence in our Nation's schools.

The leading response was to restrict access to firearms. The second most popular response, a response selected by 60 percent of those polled, was to increase the number of counselors in our nation's schools.

Counseling programs, especially in our elementary schools are an ounce of prevention. However, too many children do not have access to a well-training counselor when they need one.

Experts tell us that to be effective, there should be at least one counselor for every 250 students. Unfortunately, the current student: counselor ratio is more than double the recommended level: 551:1. That means counselors are stretched to the limit and cannot devote the kind of attention to children that is needed.

Children today are subjected to unprecedented social stresses, including the fragmentation of the family, drug and alcohol abuse, violence, child abuse and poverty. The legislation I am introducing today reauthorizes the Elementary School Counseling Demonstration Act and expands services to secondary schools.

The Elementary School Counseling Program is modeled on a successful program in the Des Moines school district. The counseling program, Smoother Sailing, operates on the simple premise that we must get to kids early to prevent problems rather than waiting for a crisis.

The schools participating in Smoother Sailing have seen a dramatic reduction in the number of students referred to the office for disciplinary reasons. Teachers report fewer classroom disturbances and principals notice fewer fights in the cafeteria and on the playground. The schools and classrooms have become more disciplined learning environments.

The legislation authorizes $100 million. However, since the counselor shortage is particularly acute in elementary schools, the legislation requires that the first $60 million appropriated would go to provide grants for elementary schools.

Earlier this month, the Nation was shocked to learn about a school shooting in Santee, California. We have a desperate need to improve counseling services in our Nation's schools and this legislation will be an important step in addressing this critical issue. I urge my colleagues to support this legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 64—CONGRATULATING THE CITY OF DETROIT AND ITS RESIDENTS ON THE OCCASION OF THE TERCENTENNIAL OF ITS FOUNDING

Mr. LEVIN (for himself and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 64

Whereas Detroit is the 10th most populous city in the United States and the most populous city in Michigan;

Whereas Detroit is the oldest major city in the Midwest, and 2001 is the 300th anniversary of Detroit's founding;

Whereas Detroit began as a French community on the Detroit River when Antoine de la Mothe Cadillac founded a strategic garrison and fur trading post on the site in 1701;

Whereas Detroit was named Fort Pontchartrain de' Etroit (meaning ''strait'') at the time of its founding and became known as Detroit because of its position along the Detroit River;

Whereas the Detroit region served as a strategic staging area during the French and Indian War, became a British possession in 1760, and was transferred to the British by the peace treaty of 1763;

Whereas the Ottawa Native American Chieftain Pontiac attempted a historic but unsuccessful campaign to wrest control of the garrison at Detroit from British hands in 1763;

Whereas in the nineteenth century, Detroit was a vocal center of antislavery advocacy and, for more than 40,000 individuals seeking freedom in Canada, an important stop on the Underground Railroad;

Whereas Detroit entrepreneurs, including Henry Ford, perfected the process of mass production and made automobiles affordable for people from all walks of life;

Whereas Detroit is the automotive capital of the Nation and an international leader in automobile manufacturing and trade;

Whereas the contributions of Detroit residents to civilian and military production have astounded the Nation, contributed to United States victory in World War II, and resulted in Detroit being called the Arsenal of Democracy;

Whereas residents of Detroit played a central role in the development of the organized labor movement and contributed to protections for workers' rights;

Whereas Detroit is home to the United Auto Workers Union and many other building and service trades and industrial unions;

Whereas Detroit has a rich sports tradition and has produced many sports legends, including: Ty Cobb, Al Kaline, Willie Horton, Hank Greenberg, Mickey Cochrane, and Sparky Anderson of the Detroit Tigers; Dick ''Night Train'' Lane, Joe Schmidt, Billy Sims, Dutch Clark, and Barry Sanders of the Detroit Lions; Dave Bing, Bob Lanier, Isaiah Thomas, and Joe Dumars of the Detroit Pistons; Gordie Howe, Terry Sawchuk, Ted Lindsay, and Steve Yzerman of the Detroit Red Wings; boxing greats Joe Louis, Sugar Ray Robinson, and Thomas Hearns; and Olympic speed skaters Jeanne Omelenchuk and Sheila Young-Ochowicz;

Whereas the cultural attractions in Detroit include the Detroit Institute of Arts, the Charles H. Wright Museum of African-American History (the largest museum devoted exclusively to African-American art and culture), the Detroit Historical Museum, the Detroit Symphony, the Michigan Opera Theater, the Detroit Science Center, and the Dossin Great Lakes Museum;

Whereas several centers of educational excellence are located in Detroit, including Wayne State University, the University of Detroit Mercy, Marygrove College, Sacred Heart Seminary College, the Center for Creative Studies—College of Art and Design, and the Lewis College of Business (the only institution in Michigan designated as a ''Historically Black College'');

Whereas residents of Detroit played an integral role in developing the distinctly American sounds of jazz, rhythm and blues, rock 'n roll, and techno; and

Whereas Detroit has been the home of Berry Gordy, Jr., who created the musical genre that has been called the Motown Sound, and many great musical artists, including Aretha Franklin, Anita Baker, and the Winans family: Now, therefore, be it

Resolved,

SECTION. 1. CONGRATULATING DETROIT AND ITS RESIDENTS.

The Congress, on the occasion of the tricentennial of the founding of the city of Detroit, salutes Detroit and its residents, and congratulates them for their important contributions to the economic, social, and cultural development of the United States.

SEC. 2. TRANSMITTAL.

The Clerk of the House of Representatives shall transmit copies of this resolution to the Mayor of Detroit and the City Council of Detroit.

Mr. LEVIN. Mr. President, I and my colleague from Michigan, Senator STABENOW, are introducing a resolution commemorating the tercentennial of the founding of Detroit, my hometown. Detroit has contributed mightily to American history and to the freedom and prosperity our Nation enjoys.

The ''Spirit of Detroit'' statue, which sits prominently in downtown Detroit, embodies a spirit which is referred to by many Detroiters. It is this spirit of hard work and determination that has helped successive generations of Detroiters realize the American Dream. From its earliest days as a frontier outpost, to its role in the epic struggle to end slavery and preserve the union, to the era of the Arsenal of Democracy, to the modern day struggle to build the Detroit of the 21st Century, this spirit has guided Detroit to greatness.

While the resolution names but a few of the events and a few of the people who have made significant contributions to the Detroit story, the list is long. Countless Detroiters have stepped forward to make a difference in many facets of American life. And this year, as Detroit enters its fourth century, the city's pride in its history is only matched by its confidence in its future.

As Detroit celebrates its 300th anniversary, we are proud to have the opportunity to take part in the festivities that mark this occasion and to share our pride with all of our colleagues.

Ms. STABENOW. Mr. President, the city of Detroit celebrates its 300th anniversary this year. The citizens of Detroit will mark this milestone with pride and celebration for a city not only rich in tradition and history, but also full of promise.

The French are credited with founding Detroit, and like so many Americans, the city bears the remnants of its original French name—Fort Pontchartain de' Etroit. But it is also important to remember the indigenous people who preceded the French in the region. The Native American people have a rich history and culture, and this history is equally credited with the formation of Detroit.

This resolution recognizes the important role the city of Detroit and its people have played in the history and development of a strong and secure America. From great sports teams and automobiles to music and civil rights, each domain is synonymous with Detroit. Its rich musical heritage and artistry has left a lasting imprint on the sound of rhythm & blues, gospel, jazz, and Motown.

''The Motor City'' is a moniker of pride for the city of Detroit and the State of Michigan as a whole. The preeminent accomplishments of Detroit's automobile industry began with Henry Ford, a man whose ingenuity and determination changed the landscape of American life. In doing so, a dominant labor movement emerged as a force for equality in the workplace. In addition, people of all ethnicities living and working in Detroit know of the city's distinguished mark in the civil rights movement and understand the fight for equal rights in America is far from over. I believe Detroit's best years lie ahead and am proud of the past accomplishments that forever anchor this city in the history books of our country.

I wish Detroit and its residents a Happy Tercentennial and look forward to its anniversary celebrations this year.

SENATE CONCURRENT RESOLUTION 28—CALLING FOR A UNITED STATES EFFORT TO END RESTRICTIONS ON THE FREEDOMS AND HUMAN RIGHTS OF THE ENCLAVED PEOPLE IN THE OCCUPIED AREA OF CYPRUS

Ms. SNOWE (for herself and Ms. MIKULSKI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 28

Whereas respect for fundamental freedoms and internationally recognized human rights is a cornerstone of United States foreign policy;

Whereas, since the tragic events of 1974, the number of the enclaved people in the occupied area of Cyprus has been reduced from 20,000 to 593 (428 Greek-Cypriots and 165 Maronites);

Whereas the enclaved people continue to be subjected to restrictions on their freedoms and human rights;

Whereas the representatives of the two communities in Cyprus, who met in Vienna, Austria, in August 1975 under the auspices of the Secretary General of the United Nations, reached a humanitarian agreement, known as the Vienna III Agreement, which, inter alia, states that, ''Greek-Cypriots in the north of the island [of Cyprus] are free to stay and they will be given every help to lead a normal life, including facilities for education and for the practice of their religion, as well as medical care by their own doctors and freedom of movement in the north . . . [and] the United Nations will have free and normal access to Greek-Cypriot villages and habitations in the north'';

Whereas the Secretary General of the United Nations, in his December 10, 1995, report on the United Nations operation in Cyprus, set out the recommendations contained in the humanitarian review of the the United Nations Peacekeeping Force in Cyrus (in this concurrent resolution referred to as ''UNFICYP''), as endorsed by United Nations Security Council Resolution 1032(95), regarding the restrictions on the freedoms and human rights of the enclaved people of Cyprus;

Whereas the Secretary General of the United Nations, in his June 7, 1996 report on the United Nations Operation in Cyprus, informed the Security Council that the Greek Cypriots and Maronites living in the northern part of the island ''were subjected to severe restrictions and limitations in many basic freedoms, which had the effect of ensuring that inexorably, with the passage of time, the communities would cease to exist'';

Whereas United Nations Security Council Resolution 1062(96), inter alia, expressed regret that ''the Turkish-Cypriot side has not responded more fully to the recommendations made by UNFICYP and calls upon the Turkish-Cypriot side to respect more fully the basic freedoms of the Greek-Cypriots and Maronites living in the northern part of the island and to intensify its efforts to improve their daily lives'';

Whereas, on July 31, 1997, Cyprus President Glafcos Clerides and Turkish-Cypriot leader Rauf Denktash agreed to further address this issue along with other humanitarian issues;

Whereas those agreements and recommendations are still far from being implemented, despite a number of measures announced in May 2000 by the Turkish side to ease certain restrictions imposed on movement between the two sides, which restrictions largely remain in effect;

Whereas the measures against the UNFICYP instituted by the Turkish side since June 2000 have further complicated the situation;

Whereas, on January 22, 1990, Turkey recognized the compulsory jurisdiction of the European Court of Human Rights; and

Whereas the European Commission of Human Rights, in the case of Cyprus vs. Turkey before the European Court of Human Rights in 1999 found that ''taken as a whole, the daily life of the Greek Cypriots in northern Cyprus is characterized by a multitude of

adverse circumstances. The absence of normal means of communication, the unavailability in practice of the Greek Cypriot press, the insufficient number of priests, the difficult choice before which parents and school children are put regarding secondary education, the restrictions and formalities applied to freedom of movement, the impossibility to preserve property rights upon departure or death and the various other restrictions create a feeling among the persons concerned of being compelled to live in a hostile environment in which it is hardly possible to lead a normal private and family life'' and ''are to a large extent the direct result of the official policy conducted by the respondent government [Turkey] and its subordinate local administration'': Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) strongly urges the President to undertake efforts to end restrictions on the freedoms and human rights of the enclaved people of Cyprus; and

(2) expresses its intention to remain actively interested in the matter until the human rights and fundamental freedoms of the enclaved people of Cyprus are restored, respected, and safeguarded.

Ms. SNOWE. Mr. President, today I am submitting a concurrent resolution, also sponsored by Senator MIKULSKI, which calls for a United States effort to end the restrictions on the freedoms and violations of the human rights of the enclaved people in the occupied portion of Cyprus. I have introduced this legislation in the past, and I regret that these concerns are still with us. In the 106th Congress, my resolution garnered 36 cosponsors, more than one-third of the U.S. Senate.

I am aware that developments on Cyprus are not known to most Americans. Yet if I were to tell them that a small nation has had part of its land illegally occupied by a neighboring state for over a quarter of a century, I know they would share my outrage.

The 26 years since the 1974 Turkish invasion of Cyprus have seen the end of the cold war, the collapse of the USSR, free elections in South Africa and a reunited Germany. Yet while the line through the heart of Berlin is gone, the line through the heart of Cyprus remains.

Over a quarter of a century ago, Turkey's brutal invasion drove more than 200,000 Cypriots from their homes. Turkey still controls about one-third of the island of Cyprus and maintains about 30,000 troops there. There remains, in northern Cyprus, a small remnant of 428 enclaved Greek-Cypriots and 165 Maronites. The reason they are referred to as the enclaved of Cyprus is that during the fighting in 1974 they mostly resided in remote enclaves and therefore were not able to flee the fighting and thus were not immediately expelled.

I believe that this resolution is important in serving to bring to the attention of the American people and the world community, the hardships and restrictions endured by these enclaved individuals.

In 1975, representatives of the Greek and Turkish Cypriot communities agreed that the Greek-Cypriots in the northern part of the island were to be given every help to lead a normal life. Twenty-six years later this is still not the case.

The presence of the Turkish-Cypriot police in the lives of the enclaved Greek-Cypriots is constant and represents an aggravated interference with their right to respect their private and family life and for their home. Human rights violations and deprivations include: restrictions and formalities on their freedom of movement; the impossibility of preserving their property rights upon their departure or death; the unavailability of access to Greek Cypriot press; an insufficient number of priests; and the difficulties in continuing their children's secondary education.

What I just cited are the 1999 findings of the European Commission of Human Rights in the case of Cyprus against Turkey which is currently before the European Court of Human Rights. Overall, the Commission found that the enclaved ''have been subjected to discrimination amounting to degrading treatment.'' On January 22, 1990, Turkey recognized the compulsory jurisdiction of the European Court of Human Rights and although there has been no ruling, these findings by the Commission illustrate the dire situation which exists.

Going back to 1995, the situation was studied then too, with equally compelling findings. This report on the conditions of the enclaved by the UN Secretary General stated that, ''the Review confirmed that those communities were the objects of very severe restrictions, which curtailed the exercise of many basic freedoms and had the effect on ensuring that, inexorably with the passage of time, those communities would cease to exist in the northern part of the island.'' The UN expressed its concerns and made recommendations for remedial actions by the Turkish-Cypriot regime.

As an example of the situation there, I will state what two of the recommendations were. The simplicity of them speaks volumes. They are: (1) ''All restrictions on land travel within the northern part of Cyprus should be lifted'', and (2) ''Restrictions on hand-carried mail and newspapers should be lifted'' These are basic rights to us, but something to be desired and wished for by the enclaved. In addition, the State Department's Human Rights Report for 2000 recently released states that the Turkish-Cypriot regime ''continued to restrict freedom of movement''.

As a result of this review, very minor relaxation of restrictions on the freedom of movement of the enclaved were introduced in 1996, but all the other recommendations have not been implemented. Some new telephone lines were also installed in the Karpas and Kormakiti areas but the overseas charges imposed make it impossible to use for communication with relatives in the Government controlled area.

The numbers of the enclaved continue to decrease and education is one reason. No Greek language educational facilities for the Greek-Cypriot and Maronite children exist beyond the elementary level. Parents are forced to choose between keeping their children with them or sending them to the south for further education. If a child is sent for further education they are no longer permitted to return permanently to their homes.

I am aware that on May 4, 2000, the Turkish occupation regime announced measures to ease restrictions in order to improve the living conditions of the enclaved. For example, it was announced that Greek-Cypriots and Maronites who wish to visit their relatives in the occupied areas will be allowed to stay for a reasonable length of time after obtaining the necessary permit. What was instituted was that the relatives of the enclaved when visiting can stay in the occupied areas for three days and two nights instead of the two days and one night that was the case in the past.

One restriction that was eased in may was that the enclaved may bring their spouses to reside with them and the Greek-Cypriot marriage certificates will be recognized as proof of marriage. Amazingly, this previously required special permission which was difficult to obtain.

This situation calls out for justice. By bringing these human rights violations to the attention of the American people, it is my hope, that we can bring the plight of these people to the World's attention. My resolution urges the President to undertake efforts to end the restrictions on the freedoms and human rights of the enclaved people. I will remain actively involved in this issue until their rights and freedoms are restored.

This is the least we can do for these people. While this resolution addresses the plight of the enclaved people of Cyprus, work must not cease on efforts to bring about a withdrawal of Turkish forces and a restoration of Cyprus' sovereignty over the entire island with the full respect of the rights of all Cypriots.

Mr. President, I urge my colleagues to join me in supporting this legislation.

Ms. MIKULSKI. Mr. President, I am proud to join Senator SNOWE in submitting a resolution calling for action to help the enclaved people in the occupied areas of Cyprus. This legislation puts the Congress on record in support of human rights and freedom for all the people of Cyprus.

In 1974 Turkish troops invaded Cyprus and divided the island. For decades, the people of Cyprus have lived under an immoral and illegal occupation. The enclaved people in the northern part of the island have suffered most. Their travel is restricted. They may not attend the schools of their choice. Their access to the religious sites is restricted. They are often harassed and discriminated against.

The United Nations and the European Union have documented these human rights abuses and have called on the Turkish Cypriots to respect the basic freedom of the Greek Cypriots and Maronites living in the northern part of the island.

Our foreign policy must reflect our values. The legislation we are introducing urges the President to work to end restrictions on the freedom of the enclaved people in the occupied part of Cyprus. It states that commitment of Congress to pursue this issue until the human rights and fundamental freedoms of the enclaved people of Cyprus are restored, respected and safeguarded.

We all hope peace will come to Cyprus, ending the occupation which divides it. But our efforts to improve human rights on the island cannot wait. I urge my colleagues to join me supporting this legislation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 145. Mr. WELLSTONE (for himself and Mr. HARKIN) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

SA 146. Mr. HAGEL (for himself, Mr. BREAUX, Mr. NELSON of Nebraska, Ms. LANDRIEU, Mr. DEWINE, Mrs. HUTCHISON, Mr. SMITH of Oregon, Mr. THOMAS, Mr. ENZI, Mr. HUTCHINSON, Mr. ROBERTS, Mr. BROWNBACK, Mr. CORZINE, and Mr. VOINOVICH) proposed an amendment to the bill S. 27, supra.

SA 147. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill S. 295, to provide emergency relief to small businesses affected by significant increases in the prices of heating oil, natural gas, propane, and kerosene, and for other purposes.

TEXT OF AMENDMENTS

SA 145. Mr. WELLSTONE (for himself and Mr. HARKIN) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 21, between lines 9 and 10, insert the following:

SEC. 204. RULES RELATING TO CERTAIN TARGETED ELECTIONEERING COMMUNICATIONS.

Section 316(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as added by section 203, is amended by adding at the end the following:

''(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS.—

''(A) EXCEPTION DOES NOT APPLY.—Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

''(B) TARGETED COMMUNICATION.—For purposes of subparagraph (A), the term 'targeted communication' means an electioneering communication (as defined in section 304(d)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service whose audience consists primarily of residents of the State for which the clearly identified candidate is seeking office.''.

SA 146. Mr. HAGEL (for himself, Mr. BREAUX, Mr. NELSON of Nebraska, Ms. LANDRIEU, Mr. DEWINE, Mrs. HUTCHISON, Mr. SMITH of Oregon, Mr. THOMAS, Mr. ENZI, Mr. HUTCHINSON, Mr. ROBERTS, Mr. BROWNBACK, Mr. CORZINE, and Mr. VOINOVICH) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

At the end of the bill, add the following:

TITLE V—ADDITIONAL PROVISIONS

Subtitle A—Contribution Limits

SEC. 501. INCREASE IN CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL AND POLITICAL COMMITTEE CONTRIBUTION LIMITS.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''$1,000'' and inserting ''$3,000'';

(B) in subparagraph (B), by striking ''$20,000'' and inserting ''$60,000''; and

(C) in subparagraph (C), by striking ''$5,000'' and inserting ''$15,000''; and

(2) in paragraph (3), as amended by section 102(b)—

(A) by striking ''$30,000'' and inserting ''$75,000''; and

(B) by striking the second sentence.

(b) INCREASE IN MULTICANDIDATE LIMITS.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking ''$5,000'' and inserting ''$7,500''; and

(B) by inserting ''except as provided in subparagraph (D),'' before ''to any candidate'';

(2) in subparagraph (B)—

(A) by striking ''$15,000'' and inserting ''$30,000''; and

(B) by striking ''or'' at the end;

(3) in subparagraph (C), by striking ''$5,000.'' and inserting ''$7,500; or''; and

(4) by adding at the end the following:

''(D) in the case of a national committee of a political party, to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $15,000.''.

(c) INDEXING.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1)—

(A) by striking the second and third sentences;

(B) by inserting ''(A)'' before ''At the beginning''; and

(C) by adding at the end the following:

''(B) In any calendar year after 2002—

''(i) a limitation established by subsection (a), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A); and

''(ii) except as provided in subparagraph (C), each amount so increased shall remain in effect for the calendar year.

''(C) In the case of limitations under subsections (a) and (h), each amount increased under subparagraph (B) shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election.''; and

(2) in paragraph (2)(B), by striking ''means the calendar year 1974'' and inserting ''means—

''(i) for purposes of subsections (b) and (d), calendar year 1974; and

''(ii) for purposes of subsections (a) and (h), calendar year 2001''.

(d) INCREASE IN SENATE CANDIDATE CONTRIBUTION LIMITS FOR NATIONAL PARTY COMMITTEES AND SENATORIAL CAMPAIGN COMMITTEES.—Section 315(h) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(h)) is amended by striking ''$17,500'' and inserting ''$60,000''.

(e) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar years beginning after December 31, 2001.

(2) The amendments made by subsection (c) shall apply to calendar years after December 31, 2002.

Subtitle B—Increased Disclosure

SEC. 511. ADDITIONAL MONTHLY AND QUARTERLY DISCLOSURE REPORTS.

(a) PRINCIPAL CAMPAIGN COMMITTEES.—

(1) MONTHLY REPORTS.—Section 304(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(2)(A)) is amended by striking clause (iii) and inserting the following:

''(iii) additional monthly reports, which shall be filed not later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that monthly reports shall not be required under this clause in November and December and a year end report shall be filed not later than January 31 of the following calendar year.''.

(2) QUARTERLY REPORTS.—Section 304(a)(2)(B) of such Act is amended by striking ''the following reports'' and all that follows through the period and inserting ''the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year.''.

(b) NATIONAL COMMITTEE OF A POLITICAL PARTY.—Section 304(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(4)) is amended by adding at the end the following flush sentence: ''Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B).''.

(c) CONFORMING AMENDMENTS.—

(1) SECTION 304.—Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended—

(A) in paragraph (3)(A)(ii), by striking ''quarterly reports'' and inserting ''monthly reports''; and

(B) in paragraph (8), by striking ''quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i)'' and inserting ''monthly report under paragraph (2)(A)(iii) or paragraph (4)(A)''.

(2) SECTION 309.—Section 309(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(b)) is amended by striking ''calendar quarter'' and inserting ''month''.

SEC. 512. REPORTING BY NATIONAL POLITICAL PARTY COMMITTEES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 201, is amended by adding at the end the following:

''(f) POLITICAL COMMITTEES.—

''(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

''(2) ITEMIZATION.—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 required in paragraphs (3)(A), (5), and (6) of subsection (b).

''(3) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B).''.

SEC. 513. PUBLIC ACCESS TO BROADCASTING RECORDS.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following:

''(e) POLITICAL RECORD.—

''(1) IN GENERAL.—A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that—

''(A) is made by or on behalf of a legally qualified candidate for public office; or

''(B) communicates a message relating to any political matter of national importance, including—

''(i) a legally qualified candidate;

''(ii) any election to Federal office; or

''(iii) a national legislative issue of public importance.

''(2) CONTENTS OF RECORD.—A record maintained under paragraph (1) shall contain information regarding—

''(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

''(B) the rate charged for the broadcast time;

''(C) the date and time on which the communication is aired;

''(D) the class of time that is purchased;

''(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

''(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

''(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

''(3) TIME TO MAINTAIN FILE.—The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.''.

Subtitle C—Soft Money of National Parties; State Party Allocable Activities

SEC. 531. NONEFFECTIVENESS OF TITLE I.

The provisions of title I and the amendments made by such title shall not be effective.

SEC. 532. LIMIT ON SOFT MONEY OF NATIONAL POLITICAL PARTY COMMITTEES; STATE PARTY ALLOCABLE ACTIVITY.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''SEC. 324. LIMIT ON SOFT MONEY OF NATIONAL; STATE PARTY ALLOCABLE ACTIVITY.

''(a) NATIONAL POLITICAL PARTY COMMITTEE.—

''(1) LIMITATION.—A national committee of a political party, a congressional campaign committee of a national party, or an entity directly or indirectly established, financed, maintained, or controlled by such committee shall not accept a donation, gift, or transfer of funds of any kind (not including transfers from other committees of the political party or contributions), during a calendar year, from a person (including a person directly or indirectly established, financed, maintained, or controlled by such person) in an aggregate amount in excess of $60,000.

''(2) AGGREGATE LIMIT ON DONOR.—A person shall not make an aggregate amount of disbursements to committees or entities described in paragraph (1) (other than transfers from other committees of the political party or contributions) in excess of $60,000 in any calendar year.

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—An amount that is expended or disbursed for State party allocable activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an entity directly or indirectly established, financed, maintained, or controlled by or acting on behalf of 1 or more candidates for State or local office, or individuals holding State or local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act. Nothing in this subsection shall prevent a principal campaign committee of a candidate for State or local office from raising and spending funds permitted under applicable State law other than for a State party allocable activity that refers to another clearly identified candidate for election to Federal office.

''(c) INDEX OF AMOUNT.—In the case of any calendar year after 2001—

''(1) each $60,000 amount under subsection (a) shall be increased based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 2001; and

''(2) each amount so increased shall be the amount in effect for the calendar year.''.

(b) DEFINITION OF STATE PARTY ALLOCABLE ACTIVITY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(20) STATE PARTY ALLOCABLE ACTIVITY.—

''(A) IN GENERAL.—The term 'State party allocable activity' means—

''(i) administrative expenses including rent, utilities, office supplies, and salaries, except for such expenses directly attributable to a clearly identified candidate;

''(ii) the direct costs of a fundraising program or event, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where Federal and non-Federal funds are collected by one committee through such program or event;

''(iii) State and local party activities exempt from the definitions of contribution and expenditure under paragraph (9), (15), or (17) of section 100.7(b) of title 11, Code of Federal Regulations or paragraph (10), (16), or (18) of section 100.8(b) of such title, including the production and distribution of slate cards and sample ballots, campaign materials distributed by volunteers, and voter registration and get-out-the-vote drives on behalf of the party's presidential and vice-presidential nominees, where such activities are conducted in conjunction with non-Federal election activities; and

''(iv) generic voter drives, including voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote, or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate.

''(B) EXCLUDED ACTIVITY.—The term 'State party allocable activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

''(i) a public communication that refers solely to a clearly identified candidate for State or local office;

''(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a State party allocable activity described in subparagraph (A);

''(iii) the costs of a State, district, or local political convention;

''(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

''(v) the cost of constructing or purchasing an office facility or equipment for a State, district, or local committee; and

''(vi) the State party allocable portion of any State party allocable activity.

''(C) ALLOCABLE ACTIVITY.—

''(i) IN GENERAL.—For purposes of subparagraph (B)(vi), the non-Federal portion of any amount disbursed for a State party allocable activity shall be determined in accordance with this subparagraph.

''(ii) CAMPAIGN ACTIVITY.—(I) In the case of a State party allocable activity that consists of activity described in clause (i) or (iv) of subparagraph (A) (other than an activity to which clause (iii) applies), the amount disbursed shall be allocated as Federal and non-Federal on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs.

''(II) In determining the ballot composition ratio, a State or local party committee shall count the Federal offices of President, Senator, or Representative in, or Delegate or Resident Commissioner to, the House of Representatives, if expected on the ballot in the next general election, as one Federal office each. The committee shall count the non-Federal offices of Governor, State Senator, and State Representative, if expected on the ballot in the next general election, as one non-Federal office each.

''(III) The committee shall count the total of all other partisan statewide executive candidates, if expected on the ballot in the next general election, as a maximum of two non-Federal offices.

''(IV) A State party committee shall include in the ratio one additional non-Federal office if any partisan local candidates are expected on the ballot in any regularly scheduled election during the two-year congressional election cycle.

''(V) A local party committee shall include in the ratio a maximum of two additional non-Federal offices if any partisan local candidates are expected on the ballot in any regularly scheduled election during the two-year congressional election cycle.

''(VI) State and local committees shall include in the ratio one additional non-Federal office.

''(iii) EXEMPT ACTIVITY.—(I) In the case of a State party allocable activity that consists of an activity described in subparagraph (A)(iii), amounts shall be allocated on the proportion of time or space devoted in the communication to non-Federal candidates or elections as compared to the entire communication.

''(II) In the case of a phone bank, the ratio shall be determined by the number of questions or statements devoted to non-Federal candidates or elections as compared to the total number of questions or statements devoted to all Federal and non-Federal candidates and elections.

''(iv) In the case of a State party allocable activity that consists of an activity described in subparagraph (A)(ii) amounts shall be allocated according to the ratio of Federal funds received to total receipts for the program or event.

''(21) PUBLIC COMMUNICATION.—The term 'public communication' means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

''(22) MASS MAILING.—The term 'mass mailing' means a mailing of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

''(23) TELEPHONE BANK.—The term 'telephone bank' means more than 500 telephone calls within any 30-day period of an identical or substantially similar nature.''.

SEC. 533. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—Any Member of Congress, candidate, national committee of a political party, or any person adversely affected by section 324 of the Federal Election Campaign Act of 1971, as added by section 532, may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that such section 324 violates the Constitution.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia granting or denying an injunction regarding, or finally disposing of, an action brought under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) ENFORCEABILITY.—The enforcement of any provision of section 324 of the Federal Election Campaign Act of 1971, as added by section 532, shall be stayed, and such section 324 shall not be effective, for the period—

(1) beginning on the date of the filing of an action under subsection (a), and

(2) ending on the date of the final disposition of such action on its merits by the Supreme Court of the United States.

(e) APPLICABILITY.—This section shall apply only with respect to any action filed under subsection (a) not later than 30 days after the effective date of this Act.

SA 147. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill S. 295, to provide emergency relief to small businesses affected by significant increases in the prices of heating oil, natural gas, propane, and kerosene, and for other purposes; as follows:

On page 10, line 2, insert ''cogeneration,'' before ''solar energy''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the hearing which was previously scheduled before the Committee on Energy and Natural Resources on Tuesday, March 27, 2001, at 9:30 a.m. in room SD–106 of the Dirksen Senate Office Building has been rescheduled for Tuesday, April 3, 2001, at 9:30 a.m., in room SD–628 of the Senate Dirksen Office Building in Washington, D.C.

The purpose of this hearing is to consider national energy policy with respect to impediments to development of domestic oil and natural gas resources.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SRC–2 Senate Russell Courtyard, Washington, D.C. 20510–6150.

For further information, please call Trici Heninger or Bryan Hannegan at (202) 224–7932.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 26, 2001, at 4:30 p.m., in closed session to receive a briefing from the Department of Defense on Taiwan's current request for purchases or defense articles and defense services from the U.S.

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

PRIVILEGE OF THE FLOOR

Mr. HATCH. Madam President, I ask unanimous consent that Stuart Nash of my staff be granted the privilege of the floor during the duration of the debate on campaign finance reform.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 106–554, appoints the Senator from Michigan (Mr. LEVIN) to the Board of Trustees for the Center for Russian Leadership Development.

SMALL BUSINESS AND FARM ENERGY EMERGENCY RELIEF ACT OF 2001

Mr. MCCONNELL. I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 21, S. 295.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 295) to provide emergency relief to small businesses affected by significant increases in the prices of heating oil, natural gas, propane, and kerosene, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Small Business, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business and Farm Energy Emergency Relief Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) a significant number of small businesses in the United States, non-farm as well as agricultural producers, use heating oil, natural gas, propane, kerosene, or electricity to heat their facilities and for other purposes;

(2) a significant number of small businesses in the United States sell, distribute, market, or otherwise engage in commerce directly related to heating oil, natural gas, propane, and kerosene; and

(3) sharp and significant increases in the price of heating oil, natural gas, propane, or kerosene—

(A) disproportionately harm small businesses dependent on those fuels or that use, sell, or distribute those fuels in the ordinary course of their business, and can cause them substantial economic injury;

(B) can negatively affect the national economy and regional economies;

(C) have occurred in the winters of 1983–1984, 1988–1989, 1996–1997, and 1999–2000; and

(D) can be caused by a host of factors, including global or regional supply difficulties, weather conditions, insufficient inventories, refinery capacity, transportation, and competitive structures in the markets, causes that are often unforeseeable to those who own and operate small businesses.

SEC. 3. SMALL BUSINESS ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (3) the following:

''(4)(A) In this paragraph—

''(i) the term 'heating fuel' means heating oil, natural gas, propane, or kerosene; and

''(ii) the term 'sharp and significant increase' shall have the meaning given that term by the Administrator, in consultation with the Secretary of Energy.

''(B) The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of a sharp and significant increase in the price of heating fuel or electricity.

''(C) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

''(D) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $1,500,000, unless such applicant constitutes a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the $1,500,000 limitation.

''(E) For purposes of assistance under this paragraph—

''(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; or

''(ii) if no declaration has been made pursuant to clause (i), the Governor of a State in

which a sharp and significant increase in the price of heating fuel or electricity has occurred may certify to the Administration that small business concerns have suffered economic injury as a result of such increase and are in need of financial assistance which is not available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

''(F) Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating fuel or electricity to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, solar energy, wind energy, and fuel cells.''.

(b) CONFORMING AMENDMENTS RELATING TO HEATING FUEL AND ELECTRICITY.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(1) by inserting '', sharp and significant increases in the price of heating fuel or electricity'' after ''civil disorders''; and

(2) by inserting ''other'' before ''economic''.

SEC. 4. AGRICULTURAL PRODUCER EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking ''operations have'' and inserting ''operations (i) have''; and

(B) by inserting before '': *Provided*,'' the following: '', or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after June 1, 2000, as the result of a sharp and significant increase in energy costs or input costs from energy sources occurring on or after June 1, 2000, in connection with an energy emergency declared by the President or the Secretary'';

(2) in the third sentence, by inserting before the period at the end the following: ''or by an energy emergency declared by the President or the Secretary''; and

(3) in the fourth sentence—

(A) by inserting ''or energy emergency'' after ''natural disaster'' each place it appears; and

(B) by inserting ''or declaration'' after ''emergency designation''.

(b) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) made to meet the needs resulting from natural disasters shall be available to carry out the amendments made by subsection (a).

SEC. 5. GUIDELINES.

Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration and the Secretary of Agriculture shall each issue such guidelines as the Administrator and the Secretary, as applicable, determines to be necessary to carry out this Act and the amendments made by this Act.

SEC. 6. REPORTS.

(a) SMALL BUSINESS.—Not later than 18 months after the date of final publication by the Administrator of the Small Business Administration of the guidelines issued under section 5, the Administrator shall submit to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the program established under section 7(b)(4) of the Small Business Act, as added by this Act, including—

(1) the number of small businesses that applied to participate in the program and the number of those that received loans under the program;

(2) the dollar value of those loans;

(3) the States in which the small business concerns that participated in the program are located;

(4) the type of heating fuel or energy that caused the sharp and significant increase in the cost for the participating small business concerns; and

(5) recommendations for improvements to the program, if any.

(b) AGRICULTURE.—Not later than 18 months after the date of final publication by the Secretary of Agriculture of the guidelines issued under section 5, the Secretary shall submit to the Committees on Small Business and Agriculture, Nutrition, and Forestry of the Senate and the Committees on Small Business and Agriculture of the House of Representatives, a report on the effectiveness of loans made available as a result of the amendments made by section 4, together with recommendations for improvements to the loans, if any.

SEC. 7. EFFECTIVE DATE.

(a) SMALL BUSINESS.—The amendments made by this Act shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Administrator, with respect to assistance under section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act, to economic injury suffered or likely to be suffered as the result of—

(1) sharp and significant increases in the price of heating fuel occurring on or after November 1, 2000; or

(2) sharp and significant increases in the price of electricity occurring on or after June 1, 2000.

(b) AGRICULTURE.—The amendments made by section 4 shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Secretary of Agriculture.

AMENDMENT NO. 147

Mr. MCCONNELL. Senator ENZI has an amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. ENZI, proposes an amendment numbered 147.

Mr. MCCONNELL. I ask unanimous consent to dispense with the reading of the amendment.

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

The amendment is as follows:

(Purpose: To include cogeneration as an alternative energy source)

On page 10, line 2, insert ''cogeneration,'' before ''solar energy''.

Mr. MCCONNELL. Mr. President, I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 147) was agreed to.

Mr. MCCONNELL. I ask unanimous consent the committee substitute, as amended, be agreed to.

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

Mr. BOND. Mr. President, on February 28, 2001, the Committee on Small Business considered and voted unanimously, 18–0, to report the ''Small Business and Farm Energy Emergency Relief Act of 2001'' (S. 295) to the full Senate. This legislation is designed to assist small businesses and farms to recover from economic injuries resulting from sharp and significant increases in the price of heating oil, natural gas, propane, kerosene, or electricity. S. 295 would permit the Small Business Administration (SBA) to expand its Economic Injury Disaster Loan Program and the Department of Agriculture to expand its Emergency Loan Program so that small businesses and farms could apply for economic injury loans when they are suffering from the significant increases in energy prices.

At the time the Committee on Small Business filed the report on S. 295 with the Senate, the Congressional Budget Office (CBO) had not completed its cost estimate on the legislation. Under rule XXVI(11)(A)(1) of the Standing Rules of the Senate, the Committee is required to provide an estimate of the cost of the legislation. The CBO cost estimate dated March 21, 2001, provides the cost estimate for S. 295.

Therefore, Mr. President, I ask unanimous consent that the CBO cost estimate on S. 295 be considered part of the official record of the bill and the report with the transmittal letter dated March 21, 2001, be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 2001.

Hon. CHRISTOPHER S. BOND,
Chairman, Committee on Small Business,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 295, the Small Business and Farm Energy Emergency Relief Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Milberg.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 295—Small Business and Farm Energy Emergency Relief Act of 2001

Summary: S. 295 would expand certain loan programs administered by the Small Business Administration (SBA) and the U.S. Department of Agriculture (USDA). Under current law, SBA provides loans to small businesses that suffer the effects of a natural disaster, and USDA provides similar loans to family farms. S. 295 would expand these two programs to authorize loans to small businesses and family farms to recover from economic injuries resulting from sharp and significant increases in the price of electricity, heating oil, natural gas, propane, or kerosene. The bill would authorize SBA and USDA to provide loans for this purpose for two years.

CBO estimates that implementing S. 295 would cost $51 million over the 2002–2006 period, subject to appropriation of the necessary amounts. CBO estimates that enacting S. 295 would not affect direct spending or

receipts; therefore, pay-as-you-go procedures would not apply. S. 295 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 295 is shown in the following table. The costs of this legislation fall within budget functions 450 (community and regional development) and 350 (agriculture).

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
Baseline Spending Under Current Law:						
Estimated Authorization Level [1]	190	197	201	207	212	219
Estimated Outlays	220	210	200	206	211	218
Proposed Changes:						
Estimated Authorization Level	0	24	24	1	1	1
Estimated Outlays	0	6	27	13	4	1
Spending Under S. 295:						
Estimated Authorization Level	190	221	225	208	213	220
Estimated Outlays	220	216	227	219	215	219

[1] The 2001 level is the amount appropriated for that year for SBA's Disaster Loan Program and the USDA's Emergency Loan Program. The amounts shown for 2002 through 2006 are CBO levels that reflect annual increases for anticipated inflation.

Basis of estimate: For this estimate, CBO assumes that S. 295 will be enacted near the end of fiscal year 2001, and that SBA and USDA would begin offering these kinds of loans in the first quarter of fiscal year 2002. In addition to the administrative costs of providing more loans, the cost of implementing S. 295 would depend on two factors: (1) the amount of money that the government would lend to small businesses and family farms—the program level, and (2) the riskiness of the loans provided—the subsidy rate.

Program level

In 2000, SBA provided over 28,000 disaster loans to homeowners and small businesses. Of this total, about 4,000 loans were to small businesses to recover from physical damages caused by natural disasters, and about 1,000 of those loans were to cover the cost of economic injuries suffered by small businesses due to disasters. S. 295 would authorize an indefinite number of additional loans to cover economic injuries related to the prices of certain fuels. Based on information from the SBA, CBO estimates that expanding the SBA program to cover economic injuries to small businesses that are caused by high energy prices would greatly increase the number of SBA loans. We estimate the agency would make an additional 10,000 new loans each year—about a one-third increase over the present number of loans. Based on information from USDA, CBO estimates that expanding the USDA program to cover energy-related costs would add another 5,000 loans per year.

Under current law, SBA loans to cover the cost of economic injuries average about $5,000 per borrower, and we assume that loans provided under S. 295 would be the same size. The actual number of loans provided under the bill should be either higher or lower than CBO's estimate. Similarly, the average loan size could be either higher or lower than we assume. But if there are fewer loans under the bill than we estimate, it is likely that the average loan size would be greater than $5,000 because many borrowers are likely to rely on such loans to invest in physical assets that could help cover the cost of energy bills.

In total, CBO estimates that SBA would provide about $50 million in new loans in both 2002 and 2003, and USDA would provide another $25 million in loans in each of these years. These estimates are uncertain, and they are based on SBA's anticipated demand for energy-related loans. The actual number and value of loans made under the bill would depend on the guidelines that SBA and USDA develop. These guidelines would specify the qualification requirements for small businesses applying for a loan, how the borrowed money could be used, and the exact terms of the loans.

Subsidy rate

The Federal Credit Reform Act requires an upfront appropriation for the subsidy costs of credit programs. The subsidy cost of this proposed program would be the estimated long term cost to the government of these loans, calculated on a net present value basis, excluding administrative costs.

Under current law, the SBA program has an estimated subsidy rate of about 17 percent. This rate includes loans to homeowners to cover the cost of physical damages caused by natural disasters, loans to business owners to cover the cost of such physical damages, and loans to business owners to cover the cost of economic injuries caused by natural disasters. Those loans to small businesses have an estimated subsidy rate of 20 percent. Of these three types of loans, the economic injury loans involve the greatest amount of risk. In addition, because business owners generally can foresee higher energy prices better than natural disasters, CBO expects that loans provided under S. 295 would entail more risk than loans currently provided by SBA. CBO estimates that loans provided by SBA to cover economic injuries related to energy prices would involve a subsidy rate of about 20 percent.

The USDA loan program currently has an estimated subsidy rate of 25 percent, and CBO estimates that the loans provided by USDA to cover economic injuries related to energy prices would not affect this subsidy rate.

Administrative costs

Based on information from SBA, CBO estimates that the cost of providing these loans over the authorized two-year period would equal about 10 percent of the program level. CBO estimates that it would cost an additional $1 million each year to administer the existing loans after the two-year authorization period ends, or a total of $11 million over the 2002–2006 period, subject to the availability of appropriated funds.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 295 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Rachel Milberg. Impact on State, Local, and Tribal Governments: Shelley Finlayson. Impact on the Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. KERRY. Mr. President, today we are considering S. 295, the Small Business Energy Emergency Relief Act of 2001. I have waited weeks to bring this bill before the Senate, and so I am very pleased that we are voting on this bill today.

I introduced this bill to address the significant price increases of heating fuels and electricity and the adverse impact those prices are having on our more than 24 million small businesses, small farmers included, and the self-employed. The support for this bill reflects how much small businesses in our States from Massachusetts on the east coast to California on the west coast—are feeling the sting of high heating and electricity bills.

I thank my colleagues who are cosponsors. Senators LIEBERMAN, SNOWE, BINGAMAN, LANDRIEU, JOHNSON, DOMENICI, LEVIN, WELLSTONE, JEFFORDS, HARKIN, SCHUMER, CLINTON, KOHL, EDWARDS, LEAHY, BAUCUS, COLLINS, DODD, BOB SMITH, CHAFEE, BAYH, KENNEDY, INOUYE, DASCHLE, BOND, JACK REED, CORZINE, TORRICELLI, AKAKA, CANTWELL, MURRAY, CLELAND, ENZI, and SPECTER. I also thank Congressman TOM UDALL of New Mexico for introducing the companion bill to this legislation, H.R. 1010, on March 13th.

As so many of my colleagues know, in addition to electricity, many small businesses are dependent upon heating oil, propane, kerosene or natural gas. They are dependent either because they sell or distribute the product, because they use it to heat their facilities, or because they use it as part of their business. The significant and unforseen rise in the price of these fuels over the past two years, compounded by cold snaps and slowed economic conditions this winter, threatens their economic viability.

According to the Department of Energy, the cost of heating oil nationally climbed 72 percent from February 1999 to February 2000, the cost of natural gas climbed 27 percent from September 1999 to September 2000 and 59 percent over the past year, and the cost of propane climbed 54 percent from January 2000 to January 2001.

As I said when I introduced this bill on February 8, the financial falter or failure of small businesses has the potential to extend far beyond the businesses themselves, and we must do what we can to mitigate any damage. Jobs alone give us enough reason to get involved and minimize the number of small business disruptions or failures because they provide more than 50 percent of private-sector jobs.

My bill, the Small Business Energy Emergency Relief Act of 2001, would provide emergency relief, through affordable, low-interest Small Business Administration Economic Injury Disaster Loans, EIDLs, and loans through the Department of Agriculture's Emergency Loan program, to small businesses and small farms that have suffered direct economic injury, or are likely to suffer direct economic injury, from the significant increases in the prices of four heating fuels heating oil, propane, kerosene, and natural gas or electricity.

Initially, this legislation covered four heating fuels, addressing the needs of both urban and rural small businesses. However, I listened to and worked closely with colleagues on both sides of the aisle to address their concerns. Consequently, we made the following changes, some of which I completely support and consider real improvements to the bill and good public policy, and some of which I don't entirely agree with but have accepted in the spirit of compromise. Let me go

through the changes. I have already mentioned some of them in describing the basic legislation.

I incorporated a proposal by Senators BOXER and FEINSTEIN to include electric energy in the scope of the bill. I agree with this. There are more and more small businesses around the country being hurt by the spike in electricity prices, and I think they too should have access to affordable loans to help them through these difficult times.

I incorporated a proposal by Senators KOHL and HARKIN to extend similar disaster loan assistance for these purposes to small farms and small agricultural producers through the Department of Agriculture's Emergency Loan program. I agree with this, and I am glad we found a way to help small farms.

I incorporated a proposal by Senator LEVIN to allow the loan proceeds from the SBA disaster loans to be used for small businesses to convert their systems from using heating fuels to using renewable or alternative energy sources. This assistance was also supposed to be available to small farms and small agribusinesses through the USDA's emergency loans, but members of the Agricultural Committee objected. It's unfortunate that this assistance won't be available to small farms because I think we should encourage all industries to use renewable energy.

I incorporated a proposal by Senator ENZI to expand Senator LEVIN's amendment by including ''co-generation'' in the list of renewable or alternative energy sources. The addition of ''co-generation'' is to allow small businesses to invest in co-generation capacity to enhance efficiency and, as a result, reduce fuel consumption, save money and reduce pollution. I have some concerns about the addition of ''co-generation.'' First, it changes the scope of the Levin amendment by adding an efficiency technology to a list of what are largely renewable energy technologies. Second, ''co-generation'' is a broad term that can include different fuels, different technologies, and result in varying levels of efficiency gains. Because the bill does not establish specific performance standards for efficiency gains resulting from co-generation, I will watch closely over the coming two years to learn who participates and what kind of efficiency gains result, and to consider changes to the provision. It is my expectation that the program will only assist projects that will reduce energy consumption and pollution below business-as-usual levels. Third, while the bill is absolutely clear on this point, I want to reiterate that nothing in the bill exempts small businesses that participate in this program from compliance with all local, state and Federal permitting requirements, and public health and environmental standards. Senator ENZI hopes that this language will help facilities add co-generation capacity, increase efficiency, save fuel, save money and reduce pollution, and I can support that goal. I want to thank my friend from Wyoming for working with me on his amendment, recognizing my concerns and finding acceptable language.

I also incorporated a proposal by Senator BOND to sunset the program after two years, and a study of the program's usage to help Congress assess the merits of reauthorization. I preferred to establish a permanent program because, based on past experiences, I firmly believe our energy problems will persist for more than two years and the assistance should be available to small businesses when they really need it rather than waiting for Congress to act again. However, Senator BOND and I try very hard to work in a bi-partisan fashion, so I have agreed to the two-year sunset date with every intention of reauthorizing this program if it proves successful in helping small businesses. I would like to add that I expect the SBA, when it reports to our Committee on the program, to include as much information as possible about loans approved for small businesses to convert their energy systems to use co-generation or urban waste. The purpose of Senator LEVIN's proposal was to encourage less pollution and less fossil fuel consumption, not more, which I fully support, and I plan to monitor any relevant projects.

Lastly, I would like to comment on the Congressional Budget Office's cost estimate of this bill, which will be published today. While I understand that CBO uses very conservative assumptions in its estimates in general, I question its cost estimate of this particular bill. I do agree with CBO that this program is genuinely needed and that small businesses in many parts of the country will apply for these loans. However, I question the assumption that the number of economic injury loans SBA makes will jump from the current level of 1,000 per year to 10,000 per year. If they do, it will only reinforce the need for this assistance, and not be an argument for opposing this program, but the projection seems on the high side.

And I disagree with CBO's assertion that ''many borrowers are likely to rely on such loans to invest in physical assets that could help cover the cost of energy bills.'' The legislation does allow small businesses to use the proceeds of SBA economic injury disaster loans for converting their systems to alternative or renewable energy sources, but they are not eligible for a loan unless they have also suffered significant economic injury due to the significant increase in energy prices and can't meet their financial obligations. While the loan proceeds may be used for such purposes if they convert to renewable or alternative energy systems, I believe the primary use of the loan proceeds will be to provide small businesses with working capital to meet their increased financial obligations. CBO's assumption, which I believe to be misguided, drives up the cost estimate of this program.

I thank my colleagues for their input and cooperation. I believe it made the Small Business and Farm Energy Relief Emergency Act a better bill for those who need the assistance. This legislation will help those who have nowhere else to turn. We've got the tools at the SBA and USDA to assist them, and I believe it's more than justified, if not obligatory, to use disaster loan programs to help these small businesses. Further, by providing assistance in the form of loans which are repaid to the Treasury, we help reduce the Federal emergency and disaster costs, compared to other forms of disaster assistance, such as grants.

I urge my colleagues to support this legislation. SBA's programs make recovery affordable for small business owners, and with the right support, can help mitigate the cost of significant economic disruption in your states caused when affected small businesses falter or fail, leading to job lay-offs and unstable tax bases. I also ask our friends in the House to act quickly and to support this legislation. Again, I thank Congressman TOM UDALL for his leadership on this issue in the House, and I thank his colleagues Congresswoman SUE KELLY, Congresswoman GRACE NAPOLITANO, and Congressman MARK UDALL for their early support of this legislation.

Mr. MCCONNELL. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 295), as amended, was read the third time and passed, as follows:

S. 295

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business and Farm Energy Emergency Relief Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) a significant number of small businesses in the United States, non-farm as well as agricultural producers, use heating oil, natural gas, propane, kerosene, or electricity to heat their facilities and for other purposes;

(2) a significant number of small businesses in the United States sell, distribute, market, or otherwise engage in commerce directly related to heating oil, natural gas, propane, and kerosene; and

(3) sharp and significant increases in the price of heating oil, natural gas, propane, or kerosene—

(A) disproportionately harm small businesses dependent on those fuels or that use, sell, or distribute those fuels in the ordinary course of their business, and can cause them substantial economic injury;

(B) can negatively affect the national economy and regional economies;

(C) have occurred in the winters of 1983–1984, 1988–1989, 1996–1997, and 1999–2000; and

(D) can be caused by a host of factors, including global or regional supply difficulties,

weather conditions, insufficient inventories, refinery capacity, transportation, and competitive structures in the markets, causes that are often unforeseeable to those who own and operate small businesses.

SEC. 3. SMALL BUSINESS ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (3) the following:

''(4)(A) In this paragraph—

''(i) the term 'heating fuel' means heating oil, natural gas, propane, or kerosene; and

''(ii) the term 'sharp and significant increase' shall have the meaning given that term by the Administrator, in consultation with the Secretary of Energy.

''(B) The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of a sharp and significant increase in the price of heating fuel or electricity.

''(C) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

''(D) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $1,500,000, unless such applicant constitutes a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the $1,500,000 limitation.

''(E) For purposes of assistance under this paragraph—

''(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; or

''(ii) if no declaration has been made pursuant to clause (i), the Governor of a State in which a sharp and significant increase in the price of heating fuel or electricity has occurred may certify to the Administration that small business concerns have suffered economic injury as a result of such increase and are in need of financial assistance which is not available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

''(F) Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating fuel or electricity to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, cogeneration, solar energy, wind energy, and fuel cells.''.

(b) CONFORMING AMENDMENTS RELATING TO HEATING FUEL AND ELECTRICITY.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(1) by inserting '', sharp and significant increases in the price of heating fuel or electricity'' after ''civil disorders''; and

(2) by inserting ''other'' before ''economic''.

SEC. 4. AGRICULTURAL PRODUCER EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking ''operations have'' and inserting ''operations (i) have''; and

(B) by inserting before '': *Provided*,'' the following: '', or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after June 1, 2000, as the result of a sharp and significant increase in energy costs or input costs from energy sources occurring on or after June 1, 2000, in connection with an energy emergency declared by the President or the Secretary'';

(2) in the third sentence, by inserting before the period at the end the following: ''or by an energy emergency declared by the President or the Secretary''; and

(3) in the fourth sentence—

(A) by inserting ''or energy emergency'' after ''natural disaster'' each place it appears; and

(B) by inserting ''or declaration'' after ''emergency designation''.

(b) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) made to meet the needs resulting from natural disasters shall be available to carry out the amendments made by subsection (a).

SEC. 5. GUIDELINES.

Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration and the Secretary of Agriculture shall each issue such guidelines as the Administrator and the Secretary, as applicable, determines to be necessary to carry out this Act and the amendments made by this Act.

SEC. 6. REPORTS.

(a) SMALL BUSINESS.—Not later than 18 months after the date of final publication by the Administrator of the Small Business Administration of the guidelines issued under section 5, the Administrator shall submit to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the program established under section 7(b)(4) of the Small Business Act, as added by this Act, including—

(1) the number of small businesses that applied to participate in the program and the number of those that received loans under the program;

(2) the dollar value of those loans;

(3) the States in which the small business concerns that participated in the program are located;

(4) the type of heating fuel or energy that caused the sharp and significant increase in the cost for the participating small business concerns; and

(5) recommendations for improvements to the program, if any.

(b) AGRICULTURE.—Not later than 18 months after the date of final publication by the Secretary of Agriculture of the guidelines issued under section 5, the Secretary shall submit to the Committees on Small Business and Agriculture, Nutrition, and Forestry of the Senate and the Committees on Small Business and Agriculture of the House of Representatives, a report on the effectiveness of loans made available as a result of the amendments made by section 4, together with recommendations for improvements to the loans, if any.

SEC. 7. EFFECTIVE DATE.

(a) SMALL BUSINESS.—The amendments made by this Act shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Administrator, with respect to assistance under section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act, to economic injury suffered or likely to be suffered as the result of—

(1) sharp and significant increases in the price of heating fuel occurring on or after November 1, 2000; or

(2) sharp and significant increases in the price of electricity occurring on or after June 1, 2000.

(b) AGRICULTURE.—The amendments made by section 4 shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Secretary of Agriculture.

INDEPENDENT OFFICE OF ADVOCACY ACT OF 2001

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 22, S. 395.

The PRESIDING OFFICER. The clerk will please report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 395) to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Small Business with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 395

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Independent Office of Advocacy Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) excessive regulations continue to burden United States small business**[**es**]** *concerns*;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small business**[**es**]** *concerns*;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the ''Office'') is an effective advocate for small business**[**es**]** *concerns* that can help to ensure that agencies are responsive to small business**[**es**]** *concerns* and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code, and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small business**[**es**]** *concerns* without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small business**[**es**]** *concerns*; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small business**[**es**]** *concerns*.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure that the Office has the statutory independence and adequate financial resources to advocate for and on behalf of small business *concerns*;

(2) to require that the Office report to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small business[es] *concerns* and the necessity for corrective action by the regulatory agency or the Congress;

(3) to provide a separate authorization for appropriations for the Office;

(4) to authorize the Office to report to the President and to the Congress regarding agency compliance with chapter 6 of title 5, United States Code; and

(5) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

SEC. 4. OFFICE OF ADVOCACY.

(a) IN GENERAL.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking sections 201 through 203 and inserting the following:

"SEC. 201. SHORT TITLE.

''This title may be cited as the 'Office of Advocacy Act'.

"SEC. 202. DEFINITIONS.

''In this title—

''(1) the term 'Administration' means the Small Business Administration;

''(2) the term 'Administrator' means the Administrator of the Small Business Administration;

''(3) the term 'Chief Counsel' means the Chief Counsel for Advocacy appointed under section 203; [and]

''(4) the term 'Office' means the Office of Advocacy established under section 203[.]; *and*

''(5) the term 'small business concern' has the same meaning as in section 3 of the Small Business Act.

"SEC. 203. ESTABLISHMENT OF OFFICE OF ADVOCACY.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established in the Administration an Office of Advocacy.

''(2) APPROPRIATION REQUESTS.—Each appropriation request prepared and submitted by the Administration under section 1108 of title 31, United States Code, shall include a separate request relating to the Office.

''(b) CHIEF COUNSEL FOR ADVOCACY.—

''(1) IN GENERAL.—The management of the Office shall be vested in a Chief Counsel for Advocacy, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of the office.

''(2) EMPLOYMENT RESTRICTION.—The individual appointed to the office of Chief Counsel may not serve as an officer or employee of the Administration during the 5-year period preceding the date of appointment.

''(3) REMOVAL.—The Chief Counsel may be removed from office by the President, and the President shall notify the Congress of any such removal not later than 30 days before the date of the removal, except that 30-day prior notice shall not be required in the case of misconduct, neglect of duty, malfeasance, or if there is reasonable cause to believe that the Chief Counsel has committed a crime for which a sentence of imprisonment can be imposed.

''(c) PRIMARY FUNCTIONS.—The Office shall—

''(1) examine the role of small business concerns in the economy of the United States and the contribution that small business concerns can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing the means by which new and untested products and services can be brought to the marketplace;

''(2) assess the effectiveness of Federal subsidy and assistance programs for small business concerns and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance programs designed to benefit all small business concerns;

''(3) measure the direct costs and other effects of government regulation of small business concerns, and make legislative, regulatory, and nonlegislative proposals for eliminating the excessive or unnecessary regulation of small business concerns;

''(4) determine the impact of the tax structure on small business concerns and make legislative, regulatory, and other proposals for altering the tax structure to enable all small business concerns to realize their potential for contributing to the improvement of the Nation's economic well-being;

''(5) study the ability of financial markets and institutions to meet *the* [small business] credit needs *of small business concerns*, and determine the impact of government demands on credit for small business concerns;

''(6) determine financial resource availability and recommend, with respect to small business concerns, methods for—

''(A) delivery of financial assistance to minority and women-owned enterprises, including methods for securing equity capital;

''(B) generating markets for goods and services;

''(C) providing effective business education, more effective management and technical assistance, and training; and

''(D) assistance in complying with Federal, State, and local laws;

''(7) evaluate the efforts of Federal agencies and the private sector to assist minority and women-owned small business concerns;

''(8) make such recommendations as may be appropriate to assist the development and strengthening of minority, women-owned, and other small business concerns;

''(9) recommend specific measures for creating an environment in which all [businesses] *small business concerns* will have the opportunity—

''(A) to compete effectively and expand to their full potential; and

''(B) to ascertain any common reasons for [small business] *the* successes and failures *of small business concerns*;

''(10) [to] determine the desirability of developing a set of rational, objective criteria to be used to define *the term* 'small business *concern'*, and [to] develop such criteria, if appropriate;

''(11) make recommendations and submit reports to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator with respect to issues and regulations affecting small business concerns and the necessity for corrective action by the Administrator, any Federal department or agency, or the Congress; and

''(12) evaluate the efforts of each department and agency of the United States, and of private industry, to assist small business concerns owned and controlled by veterans, as defined in section 3(q) of the Small Business Act (15 U.S.C. 632(q)), and small business concerns owned and controlled by serviced-disabled veterans, as defined in such section 3(q), and to provide statistical information on the utilization of such programs by such small business concerns, and to make appropriate recommendations to the Administrator and to the Congress in order to promote the establishment and growth of those small business concerns.

''(d) ADDITIONAL FUNCTIONS.—The Office shall, on a continuing basis—

''(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department or agency of the Federal Government that affects small business concerns;

''(2) counsel small business concerns on the means by which to resolve questions and problems concerning the relationship between small business and the Federal Government;

''(3) develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of this title and communicate such proposals to the appropriate Federal agencies;

''(4) represent the views and interests of small business concerns before other Federal agencies whose policies and activities may affect small business;

''(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small business concerns, and information on the means by which small business concerns can participate in or make use of such programs and services; and

''(6) carry out the responsibilities of the Office under chapter 6 of title 5, United States Code.

''(e) OVERHEAD AND ADMINISTRATIVE SUPPORT.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.''.

(b) REPORTS TO CONGRESS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 206 and inserting the following:

"SEC. 206. REPORTS TO CONGRESS.

''(a) ANNUAL REPORTS.—Not less than annually, the Chief Counsel shall submit to the President and to the Committees on Small Business of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives, a report on agency compliance with chapter 6 of title 5, United States Code.

''(b) ADDITIONAL REPORTS.—In addition to the reports required under subsection (a) of this section and section 203(c)(11), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

''(c) PROHIBITION.—No report under this title shall be submitted to the Office of Management and Budget or to any other department or agency of the Federal Government for any purpose before submission of the report to the President and to the Congress.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Office to carry out this title, such sums as may be necessary for each fiscal year.

''(b) AVAILABILITY.—Any amount appropriated under subsection (a) shall remain available, without fiscal year limitation, until expended.''.

(d) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of enactment of this Act shall continue to serve in that position after such date in accordance with section 203 of the Office of Advocacy Act, as amended by this section.

Mr. DODD. Mr. President, I rise in support of the Independent Office of Advocacy Act of 2001, S. 395. This bill is designed to build on the success achieved by the Office of Advocacy over the past 24 years. It is intended to strengthen that foundation to make the Office of Advocacy a stronger, more effective advocate for all small businesses throughout the United States. This bill was approved unanimously by the Senate during the 106th Congress; however, it was not taken up in the House of Representatives prior to the adjournment last month. On February 28, 2001, the Committee on Small Business voted 18–0 to approve and report this important legislation. It is my understanding the House Committee on Small Business under its new Chairman, DON MANZULLO, is likely to act on similar legislation this year.

The Office of Advocacy is a unique office within the Federal Government. It is part of the Small Business Administration, and its director, the Chief Counsel for Advocacy, is nominated by the President and confirmed by the Senate. At the same time, the Office is also intended to be the independent voice for small business within the Federal Government. It is supposed to develop proposals for changing government policies to help small businesses, and it is supposed to represent the views and interests of small businesses before other Federal agencies.

As the director of the Office of Advocacy, the Chief Counsel for Advocacy has a dual responsibility. On the one hand, he is the independent watchdog for small business. On the other hand, he is also a part of the President's administration. As you can imagine, those are sometimes difficult roles to play simultaneously.

The Independent Office of Advocacy Act of 2001 would make the Office of Advocacy and the Chief Counsel for Advocacy a fully independent advocate within the Executive Branch acting on behalf of the small business community. The bill would establish a clear mandate that the Office of Advocacy will fight on behalf of small businesses, regardless of the position taken on critical issues by the Presidents and his Administration.

The Independent Office of Advocacy Act of 2001 would direct the Chief Counsel to submit an annual report on Federal agency compliance with the Regulatory Flexibility Act to the President and the Senate and House Committees on Small Business. The Reg Flex Act is a very important weapon in the war against the over-regulation of small businesses. When the Senate first approved this bill in the 106th Congress, I offered an amendment at the request of Senator FRED THOMPSON, Chairman of the Government Affairs Committee, that would direct the Chief Counsel for Advocacy to send a copy of the report to the Senate Government Affairs Committee. In addition, my amendment also required that copies of the report be sent to the House Committee on Government Reform and the House and Senate Committees on the Judiciary. I believe these changes make good sense for each of the committees to receive this report on Reg Flex compliance, and I have included them in the version of the bill being introduced and debated today.

The Office of Advocacy as envisioned by the Independent Office of Advocacy Act 2001 would be unique within the Executive Branch. The Chief Counsel for Advocacy would be a wide-ranging advocate, who would be free to take positions contrary to the administration's policies and to advocate change in government programs and attitudes as they impact small businesses. During its consideration of the bill in 1999, the Committee on Small Business adopted unanimously an amendment I offered, which was cosponsored by Senator JOHN KERRY, the Committee's Ranking Democrat, to require the Chief Counsel to be appointed ''from civilian life.'' This qualification is intended to emphasize that the person nominated to serve in this important role should have a strong small business background.

In 1976, Congress established the Office of Advocacy in the SBA to be the eyes, ears and voice for small business within the Federal Government. Over time, it has been assumed that the Office of Advocacy is the ''independent'' voice for small business. While I strongly believe that the Office of Advocacy and the Chief Counsel should be independent and free to advocate or support positions that might be contrary to the administration's policies, I have come to find that the office has not been as independent as necessary to do the job for small business.

For example, funding for the Office of Advocacy comes from the Salaries and Expense Account of the SBA's budget. Staffing is allocated by the SBA Administrator to the Office of Advocacy from the overall staff allocation for the Agency. In 1990, there were 70 full-time employees working on behalf of small businesses in the Office of Advocacy. Today's allocation of staff is 49, and fewer are actually on-board as the result of the longstanding hiring freeze at the SBA. The independence of the Office is diminished when the Office of Advocacy staff is reduced to allow for increased staffing for new programs and additional initiatives in other areas of SBA, at the discretion of the Administrator.

In addition, the General Accounting Office undertook a report for me on personnel practices at the SBA, GAO/GGD–99–68. I was alarmed by the GAO's finding that during the past 8 years, the Assistant Advocates and Regional Advocates hired by the Office of Advocacy shared many of the attributes of Schedule C political appointees. In fact, Regional Advocates are frequently cleared by the White House personnel office—the same procedure followed for approving Schedule C political appointees.

The facts discussed in the GAO Report cast the Office of Advocacy in a whole new light. The report raised questions, concerns and suspicions regarding the independence of the Office of Advocacy. Has there been a time when the office did not pursue a matter as vigorously as it might have were it not for direct or indirect political influence? Prior to receipt of the GAO Report, my response was a resounding ''No.'' But since receipt of the GAO report, a question mark arises.

Let me take a moment and note that I will be unrelenting in my efforts to insure the complete independence of the Office of Advocacy in all matters, at all times, for the continued benefit of all small businesses. However, so long as the administration controls the budget allocated to the Office of Advocacy and controls who is hired, the independence of the Office may be in jeopardy. We must correct this situation, and the sooner we do it, the better it will be for the small business community. As our Government is changing over to President Bush's administration, this would be a opportune time to establish, once and for all, the actual independence of the Office of Advocacy.

The Independent Office of Advocacy Act of 2001 builds a firewall to prevent the political intrusion into the management of day-to-day operations of the Office of Advocacy. The bill would require that the SBA's budget include a separate account for the Office of Advocacy. No longer would its funds come from the general operating account of the Agency. The separate account would also provide for the number of full-time employees who would work within the Office of Advocacy. No longer would the Chief Counsel for Advocacy have to seek approval from the SBA Administrator to hire staff for the Office of Advocacy.

The bill would leave unchanged current law which allows the Chief Counsel to hire individuals critical to the mission of the Office of Advocacy without going through the normal competitive procedures directed by Federal law and the Office of Personnel Management, OPM. I believe this special hiring authority, which is limited only to employees within the Office of Advocacy, is beneficial because it allows the Chief Counsel to hire quickly those persons who can best assist the office in responding to changing issues and problems confronting small businesses.

In addition, S. 395 makes no change in the current law which authorizes and directs each Federal Government

agency to furnish the Chief Counsel with such reports and other information necessary in order to carry out the functions of the Officer of Advocacy. This provision is very important for the Office to conduct its responsibilities on behalf of small businesses.

The Independent Office of Advocacy Act is a sound bill. It is the product of a great deal of thoughtful, objective review and consideration by me, the staff of the Committee on Small Business, representatives of the small business community, former Chief Counsels for Advocacy and others. These individuals have also devoted much time and effort in actively participating in a Committee Roundtable discussion on the Office of Advocacy, which my Committee held on April 21, 1999. Since that time, the Committee on Small Business approved this bill twice by unanimous votes, and it was approved unanimously by the Senate in 1999. Therefore, I strongly urge my colleagues in the Senate to vote in favor of the Independent Office of Advocacy Act of 2001.

Mr. KERRY. Mr. President, I speak today in strong support of S. 395, the Independent Office of Advocacy Act. Chairman of the Senate Committee on Small Business, KIT BOND, and I introduced this legislation to help ensure the Small Business Administration's Office of Advocacy has the necessary autonomy to remain an independent voice for America's small businesses. I would like to thank the Chairman and his staff for working with me and my staff to make the necessary changes to this legislation to garner bipartisan support in Committee, where it passed 18–0.

This legislation is similar to a bill introduced by Chairman BOND, which I supported, during the 106th Congress. While this legislation received strong support in the Senate Committee on Small Business and on the floor of the Senate, the House did not take any action. I am hopeful that this legislation will be enacted during the 107th Congress.

Mr. President, the Independent Office of Advocacy Act rewrites the law that created the Small Business Administration's Office of Advocacy to allow for increased autonomy. It reaffirms the Office's statutory and financial independence by preventing the President from firing the advocate without 30 days prior notice to Congress and by creating a separate authorization for the office from that of SBAs. It also states that the Chief Counsel shall be appointed without regard to political affiliation, and shall not have served in the Administration for a period of 5 years prior to the date of appointment.

The legislation also makes women-owned businesses an equal priority of the Office of Advocacy by adding women-owned business to the primary functions of the Office of Advocacy, wherever minority owned business appears. It also adds new reporting requirements and additional functions to the Office of Advocacy with regard to enforcement of the Small Business Regulatory Enforcement Fairness Act SBREFA. The provisions regarding SBREFA are already a part of existing law in Chapter 6 Title 5 of United States Code, and will now, rightly, be added to the statute establishing the Office of Advocacy.

But at its heart, this legislation will allow the Office of Advocacy to better represent small business interests before Congress, Federal agencies, and the Federal Government without fear of reprisal for disagreeing with the position of the current administration.

For those of my colleagues without an intimate knowledge of the important role the Office of Advocacy and its Chief Counsel play in protecting and promoting America's small businesses, I will briefly elaborate its important functions and achievements. From studying the role of small business in the U.S. economy, to promoting small business exports, to lightening the regulatory burden of small businesses through the Regulatory Flexibility Act, RFA, and the Small Business Regulatory Enforcement Fairness Act, the Office of Advocacy has a wide scope of authority and responsibility.

The U.S. Congress created the Office of Advocacy, headed by a Chief Counsel to be appointed by the President from the private sector and confirmed by the Senate, in June of 1976. The rationale was to give small businesses a louder voice in the councils of government.

Each year, the Office of Advocacy works to facilitate meetings for small business people with congressional staff and executive branch officials, and convenes ad hoc issue-specific meetings to discuss small business concerns. It has published numerous reports, compiled vast amounts of data and successfully lightened the regulatory burden on America's small businesses. In the area of contracting, the Office of Advocacy developed PRO–Net, a database of small businesses used by contracting officers to find small businesses interested in selling to the Federal Government.

The U.S. Congress, the administration and, of course, small businesses, have all benefitted from the work of the Office of Advocacy. For example, between 1998 and 2000, regulatory changes supported by the Office of Advocacy saved small businesses around $20 billion in annual and one-time compliance costs.

Small businesses remain the backbone of the U.S. economy, accounting for 99 percent of all employees, providing 75 percent of all net new jobs, and accounting for 51 percent of private-sector output. In fact, and this may surprise some of my colleagues, small businesses employ 38 percent of high-tech workers, an increasingly important sector in our economy.

Small businesses have also taken the lead in moving people from welfare to work and an increasing number of women and minorities are turning to small business ownership as a means to gain economic self-sufficiency. Put simply, small businesses represent what is best in the United States economy, providing innovation, competition and entrepreneurship.

Their interests are vast, their activities divergent, and the difficulties they face to stay in business are numerous. To provide the necessary support to help them, SBA's Office of Advocacy needs our support.

The responsibility and authority given the Office of Advocacy and the Chief Counsel are crucial to their ability to be an effective independent voice in the Federal Government for small businesses. When the Senate Committee on Small Business held a Roundtable meeting about the Office of Advocacy with small business concerns on April 21, 1999, every person in the room was concerned about the present and future state of affairs for the Office of Advocacy. These small businesses asked us to do everything we could to protect and strengthen this important office. I believe this legislation accomplishes this important goal.

I have always been a strong supporter of the Office of Advocacy and I urge my colleagues to support this important legislation.

Mr. MCCONNELL. I ask unanimous consent the committee amendments be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 395), as amended, was read the third time and passed, as follows:

S. 395

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Independent Office of Advocacy Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) excessive regulations continue to burden United States small business concerns;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small business concerns;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the ''Office'') is an effective advocate for small business concerns that can help to ensure that agencies are responsive to small business concerns and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code, and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small business concerns without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small business concerns; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small business concerns.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure that the Office has the statutory independence and adequate financial resources to advocate for and on behalf of small business concerns;

(2) to require that the Office report to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small business concerns and the necessity for corrective action by the regulatory agency or the Congress;

(3) to provide a separate authorization for appropriations for the Office;

(4) to authorize the Office to report to the President and to the Congress regarding agency compliance with chapter 6 of title 5, United States Code; and

(5) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

SEC. 4. OFFICE OF ADVOCACY.

(a) IN GENERAL.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking sections 201 through 203 and inserting the following:

"SEC. 201. SHORT TITLE.

''This title may be cited as the 'Office of Advocacy Act'.

"SEC. 202. DEFINITIONS.

''In this title—

''(1) the term 'Administration' means the Small Business Administration;

''(2) the term 'Administrator' means the Administrator of the Small Business Administration;

''(3) the term 'Chief Counsel' means the Chief Counsel for Advocacy appointed under section 203;

''(4) the term 'Office' means the Office of Advocacy established under section 203; and

''(5) the term 'small business concern' has the same meaning as in section 3 of the Small Business Act.

"SEC. 203. ESTABLISHMENT OF OFFICE OF ADVOCACY.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established in the Administration an Office of Advocacy.

''(2) APPROPRIATION REQUESTS.—Each appropriation request prepared and submitted by the Administration under section 1108 of title 31, United States Code, shall include a separate request relating to the Office.

''(b) CHIEF COUNSEL FOR ADVOCACY.—

''(1) IN GENERAL.—The management of the Office shall be vested in a Chief Counsel for Advocacy, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of the office.

''(2) EMPLOYMENT RESTRICTION.—The individual appointed to the office of Chief Counsel may not serve as an officer or employee of the Administration during the 5-year period preceding the date of appointment.

''(3) REMOVAL.—The Chief Counsel may be removed from office by the President, and the President shall notify the Congress of any such removal not later than 30 days before the date of the removal, except that 30-day prior notice shall not be required in the case of misconduct, neglect of duty, malfeasance, or if there is reasonable cause to believe that the Chief Counsel has committed a crime for which a sentence of imprisonment can be imposed.

''(c) PRIMARY FUNCTIONS.—The Office shall—

''(1) examine the role of small business concerns in the economy of the United States and the contribution that small business concerns can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing the means by which new and untested products and services can be brought to the marketplace;

''(2) assess the effectiveness of Federal subsidy and assistance programs for small business concerns and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance programs designed to benefit all small business concerns;

''(3) measure the direct costs and other effects of government regulation of small business concerns, and make legislative, regulatory, and nonlegislative proposals for eliminating the excessive or unnecessary regulation of small business concerns;

''(4) determine the impact of the tax structure on small business concerns and make legislative, regulatory, and other proposals for altering the tax structure to enable all small business concerns to realize their potential for contributing to the improvement of the Nation's economic well-being;

''(5) study the ability of financial markets and institutions to meet the credit needs of small business concerns, and determine the impact of government demands on credit for small business concerns;

''(6) determine financial resource availability and recommend, with respect to small business concerns, methods for—

''(A) delivery of financial assistance to minority and women-owned enterprises, including methods for securing equity capital;

''(B) generating markets for goods and services;

''(C) providing effective business education, more effective management and technical assistance, and training; and

''(D) assistance in complying with Federal, State, and local laws;

''(7) evaluate the efforts of Federal agencies and the private sector to assist minority and women-owned small business concerns;

''(8) make such recommendations as may be appropriate to assist the development and strengthening of minority, women-owned, and other small business concerns;

''(9) recommend specific measures for creating an environment in which all small business concerns will have the opportunity—

''(A) to compete effectively and expand to their full potential; and

''(B) to ascertain any common reasons for the successes and failures of small business concerns;

''(10) determine the desirability of developing a set of rational, objective criteria to be used to define the term 'small business concern', and develop such criteria, if appropriate;

''(11) make recommendations and submit reports to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator with respect to issues and regulations affecting small business concerns and the necessity for corrective action by the Administrator, any Federal department or agency, or the Congress; and

''(12) evaluate the efforts of each department and agency of the United States, and of private industry, to assist small business concerns owned and controlled by veterans, as defined in section 3(q) of the Small Business Act (15 U.S.C. 632(q)), and small business concerns owned and controlled by serviced-disabled veterans, as defined in such section 3(q), and to provide statistical information on the utilization of such programs by such small business concerns, and to make appropriate recommendations to the Administrator and to the Congress in order to promote the establishment and growth of those small business concerns.

''(d) ADDITIONAL FUNCTIONS.—The Office shall, on a continuing basis—

''(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department or agency of the Federal Government that affects small business concerns;

''(2) counsel small business concerns on the means by which to resolve questions and problems concerning the relationship between small business and the Federal Government;

''(3) develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of this title and communicate such proposals to the appropriate Federal agencies;

''(4) represent the views and interests of small business concerns before other Federal agencies whose policies and activities may affect small business;

''(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small business concerns, and information on the means by which small business concerns can participate in or make use of such programs and services; and

''(6) carry out the responsibilities of the Office under chapter 6 of title 5, United States Code.

''(e) OVERHEAD AND ADMINISTRATIVE SUPPORT.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.''.

(b) REPORTS TO CONGRESS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 206 and inserting the following:

"SEC. 206. REPORTS TO CONGRESS.

''(a) ANNUAL REPORTS.—Not less than annually, the Chief Counsel shall submit to the President and to the Committees on Small Business of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives, a report on agency compliance with chapter 6 of title 5, United States Code.

''(b) ADDITIONAL REPORTS.—In addition to the reports required under subsection (a) of this section and section 203(c)(11), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

''(c) PROHIBITION.—No report under this title shall be submitted to the Office of Management and Budget or to any other department or agency of the Federal Government for any purpose before submission of the report to the President and to the Congress.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Office to carry out this title, such sums as may be necessary for each fiscal year.

''(b) AVAILABILITY.—Any amount appropriated under subsection (a) shall remain available, without fiscal year limitation, until expended.''.

(d) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of enactment of this Act shall continue to serve in that position after such date in accordance with section 203 of the Office of Advocacy Act, as amended by this section.

ORDERS FOR TUESDAY, MARCH 27, 2001

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:15 a.m. on Tuesday, March 27. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the Hagel amendment to S. 27, the campaign finance reform bill.

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

Mr. MCCONNELL. Mr. President, further, I ask unanimous consent the Senate stand in recess from the hour of 12:30 p.m. until 2:15 p.m. for the weekly policy conferences to meet.

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

PROGRAM

Mr. MCCONNELL. Mr. President, for the information of all Senators, the Senate will resume consideration of the Hagel amendment tomorrow morning. A vote may be expected on that amendment prior to the recess for the weekly party conferences. Further amendments will be offered, and therefore votes will occur throughout the day.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, 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 GRAHAM of Florida and the remarks of the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

HAGEL AMENDMENT NO. 146

Mr. DODD. My colleague from Wisconsin is here, and my good friend from Nebraska is in the room. I oppose the Hagel amendment. I guess people always concern themselves. CHUCK HAGEL happens to be a good friend of mine, someone I admire immensely as a Member of this body. We have worked together on issues on numerous occasions. So my opposition, while it will come as no great surprise, is not rooted in anything personal at all; it is a substantive disagreement, and my admiration for him is in no way diminished, even though we disagree.

I wish to focus on one aspect. Senator FEINGOLD talked about the soft money aspects. My concern is that and also the raising of the hard money limitation. I know this gets lost on some people. There are distinctions between soft and hard money. To the average citizen, money is money, and they get confused between what is hard and what is soft money. But the hard money increases are troubling to me in that we raise it from $1,000 to $3,000 an individual.

Let me translate that. That is really raising it from $2,000 to $6,000 because you contribute both to the primary and the general election.

Let me get even more realistic. As a practical matter, when we call for contributions and there is a married couple, we usually get double that amount. So instead of $2,000 or $4,000, we are now talking about $12,000 for that couple.

Those are the practicalities, and everybody who has ever raised money knows exactly what I am talking about. All of a sudden, we have gone from $4,000 to $12,000, plus we raise the individual total amount for a calendar year to $75,000, and then double that, really, because it is $150,000.

Now we are getting into the bizarre world where there are individuals—and of course not many in the country can do it; we are told it is really not enough because we ought to index it according to the consumer price index or some other parameter, much as we do with Social Security recipients or people on food stamps who are having a hard time feeding their families. We are going to index how much you can give, how much more access you can have to the process for the less than a fraction of the top 1 percent of the American public who could even begin to think about writing a check for $150,000 per calendar year to support the candidates of their choice.

As we look at this, just to put it in perspective, we had .08 percent of the population who actually gave $1,000 or more during the same period in 1999–2000. There were 1,128 individuals who gave $25,000 annual aggregate maximums to candidates. So, unbelievable as it is, here we are debating the need to raise contribution levels to benefit somewhere in the neighborhood of 1,200 to maybe 2,000 people in the country.

How many Americans can write a check for $150,000 in hard money? Obviously, very few. The idea somehow we are impoverished as candidates and we therefore need to raise the limits so people who fall into that category can write checks for us—only in this bizarre world could we even be talking about these numbers in this context.

My hope is Members will not be tempted to go this route. We ought to be looking for ways to reduce the amount of money in politics. There are those who disagree with me on this, but I think we are awash in it. It is running the risk of moving our very system of democracy into deep trouble. There is no issue more important than this one.

The other issues we will have come before us are significant, but this goes right to the heart of who we are as a people, who can run for public office, who can get elected to public office. Our failure to do something about it places, as I said the other day, our democracy, in my view, in peril.

So, reluctantly, because he is a good friend of mine, I will oppose the amendment of Senator HAGEL. I think we can do better. There will be alternatives offered this week that I think will be more attractive, and therefore I urge the rejection of this amendment.

The PRESIDING OFFICER. The Senator from Florida is recognized for 10 minutes.

TAX CUT

Mr. GRAHAM. Mr. President, I am going to use this time at this late hour, not to talk about the subject that has been before the Senate most of the day but, rather, to an issue that I think is dominating the attention of the American people even more than the question of campaign finance reform, and that is what is happening in their wallets, what is happening to their economic well-being.

We went through a long Presidential campaign in the year 2000. During that campaign there was considerable discussion about tax policy, fiscal policy, the direction of the economy. Each of the candidates tended to mark out their own position.

Then Governor Bush basically said, beginning before the Iowa caucuses in January of 2000, that taxes were too high; that the surplus was generating more money than the Federal Government could intelligently utilize, and therefore a significant amount of that surplus should be returned to the taxpayers. He laid out a specific plan to return $1.6 trillion of an estimated $5.6 trillion surplus; about a $2.6 trillion surplus minus the Social Security and Medicare trust fund.

The Democratic candidate, Vice President Gore, said we should have a tax policy targeted to achieve a set of specific economic and social purposes. They ranged from education to encourage more people to send their children to college, to continue their own personal education in a changing economy, to energy conservation: How could we use the Tax Code to encourage a set of incentives for conservation?

I suggest that just as the long campaign of 2000 finally ground itself to an

end, those arguments have, similarly, ground themselves to an end. What we have come to realize is that the issue no more is how to return an unending gusher of surpluses or how to target in a very clinical, almost surgical sense, tax relief in order to achieve specific economic and social purposes; rather, the question before us now is, What should the National Government be doing in a time of unexpected economic slowdown?

We even had, in the period of the transition, the Vice President-elect state the ''R'' word. He began to use the suggestion that we might be in or close to a recession.

If that is true, and if we are clearly—as we are—in a slowdown, and if in fact we are moving to an even more serious economic situation, it is largely because consumers have suddenly lost confidence in their own future and in our Nation's economic future, and they have stopped spending. Since two-thirds of the Nation's economic output is predicated on the ability of consumers to spend and consume that output, that starts a process of a downward cycle. Spending slows on a grand scale. The economy slows. Layoffs begin. Pay cuts materialize. The cycle intensifies. The disease that may have started out largely in our heads is now in our bank accounts.

Colleagues, we are in the throes of that illness today.

Just a few statistics over the past couple of months:

Layoffs totaling 275,000 jobs have been announced, and they have been announced from some of the businesses that we regard as the mainstays of America's consumer economy, such as last week's announcement of Procter & Gamble. This bad news has led to a 35-point plunge in the consumer confidence index from an all-time high of 142.5 just as recently as September of 1995.

I think the good news in this dreary circumstance is that we do not have to stand on the sidelines as spectators and let the hand of the market control our destiny. We have the ability to take some steps that would soften the impact of a declining economy that might be able to even buy an economic insurance policy to protect us against an unnecessarily long or deep economic decline.

Part of that ability is being exercised by the Federal Reserve Board as it has started the process of ratcheting down the interest rate increases which it ratcheted up over the preceding couple of years.

We also have the opportunity to play a role not as a spectator but as a participant through our control of fiscal policy.

In the past, Democrats would have said the fiscal policy that we want to follow is one to accelerate spending: Let's spend more money as a means of generating greater economic activity. Today, some of us who are the descendents of the Presiding Officer's noble son, Thomas Jefferson, believe that the step we need to take to stimulate the economy is to put additional dollars in the pockets of American families so that they can make the decision as to where to spend, and those decisions and the increased confidence they have will cause additional dollars to go into their pockets, and we will begin to attack this psychology of despair which has become such a significant reason for the decline in consumer demand.

I believe that stimulative tax cuts in this year of 2001 and in the year 2002 are what are required of Members of the Congress to play our role as active participants in avoiding an unnecessarily severe economic downturn. I believe there are some characteristics those tax cuts should have. I believe that is where the debate is today.

As recently as a month ago, if you had said I believe we ought to use the resources that are available through our surplus for an economic stimulus in tax cuts, you could not have commanded a majority on the Republican side because there would have been objection as to the direction in which you were suggesting the tax cuts flow. And you would not have gotten a majority on the Democratic side because they would have said tax cuts are too large in terms of our overall allocation of the surplus, and maybe a question as to whether tax cuts could make any difference as a stimulative matter at all.

I believe that argument has now been decided, that the American people want us to—and the American people have concluded correctly, in my opinion, that it will be in their economic best interest if we provide an immediate significant tax stimulus.

The American people understand what some of the characteristics of that tax stimulus must be. That tax stimulus must be large enough to make a difference. We might argue at the edges as to what the numbers would be, but my suggestion, based on the advice of a range of prominent economists, is that we need to be able to inject into the economy during calendar year 2001 at least $60 billion in tax cuts; and, if we can do so, we can anticipate that the gross national domestic product will grow by one-half to three-quarters of a percentage point greater than it would have grown had we not taken that action.

Senator CORZINE, who joins us now, and I have developed a formula that we believe meets the criteria of an effective economic stimulus. That formula came from an idea in President Bush's tax proposal; that is, that we create a new 10-percent tax bracket; that that tax bracket cover taxable income for single Americans up to the first $9,500 of their taxable income; and that for joint filers, for married couples, it would be up to $19,000 of taxable income; the first $19,000 would be taxed at the 10-percent rate; and that all of those would be effective as quickly as Congress could pass it but made retroactive to January 1, 2001.

That simple, easily enacted withholding rate change would result in single Americans this year—calendar year 2001—receiving a $475 tax cut if they had taxable income of $19,000 or more. For married couples, it would result in a $950 tax cut for the year 2001. Our proposal would continue this as a permanent change in the law, so those same reductions would be applicable in each future year.

This plan is not deceptively simple; it is truly simple. That is why it would work. Taxpayers will see it. They will understand it. They will feel comfortable that this is not a one-time ''manna'' from Heaven; that it represents a permanent change in their tax relationship. They would feel comfortable as early as this summer in beginning to incorporate that into their economic expectations.

While this tax relief is broad based—every American taxpayer, single or married, who pays Federal income tax would be a beneficiary of this plan—it would provide the largest portion of the relief to middle-income families. That is not a statement based on class warfare or a statement based on fairness; it is a statement based on sheer economic reality.

There is a correlation between the tendency of people to spend and the amount of their income. The lower the income, the greater propensity there is that the new additional dollar that would come by reducing tax rates would actually move quickly into the bloodstream of the American economy. So we are, for that reason, since our goal is to stimulate the demand side of the economy, suggesting this single rate change as the most effective means of getting that immediate surge of action in our economic bloodstream. It is large enough to make a difference but it is not so large as to crowd out other important budget priorities.

While it is a substantial share of this year's budget surplus—approximately $2 out of every $3 of the non-Social Security, non-Medicare surplus in 2001 would be committed for this purpose—its claim on future surpluses is much smaller.

If I could contrast this with other proposals that are before the Congress and before the American people: The President has a total tax plan of $1.6 trillion. That compares over 10 years with approximately $693 billion that would be the cost of the 10-percent plan Senator CORZINE and I are advocating. But there are other differences beyond just the sheer scale of the tax measure.

The President's plan would be largely backloaded. Most of the tax benefits would come in the last 4 or 5 years of the 10-year cycle. In fact, in the year 2001, when I believe the stimulus is most needed, the tax cut in the President's plan is only $183 million. That contrasts with the $60 billion Senator CORZINE and I believe is the appropriate level of stimulus for this economy.

Another plan that is before the Congress and has already passed the House

of Representatives is the Ways and Means proposal: The first phase of the President's tax plan, which is limited to changes in marginal rates of the income Tax Code for personal filers.

In my judgment, this, too, falls far short of what is needed because it would only provide $11 billion of so-called stimulus in 2001. Eleven billion dollars is better than $183 million, but neither of them are adequate to the task of providing the stimulus that our economy needs. And these packages do not target those taxpayers who are the most likely to use this money, to spend this money in the ways that would best advance our economy.

Three-quarters of all taxpayers do not pay beyond the 15-percent bracket as it is currently calculated. That means that three-quarters of all taxpayers have total taxable income of less than $45,000, which is the top of the 15-percent rate. Yet nearly 60 percent of the total cost of both the President's plan and the House Ways and Means's plan is devoted to persons who earn more than $45,000 in taxable income.

Again, this is not an issue of class warfare. It is an issue that those higher income folks are less likely than the middle- and lower-income Americans to spend that money and, therefore, create the stimulus in the economy.

As I have said, Senator CORZINE and I have been very impressed with the President's excellent idea of creating this new 10-percent bracket. We think that deserves to be the centerpiece, the focus, of an economic insurance policy that we can enact soon.

What would this mean for a middle-class American family? With the kind of cut we provide, they could almost buy a new Dell computer. They could buy a new RCA 36-inch stereo color TV. They could buy a week's vacation in Florida. We all agree that America's hard-working families deserve that computer, that color TV, and especially that Florida vacation. We all agree that America's workers need job security. Now let's agree on a tax cut that can stimulate the economy and make that job security happen for all Americans this year.

I am afraid that we are about to move from the chapter in which the debate was over: Should we have an economic stimulus, a chapter that I think has ended—we now have broad agreement that should be the title of whatever tax relief we provide first in the year 2001—and we are now about to go into a debate on which is the most perfect way to get to that objective. That then fall prey to exactly the comments that the Chairman of the Federal Reserve Board, Mr. Alan Greenspan, made in February to the Senate Budget Committee when he said he was skeptical about an economic stimulus tax plan, not because it did not have the economic potential but he did not believe that the Congress had the capacity to enact it quickly enough to make a difference; that the history of these efforts to use the Tax Code to stimulate the economy has been that a good idea was birthed but it was never nurtured quickly enough to be fully available while the problems still existed.

To me, it is critical we have a plan that is simple and direct enough, that is sufficiently shorn of controversy that it can be enacted, ideally by the first of July, so that it could begin to affect paychecks in August of this year.

We need to be bold and aggressive and recognize that this is our time to step out of the boxes above the arena down to the floor and become an active participant in assisting American families in dealing with this serious problem of a declining economy and the effect that it is having on the quality of their lives and on their psychological sense of the future for their families and our Nation.

We have the opportunity to do so. We should grasp that opportunity now.

Thank you, Mr. President.

The PRESIDING OFFICER. The Chair thanks the Senator from Florida.

The Senator from New Jersey.

Mr. CORZINE. Mr. President, I ask unanimous consent to speak for up to 10 minutes.

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

Mr. CORZINE. Mr. President, I rise to endorse the concepts about which the Senator from Florida has spoken this evening and to make the point that the economic necessity of this grows clearer every day.

There is a need for a stimulative package, and it needs to be brought to bear in the quickest possible fashion. The apparentness of that need is reflected very clearly in the economic indicators we see reported almost daily, apart from what many people talk about in most of their conversations, which is the stock market, which is an important indicator of future economic conditions.

We see a pattern of deterioration currently in place that needs to be focused on, particularly the pattern of layoffs coming out of corporate America. Those are broadening and are reflective of underlying recession business conditions, if not more broadly in the economy.

This substantial deterioration is beginning to show up in consumer confidence numbers. At the end of last week we saw a deterioration in new home sales which reflects underlying consumer confidence. As we know, it is about 65 percent of our economic engine in the United States. These kinds of conditions are most properly underscored, most vividly underscored by actions taken by one of America's most important consumer companies, Procter & Gamble, which reported last week they would be laying off 9,500 people. This is another indication of growing economic weakness.

Add to that that there are problems in our international sector, the reported deterioration in the Japanese economy. The central bank in Japan actually lowered their interest rates to zero percent trying to stimulate the economy. This is important because it demonstrates that if you only depend on monetary policy, as opposed to a combination of monetary and fiscal policy, you sometimes can lead the horse to water but it won't necessarily drink, and you won't get the kind of stimulus we need to make sure that this economy is secure; that we keep job growth increasing. International weakness is also one that we need to be concerned about, particularly in Asia, but we are seeing early signs of weakness in Europe as well.

Right now we are depending far too much on monetary policy, where the Federal Reserve has moved, on a proportionate basis, actually faster, certainly than I have ever seen in my own personal experience, with three 50-basis-point cuts in interest rates in less than 2½ months, a very substantial move percentage-wise on interest rates. It is even more imperative that we move to have a fiscal stimulus as a partnership with the Federal Reserve to get that stimulus going. That needs to be substantial. It needs to be done efficiently and speedily. It needs to be sustainable.

Too often, one-time cuts go into savings. Most economic thought would show that single one-time payments tend to go to savings as opposed to consumption. The plan Senator GRAHAM and I are proposing is one that is intended to be substantial but sustainable through time. People can count on that tax cut over a longer period of time. It changes consumer confidence. It changes their way of how they are going to look at future earnings. They can discount that to the future. We think that will end up having a meaningful impact on current economic conditions. In fact, it is an economic insurance policy. If we are wrong and we are not in a recession, this is a good thing because it will boost economic growth. But if we fall into a slower period where recession actually takes place, and you never know that until after the fact, then we have a fiscal stimulus in place to go hand in hand with monetary policy.

We believe strongly that this is a proposal that does reflect balance on many of the competing arguments we see. It is a direct lead-in from where the President suggested a 15- to a 10-percent cut. We just give it now as opposed to in future years. We think this is an important precondition to make sure we have a strong economy that will allow for all boats to rise on that rising tide.

I thank the Chair for the opportunity to support the arguments and description of the program Senator GRAHAM, my friend from Florida, has proposed.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:15 a.m. on Tuesday, March 27, 2001.

Thereupon, the Senate, at 8:21 p.m., adjourned until Tuesday, March 27, 2001, at 9:15 a.m.