United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, WEDNESDAY, MARCH 12, 1997 No. 31

Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious Father, we praise You that it is Your nature to go beyond what You've done before. Whatever we've experienced of Your grace and glory as individuals and as a nation, it is small in comparison to the revelation You have prepared for us. There's always an element of surprise in our relationship with You. You give us fresh knowledge when we foolishly think we know it all. What we have learned is only a fraction of what You have stored up for us.

As we look ahead to the challenges and decisions facing us today, You remind us of how in the past You met us at every fork of the road with clear guidance and fresh grace. We beheld Your glory. Now we hear You saying that what we have discovered before is minuscule in comparison to the mighty acts You will do. Excitement and expectation fill our hearts. Dear God, continue to bless America.

Fill our minds with vision and our hearts with hope so that we can believe that all things are possible with You. There's no limit to what You can and will do to manifest Your glory. Thank You for the difference thinking positively about Your power has made for our attitude to this new day. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. GRAMS. Thank you, Mr. President.

SCHEDULE

Mr. GRAMS. Mr. President, on behalf of the majority leader, I announce that today the Senate will proceed to executive session to consider the nomination of Federico Peña to be Secretary of Energy. Following debate, the nomination will be temporarily set aside and by previous order, at 12:30 p.m., a rollcall vote will occur on the nomination. Also by previous order, following debate on the Peña nomination, the Senate will be in a period of morning business until the hour of 12:30 p.m. After the 12:30 p.m. vote, the Senate will begin consideration of Senate Joint Resolution 18, the Hollings resolution on a constitutional amendment on campaign financing. The majority leader has announced that Senators can expect additional rollcall votes throughout the day's session.

I thank my colleagues.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BENNETT). Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF FEDERICO PEÑA, OF COLORADO, TO BE SECRETARY OF ENERGY

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration of the nomination of Federico Peña to be Secretary of Energy, which the clerk will report.

The assistant legislative clerk read the nomination of Federico Peña, of Colorado, to be Secretary of Energy.

The PRESIDING OFFICER. There will now be 30 minutes under the control of the Senator from Minnesota, [Mr. GRAMS].

Mr. GRAMS. Mr. President, before I begin my statement dealing with the nomination today, I yield 3 minutes to my colleague from Colorado, Senator CAMPBELL.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. I thank the Senator from Minnesota. I appreciate being able to speak on behalf of Mr. Peña for a couple of minutes.

I have known Federico Peña personally and professionally for over 15 years, Mr. President. I know him first as a friend and I know him as a professional with the highest integrity. He was that kind of a legislator when he was the minority leader of our State legislature. He was that kind of a mayor, as the mayor of our largest city of Denver. He was that kind of person when he was Secretary of the Department of Transportation.

His résumé reflects an unsurpassed commitment and dedication to public service. His achievements display remarkable leadership, vision, and hard work.

Mr. Peña leaves an indelible mark on every project he undertakes. The now famous Denver International Airport was a product of his foresight and leadership. The Department of Transportation, where he served as a Secretary for 4 years, is now leaner and more effective than it once was—success in taming and trimming a vast bureaucracy that can only be accomplished with discipline, determination, and hard work that Federico Peña was willing to put in.

Despite the many professional attributes Mr. Peña has, and the many dimensions of professionalism he brings to public service, perhaps none are so important in our work as his honesty and integrity. This is a quality the Federal Government cannot afford to turn down.

Having known him for the many years that I have, I am convinced that Federico Peña will bring to the Department of Energy the same integrity, honesty, and leadership for which he is known. That is his indelible mark that he has left on our State and our U.S. Government.

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

Printed on recycled paper containing 100% post consumer waste

I simply urge my colleagues to support the nomination when it comes up this afternoon, and I thank the Senator for yielding these couple of minutes. I yield back the balance of my time.

Mr. GRAMS. Mr. President, I take a few minutes this morning to talk about today's pending nomination, and also some of the problems that are surrounding one of our most important issues, and that is the storage of this country's nuclear waste.

Mr. President, as the full Senate takes up the nomination of Federico Peña to become the next Secretary of Energy, I rise today to discuss an issue of critical importance that has become necessarily linked to the Peña nomination again, that is our Nation's nuclear waste storage problem.

I say the two are linked because it has been the failure of the very agency Mr. Peña has been appointed to lead—the U.S. Department of Energy—to carry out its legal obligations that has led to the nearly critical situation in which we currently find ourselves. It is this very failure on the part of the DOE which threatens utility ratepayers today and taxpayers in the future.

For the Senate to fully appreciate the gravity of the situation, I believe that a brief summary of the history of this problem is in order.

Since 1982, utility ratepayers have been required to pay the Federal Government nearly $13 billion of their hard-earned dollars in exchange for the promise that the Department of Energy would transport and store commercially generated nuclear waste in a centralized facility by January 31, 1998.

However, with this deadline less than a year away and with over $6 billion spent by the Department of Energy, there has been very little progress to date toward keeping this 15-year-old promise of establishing a centralized Federal storage facility.

In fact, though there has been measurable progress at the Yucca Mountain, NV facility, a permanent repository will not be completed until well into the next century. Mr. President, the 80 nuclear wastesites on this chart graphically illustrate the extent of this growing problem.

Clearly, if the DOE is to meet the January 31, 1998 deadline, it must begin accepting nuclear waste at an interim storage facility, yet, that has not happened. In fact, the DOE recently notified States and utilities that it would not accept their commercial nuclear waste despite the law and the Federal court's effort to enforce it. Worse yet, even in the face of significant taxpayer liability for such irresponsible behavior by the Federal Government, the DOE has failed to offer a single constructive proposal to even begin the process of fulfilling its responsibility to the American people.

Despite those facts, utility ratepayers are still being required to pay for a mismanaged program. In fact, over $630 million from the ratepayers go into the nuclear waste fund each year—without any tangible benefits or results to show for them.

Our Nation's utility consumers and their pocketbooks aren't just hit once, either. Because of the DOE's failure to act, ratepayers are currently being forced to pay their hard-earned dollars to store waste onsite at commercial utility plants—a burden that would not be necessary had the Energy Department lived up to its legal obligations.

Take, for example, the situation facing ratepayers in my home State of Minnesota. Since 1982, Minnesota's nuclear energy consumers have paid over $250 million into the nuclear waste fund believing that the Federal Government would fulfill its obligation to transport nuclear waste out of the State of Minnesota. But as time went on and the DOE continued to ignore their responsibilities, utilities in Minnesota and around the country were forced to temporarily store their waste within the confines of their own facilities. When it became clear to many utilities that storage space was running out and the Department of Energy would not accept waste by the established deadline, then the utilities had to go to their States to ask for additional onsite storage or else be forced to shut down those operations.

For example, ratepayers in Minnesota, North Dakota, South Dakota, and Wisconsin were forced to pay for onsite storage in cooling pools at Prairie Island in southeastern Minnesota. In 1994, with storage space running out, the Minnesota Legislature—after a bruising battle—voted to allow for limited onsite dry cask storage until the year 2002.

Mr. President, the cost associated with this onsite storage is simply staggering—ratepayers in our service area alone have paid over $50 million for these costs and are estimated to pay another $111 million by the year 2015, in addition to the required payments to the Federal Government, the nuclear storage fund.

To make matters worse, storage space will run out at Prairie Island in 2002, forcing the plant to close unless the State legislature once again makes up for the DOE's inaction. This will threaten over 30 percent of Minnesota's overall energy resources and will likely lead to even higher costs for Minnesota's ratepayers. In fact, the Minnesota Department of Public Service estimates that the increase in costs could reach as high as 17 percent, forcing ratepayers to eventually pay three times: Once to the nuclear waste fund, again up to $100 million for onsite storage and yet again for increased energy costs.

And Minnesota is not alone in facing this unacceptable situation. Thirty six other States across the Nation will be facing similar circumstances of either shutting down their energy-generating capacity or continuing to bail out the Federal Government and its failure to act.

Ratepayers are not the only ones who face serious consequences because of inaction by the DOE; taxpayers are threatened as well.

Last year, the Federal courts ruled that the DOE will be liable for damages if it does not accept commercial nuclear waste by January 31, 1998. Under current law, these damages will not be paid for by anyone at the DOE, it will go to the American taxpayers—at an estimated cost of somewhere between $40 and $80 billion. Such a tremendous liability burden on taxpayers would make the public bailout of the savings and loan collapse seem small in comparison.

What's worse is that while our States, utility ratepayers, and taxpayers are being unfairly punished by the Department of Energy's inaction, the Federal Government has been active in meeting the interim nuclear waste storage needs of foreign countries.

Under the Atoms for Peace Program, the DOE's has resumed collecting nuclear spent fuel from a total of 41 countries. In fact, since last September, the DOE Savannah River facility had already received foreign spent fuel from Chile, Columbia, Germany, Switzerland, Sweden, and Canada.

Ultimately, as I learned during a recent trip to the Savannah River site, up to 890 foreign research reactor cores will be accepted by the DOE over a 13 year period.

In addition, our Government is actively helping other countries reduce their nuclear waste stockpiles. With the Department of Defense spending up to $400 million on designing and constructing an interim nuclear waste storage facility in Russia to help dismantle the cold war threat, the world will certainly be a safer place.

Now, Mr. President, as a Senator who is concerned about our national security needs, I understand the rationale behind reducing our international nuclear dangers.

But, what I, and many others cannot comprehend is how our Government has made it a priority to help foreign countries with their nuclear waste problems while simultaneously ignoring the concerns right here in our own country; not only that, but denying it has the responsibility and is going to court to stop it.

It seems clear to me that while States, utilities, and ratepayers have kept their end of the bargain, the DOE has not done its part. And that sends the wrong message to the American people about trusting the promises of the Federal Government.

Maybe that's why the National Association of Regulatory Utility Commissioners, 46 State agencies and 36 utilities have joined forces in a lawsuit to stop ratepayers' payments into the nuclear waste fund and to escrow $600 million that will soon go into the fund.

For too long, our States, utilities, and ratepayers have acted in good faith, relying upon the Federal Government to live up to its obligations. Evidently, they have had enough of the

DOE's excuses for inaction and have proposed their own recourse.

This issue has created strange bedfellows as well. In a recent interview, former DOE Secretary Hazel O'Leary agreed that action on interim site is needed as soon as possible.

It's unfortunate that Secretary O'Leary waited until she was free from the administration to openly support interim storage, but I think her comments point not only to the need to resolve the interim storage impasse but also the political nature of this issue—again, I say the political nature of this issue. It is not science or technology, it's politics. She specifically stated that certain high-ranking officials connected with Vice President AL GORE see this issue in terms of politics, not policy.

In addition, the former head of the Office of Civilian Radioactive Waste Management under the Clinton administration, Daniel Dreyfus, believes the DOE must move to meet the January 31, 1998, deadline.

Key labor unions have even joined the fight to restore the DOE's promises.

J.J. Barry, president of the International Brotherhood of Electrical Workers, recently wrote me, saying

I am calling on you and your colleagues to put partisan politics aside for the good of our nation and America's workers and their families. We must address this problem now or else face serious economic and environmental consequences later. Please support passage of S. 104.

I am also pleased that we have received the support of the Building and Construction Trades Union in this effort.

Mr. President, I ask unanimous consent that these letters of labor support be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GRAMS. Despite this widespread, bipartisan support for our efforts to resolve the storage problem, the White House, under the dictates of Vice President AL GORE, still has not offered an alternative to either our bipartisan legislation, which they oppose, or the failed status quo.

The American people deserve leadership from the Clinton-Gore administration, not just the consequences of Presidential aspirations.

If such leadership will not come from the Clinton-Gore administration, then it will come from Congress. Senate Energy and Natural Resources Committee Chairman FRANK MURKOWSKI, Senator LARRY CRAIG and I crafted a bipartisan proposal, S. 104, identical to legislation supported last year by 63 Senators.

We have put this proposal forward as a good faith effort to help resolve this situation for the sake of protecting our environment and the legitimate interests of our ratepayers and taxpayers.

As I've stated, Congress has an obligation to protect the American public from the estimated $40 to $80 billion they face in liability expenses.

Our bill will reform our current civilian nuclear waste program to avoid the squandering of billions of dollars of ratepayers' and taxpayers' money. It will make our environment safer, eliminate the current need for on-site storage at our Nation's nuclear plants, keep plants from shutting down prematurely due to lack of storage space, and keep energy prices stable.

Our legislation also assures that transportation of nuclear waste will continue to be conducted in a safe manner. In fact, there have already been 2,400 shipments of high-level nuclear waste in our Nation, including numerous shipments of naval spent fuel. The safety record of these shipments speaks for itself.

There are many other aspects of this bill which will help resolve the crisis facing the American public. Today, we on the Senate Energy and Natural Resources Committee will take a giant step forward in moving that bill closer to Senate passage.

I applaud my distinguished colleague from Alaska, Chairman MURKOWSKI, for his efforts in moving ahead with this much-needed, historic legislation.

Keeping in mind the Clinton-Gore administration's stated opposition to our legislation, I took the opportunity to ask Secretary-designate Peña for any specific, constructive alternatives he would propose to resolve this issue and help the Federal Government meet its legal obligations.

Mr. Peña's failure to offer specific responses during an Energy and Natural Resources Committee hearing prompted me to send a letter to him asking for a detailed response outlining the specific steps he would urge to meet the January 31, 1998, deadline.

After exchanging a series of letters with Mr. Peña, I have become completely unsatisfied with the lack of specificity in his responses to my questions. While I appreciate Mr. Peña's stated willingness to work with us toward an eventual resolution of this issue and his belief that this is a federal problem worthy of a Federal solution, I believe the American people deserve more.

They deserve specific answers from an administration that has buried its head in the sand and an independent leader at the helm of the DOE who will affect a change in policy.

I have concluded that at this point in time, no one recommended by the Clinton-Gore administration to head the DOE will be allowed to lead.

For the benefit of my colleagues, I would like to read a portion of Mr. Peña's letter dated March 6 that best illustrates my point.

Mr. Peña writes:

I cannot, however, outline for you specific steps for meeting the January 31, 1998 date. The Department of Energy has indicated to the court and in responses to the Congress that there is no set of actions or activities that could be taken under the Nuclear Waste Policy Act to enable the Department to begin receiving spent fuel at an interim storage facility or a repository on that date.

Frankly, Mr. President, as an elected representative of the ratepayers who have had over $6 billion thrown away by a department without a single answer to their problems and as an elected representative of the taxpayers who will ultimately assume tens of billions of dollars in liability if progress is not made, I find that answer insufficient and devoid of the leadership we so desperately need at the DOE.

I believe that Mr. Peña is a decent and honorable man, but I also believe that he has not provided the needed answers or displayed the leadership necessary to help resolve this pressing national issue.

Even though I shall do my best in working with him in the future, I cannot, in good conscience, today vote to confirm Mr. Peña to be our next Secretary of Energy.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

Washington, DC, March 7, 1997.

Hon. ROD GRAMS,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMS: I am writing on behalf of the 750,000 members of the International Brotherhood of Electrical Workers (IBEW), to ask you to support S. 104, the Nuclear Waste Policy Act of 1997. Nuclear energy cleanly produces 20 percent of our nation's electricity, reduces our reliance on foreign energy sources, and provides quality jobs for thousands of Americans, including 15,000 of our members at 46 commercial nuclear plants.

The IBEW is concerned that the government's program to manage used nuclear fuel at these plants is woefully out of touch with reality. I am sure that you are aware of the U.S. Court of Appeals' ruling last July in favor of a lawsuit by states and utilities, which stated in clear and unambiguous terms that the federal government must keep its contractual obligation to begin removing used fuel by 1998.

The Department of Energy (DOE), however, says it will not begin accepting used fuel for storage before 2010 at the earliest. By that date, 80 nuclear stations will have rune out of existing storage space. This could result in premature plant closings, loss of jobs, and other devastating economic consequences. By providing for central storage by the turn of the century, S. 104 gives the DOE a framework for meeting its legal obligation.

The Congress has been debating the storage issues for years without reaching a conclusion. It is time for a decision. Yucca Mountain is the best possible choice that is available. Unless Congress acts now to select Yucca Mountain, the wastes will continue to be stored near communities around the country, with all of the dire ramifications that such a decision can pose.

I am calling on you and your colleagues to put partisan politics aside for the good of our nation and America's workers and their families. We must address this problem now or else face serious economic and environmental consequences later. Please support passage of S. 104.

Sincerely,

J.J. BARRY,
International President.

AMERICAN FEDERATION OF LABOR,
BUILDING AND CONSTRUCTION
TRADES DEPARTMENT,
Washington, DC, February 10, 1997.

DEAR SENATOR: I write to urge you to vote for S. 104, the Nuclear Waste Policy Act of 1997. It will be considered by your Committee this week. Unless the Congress votes to approve this measure now, the terrible nuclear waste problem that confronts communities across America will soon be intolerable. Every town in the United States is vulnerable to the possibility of sudden and uncontrollable disaster. This issue must be given priority by the members of the Committee.

In testimony last week, the Committee heard Undersecretary of Energy, Thomas P. Grumbly, reveal the Department has more than 100 million gallons of high-level radioactive waste residing at facilities in the States of Washington, Idaho and South Carolina. And, additional and significant nuclear waste is being stored in varying degrees of safety by commercial power companies around the nation.

The Congress has been debating the storage issue for years without reaching a conclusion. It is time for a decision. Yucca Mountain is the best possible choice that is available. Unless the Committee acts now to select Yucca Mountain, the wastes will continue to be stored up in communities around the country, with all of the dire ramifications that such a decision can pose.

The Building and Construction Trades Department, AFL–CIO, the 15 national and international unions it represents, urge you to let our safe and well-trained members begin the hard work that needs to be done to make Yucca Mountain the most secure storage area for nuclear fuel that is available on the face of the earth. If the Committee allows this opportunity to pass, it is estimated that within the next decade, some 55 sites in 30 states will be filled with spent nuclear fuel totaling some 11,000 metric tons of uranium.

Chairman Murkowski expressed concern during the hearing with the thought of letting spent fuel accumulate at reactor sites. That concern is justified, and, possibly is understated. Despite the reluctance of the Administration to take action on this controversial issue, it is clear that the time for debate is long past, and a courageous decision by the Congress is necessary if the nation is to avert a serious environmental disaster of its own making.

Please vote S. 104 out of committee so that the full Senate can debate this critical issue as soon as possible.

With kind personal regards, I remain

Sincerely,

ROBERT A. GEORGINE,
President.

Mr. GRAMS. I thank the Chair.

I yield my remaining time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. MURKOWSKI. Mr. President, let me wish the occupant of the chair, my good friend from Utah, a good morning. I extend my good wishes.

Mr. President, I will proceed in accordance with the anticipated vote this afternoon on the Peña nomination, and I believe both the chairman of the Energy Committee, myself, and Senator BUMPERS, the ranking member, have 10 minutes equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I heard the comments expressed by my good friend, the Senator from Minnesota, Senator GRAMS, relative to his concern and the concern of his State over the disposition of high-level nuclear waste that is in some 80 locations in 41 States throughout the country, and the inability of the current administration to address its responsibility and hence the responsibility of Congress to meet the contractual commitments made some years ago to take that nuclear waste next year, in 1998.

The reality is that the ratepayers in this country have paid over that period of time some $12 billion which has gone into the general fund. And, as consequence, we are facing a reality that next year we are not going to be able to meet the obligation of taking that waste. So we can anticipate an opportunity for full employment for the lawyers that are associated with this issue because there is going to be a giant liability that is coming to the American taxpayer. It is estimated to be somewhere in the area of $40 billion to $80 billion. The current estimate is about $59 billion. But usually it goes up from there. This is the liability, or at least a portion of it, which the Federal Government will be subjected to as a consequence of its inability to perform on its contractual commitment. I do not take that lightly. As a consequence, as we address on the floor later on today the nomination of the Secretary of Energy, Federico Peña, I think this is a significant question.

I rise today in support of that nomination. I also rise to advise my colleagues that the delay in considering the nomination has not been about the nominee's qualifications. The nominee is qualified. The committee has held hearings on the nomination. We have investigated matters brought to our attention. We found him to be qualified and reported the nomination favorably on a 19-to-0 vote with one Member voting ''present.'' But there has been an issue, and that issue has been whether the new Secretary is going to have the ability, the flexibility, and the authority to work with Congress to solve the looming nuclear waste storage problem. As I indicated earlier, this waste is stacking up in our towns and in our communities near our homes and schools at 80 locations in 41 States.

Some have said, ''How important is nuclear energy?'' Well, nuclear energy is contributing about 22 percent of the total power generated in the United States today. People look at power. They take it for granted. They expect it to work. It is always there. It is almost an entitlement. But it has to come from somewhere. It has to come from investment and from transmissions. It has to come from some kind of energy source, and nuclear is an important contributor. Nearly a quarter of the energy produced in the United States. But the waste, as a consequence of these nuclear power plants, has been stacking up. A Federal court has said that the Government must take that waste by 1998.

As I have said before, Americans put $12 billion into the nuclear waste fund. What do we have to show for it? Nothing. The problem that is unique about this is that nobody wants it. Absolutely no State wants to have this waste. You can throw it up in the air. It has to come down somewhere. It will not stay up there. That is the basic problem. The States in question are running out of space. These are the States that have reactors, and the storage that they have is not permanent storage. It wasn't designed for long-term storage. It was designed for short-term storage. That space is filling up. As a consequence, they may have to limit the construction of new storage capacities. States might not license for new storage capacity.

Mr. President, I ask for another 4 minutes under the time remaining on the 30 minutes that was given to the Senator from Minnesota.

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

Mr. MURKOWSKI. I thank the Chair.

The reality is that the final repository won't be ready until the year 2015. That is where we are; the permanent repository. We need that. But it will not be ready.

We have a 50–50 chance of taking that waste. This poses an environmental and public safety challenge. I have indicated the risk to the taxpayers—currently $59 billion. Some electricity production may be shut down.

Mr. President, we simply need the action now. However, we had a problem when the administration, in a communication by the Vice President, told a congressional leadership group this was not a matter that was up for consideration at that meeting. He inferred that we could leave the waste where it was until Yucca Mountain was built.

After I heard about that statement, I postponed consideration of S. 104 and the vote on Mr. Peña so we could begin a process of attempting to work with the administration to get this back on track. In a meeting with the White House Chief of Staff, Erskine Bowles, I asked him to empower the new Energy Secretary to work with us. I said the Senate cannot accept the Vice President's ''leave it there'' policy. I asked Mr. Bowles to send down a nominee who had flexibility. I have had several conversations with Mr. Peña, Mr. Bowles, and the White House, and judging from those conversations and a recent letter from Mr. Bowles, it seems that the administration has now decided to choose dialog over the Vice President's stonewalling, which is the only way I can put it. I am glad to see that the new Energy Secretary will now have a portfolio to work with the Congress.

I ask unanimous consent that the letter from Mr. Bowles to me be printed in the RECORD.

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

THE WHITE HOUSE,
CHIEF OF STAFF TO THE PRESIDENT,
February 27, 1997.

Hon. FRANK MURKOWSKI,
Chairman, Senate Committee on Energy and Natural Resources, U.S. Senate.

DEAR SENATOR MURKOWSKI: The Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner, consistent with sound science and the protection of public health, safety, and the environment. The Federal government's longstanding commitment to permanent, geologic disposal should remain the basic goal of high-level radioactive waste management policy.

The Administration believes that a decision on the siting of an interim storage facility should be based on objective, science-based criteria and should be informed by the viability assessment of Yucca Mountain, expected in 1998. Therefore, as the President has stated, he would veto any legislation that would designate an interim storage facility at a specific site before the viability determination of a permanent geological repository at Yucca Mountain has been determined.

Following confirmation, Secretary Pena has the portfolio in the Administration to work cooperatively with the Committee and others in Congress on nuclear waste disposal issues within the confines of the President's policy as stated above. Secretary Pena will also be meeting with representatives of the nuclear industry and other stakeholders to discuss DOE's response to a recent court decision on the Department's contractual obligations regarding nuclear waste.

Sincerely,

ERSKINE B. BOWLES.

Mr. MURKOWSKI. In light of that, I am prepared to urge my colleagues to vote favorably on Mr. Peña's nomination this morning, and I look forward to working with him and members of my committee on the nuclear waste issue as well as other issues facing the Department of Energy.

Mr. President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I strongly support the President's nomination of Federico Peña as Secretary of Energy. He comes before the Senate today with 4 years of experience as Secretary of Transportation. This experience will stand him in good stead in his new position since the Department of Transportation has a number of features that are in common with the Department of Energy.

Both agencies were formed by fusing organizational elements taken from various other departments and agencies.

Both agencies currently have responsibility for a wide range of divergent issues and programs, and in recent years both agencies have had to square the desires of their traditional core constituencies with new environmental considerations and sensitivities.

Only two of Secretary Peña's predecessors, James Schlesinger and James Watkins, were able to come before the Senate at the time of their nomination with comparable credentials as managers of large and complex Federal organizations. The Department of Transportation's budget is more than $30 billion, nearly twice the budget of the Department of Energy. It employs nearly 100,000 Federal employees compared to the 20,000 employed at the Department of Energy.

Secretary-designate Peña has faced some important challenges as Secretary of Transportation. He will face even more important challenges as Secretary of Energy.

As the first order of business, he will need to develop a close working relationship with the Department of Defense. Cooperation with the Department of Defense is essential to the success of the Department of Energy in carrying out its national security missions. His track record at the Department of Transportation is very encouraging in this respect. Secretary Peña went out of his way while at the Department of Transportation to establish constructive partnerships with the Department of Defense on issues of mutual concern, such as shipbuilding technology. He also worked closely and successfully with DOD on commercialization of global positioning satellite systems.

A second major challenge for the new Secretary is to preserve and enhance the research and development capabilities of the Department. Our nominee's track record at the Department of Transportation is also impressive in this area. Under Secretary Peña's leadership, the Department of Transportation posted a 60-percent increase in research and development spending, with substantial growth in nearly every part of the Department. Few Federal agencies over the last 4 years can make the same claim.

Secretary Peña also reorganized and improved the coordination of the Department of Transportation research and development programs, establishing joint program offices cutting across internal departmental boundaries. I am looking forward to Secretary Peña's strong leadership in this area in the future.

A final challenge facing Secretary-designate Peña will be to carry out the Department's missions in an environmentally responsible manner. The Department of Energy lost public trust and credibility in some previous years by pursuing its programs without sufficient regard to human and environmental consequences and to the need for public participation in decision-making. Recovering that public trust has been a slow and difficult process. It is essential to maintain momentum in this direction if the Department is to regain that public trust. Secretary Peña has a track record here that augers well.

At the same time that he accelerated progress at the Department of Transportation on the construction of new highways and transportation projects, he also increased the speed of the Department of Transportation's response to natural disasters and he brought new emphasis to environmental considerations in transportation management planning.

Mr. President, the Senate's action on this nomination is long overdue. It should have occurred a month ago. The committee's delay in bringing the nomination to the floor, as the chairman of the committee has said, had nothing to do with Secretary Peña's integrity or qualifications for the job. The delay resulted from Senators trying to hold his nomination hostage to attempt to persuade the President to change his position on nuclear waste legislation.

The President has stated serious and well-founded concerns about the nuclear waste bill which is being marked up in the Energy Committee today and the effect that bill would have on the long-term solution to the nuclear waste problem. I share many of those concerns, as do other Senators. To his credit, the President has not been bullied into changing his mind on the substance of that bill, but he has agreed that Secretary Peña, once confirmed, can work with those of us in Congress to try to find a solution to this very difficult and complex problem.

Ironically, we are going forward today in the Energy Committee to mark up the nuclear waste bill. This is at a time, of course, before Secretary Peña will be sworn into office and before he will have had a chance to work with us to resolve some of the differences which have arisen with regard to this legislation.

I believe Secretary Peña will be a great Secretary of Energy. I hope we will confirm him today. I am looking forward to working with him on all the important issues—national security, energy policy, environmental protection and technological competitiveness, and I urge my colleagues to support his nomination.

Mr. DOMENICI. Mr. President, Mr. Peña has an impressive set of challenges ahead of him. From our meetings as well as his committee hearing, I'm confident that he understands the responsibilities of this new assignment and that he is willing to make key changes in the Department to enable future success.

Mr. Peña listed the key priorities for the Department, including the need to ensure a safe and reliable nuclear weapons stockpile while reducing the global nuclear danger. He spoke to the importance of cleanup of former nuclear weapons sites and to finding a timely path for disposing of nuclear waste. He emphasized the importance of using and leveraging science and technology throughout the Department. Those are appropriate priorities.

Responsibility for the Nation's nuclear weapons and nuclear weapons technologies was rightly prominent on

his list. Perhaps no other challenge requires as much of his personal attention. The safety and security of the Nation's nuclear arsenal must be assured. The Nation will place this responsibility squarely on his shoulders.

We talked about the importance of avoiding over dependence on his staff and about moving forward with some key recommendations of the Galvin Commission to minimize micromanagement by the Department.

He assured me that the nuclear weapons program will receive annual budget support above $4 billion for the foreseeable future. Below that level I doubt we can maintain the stockpile at the level of confidence, safety, and security that the nuclear weapon responsibilities demand. He assured me that the Department will continue to fully meet the requirements of the Department of Defense, including weapons production capabilities and a reliable tritium supply, and that the Science Based Stockpile Stewardship Program will remain a cornerstone of the nuclear weapons programs.

He assured me that the Department will continue to pursue strong nonproliferation programs with the former Soviet Union, and seek opportunities for the Department to increase its contributions.

He assured me that the Department will move forward with stronger coordination of policy and budgets, and that an independent review of the Department's overdependence on the NEPA process will be forthcoming. He assured me that he will explore rapid movement away from the Department's self-regulation toward outside regulation. And he assured me that the Department will support not only opening of WIPP this November, but also release of funds to construct the WIPP bypass system in New Mexico.

Based on these assurances of appropriate support for the Department's programs of critical national and global importance, as well as those programs that directly impact on the State of New Mexico, I look forward to working with Secretary of Energy Peña on these challenges over the next 4 years.

Mr. THURMOND. Mr. President, I rise to discuss the pending nomination of Mr. Federico Peña, who has been nominated to serve as Secretary of Energy.

The Armed Services Committee held a hearing on Mr. Peña's nomination last February to assess his views and positions on the Department of Energy's programs that fall within the jurisdiction of the Armed Services Committee. We felt this hearing was necessary because Mr. Peña has no background in national security matters and, until very recently had no identifiable position on defense issues that Senators could use to assess his suitability to manage the Department's diverse national security activities.

I, and other members of the Armed Services Committee, continue to have some concern about the Department's plans to certify the safety and reliability of nuclear warheads, restore tritium production in a timely manner, and maintain the capabilities of the Department's production plants. We also want to see more progress in environmental cleanup at DOE's former defense facilities. These are critical issues that the Secretary of Energy will have to address. I must say that we have not reached complete agreement with Mr. Peña on all of these issues. I intend to work very closely with Mr. Peña to resolve our differences once he is confirmed and I am hopeful that we can make progress on these difficult issues.

Another area of concern that Mr. Peña will be required to address is how to move forward with a permanent repository for the Nation's growing stockpile of spent nuclear fuel. Mr. Peña must avoid playing politics with this issue. He should engage the Congress and work cooperatively to develop a credible solution to this mounting problem. I am hopeful that he will do so.

There is an inconsistency in the Department's actions with regard to spent fuel. The Department has refused to accept U.S. commercial spent nuclear fuel, even after collecting billions of dollars from U.S. rate payers and being ordered to do so by the courts. However, the Department has paid to ship foreign research reactor fuel back to the United States—to the Savannah River Site in South Carolina—where it will likely be stored indefinitely at U.S. taxpayers' expense. Mr. President, this is an outrage. If the Department of Energy can pay to ship spent fuel from First World countries such as Germany and Sweden, why can't they find a way to accept spent nuclear fuel from Minnesota and California. There is no reason President Clinton should not support the legislation pending in the Senate to fix this problem. I strongly encourage the President to allow Mr. Peña to work with the Congress to move forward with a solution to this problem before more taxpayer's dollars are wasted.

Mr. President, despite my remaining concerns, Mr. Peña impresses me as a highly capable manager and I intend to vote favorably on his nomination today. I also want to offer to sit down with Mr. Peña in the coming months to jointly address the issues I have raised. My hope is that he will accept this offer and that we will be able solve these problems for the benefit of the American people.

Mr. GRASSLEY. Mr. President, I rise today to comment on the recent decision of the Justice Department regarding a qui tam lawsuit filed under the false claims act against Energy Secretary-designate Federico Peña. Now, as a Senator I will not comment on the merits of an on-going court case. However, I do believe that it is appropriate to comment on what may be considered an unusual circumstance.

As many of my colleagues may know, when someone files a qui tam lawsuit, the Department of Justice has to make a decision as to whether to intervene in the case or to decline to intervene in the case. Now, this time period is generally from 6 months to 1 year because qui tam lawsuits can be so complex.

With regard to the Peña case, the Justice Department has had the lawsuit for about 1 month and they have already made a decision—to ask the court to dismiss Secretary Peña from the lawsuit. Now, I realize that Secretary Peña is a cabinet nominee and a former Cabinet Member and this case might warrant expedited consideration. But this seems like a rush to judgment. It seems unwise and it raises questions in my mind as to whether the Justice Department's decision in this case is due more to political pressure than to a genuine desire to protect taxpayer dollars.

There are several troubling questions which remain regarding the role of the Department of Transportation, Secretary Peña and other top Transportation Department officials in seeking the reinstatement of a Government contract with the D.M.E. Corp. which the Coast Guard had terminated in March 1994. According to documents supplied to me by the Coast Guard, the D.M.E. Corp. was simply unable to satisfy the contract. Also, according to a memo prepared by the legal adviser to the Coast Guard, a financial audit revealed such serious irregularities that the FBI recommended that D.M.E. be prosecuted for fraud. Did Department of Transportation officials know of the FBI's recommendation when they pressured the Coast Guard to sign a memorandum of understanding committing the Coast Guard to reinstate the D.M.E. contract?

As it happens, Ms. Lus Hopewell, who was Mr. Peña's top aid for the affirmative action programs for the Transportation Department had been the executive director of the Latin American Management Association immediately prior to working for the Transportation Department. Mr. Luis Mola who was the president of D.M.E.—the company whose contract was terminated—sat on the board of directors for the Latin American Management Association. Should Ms. Hopewell have recused herself? Did she disclose to her superiors that she had in effect worked for Mola only months before at her previous job as she was working to get D.M.E. reinstated?

So far, as I understand it, Secretary Peña's defense has been that Coast Guard officials somehow got the mistaken impression that he had met with D.M.E. officials and was involved in reinstating the contract. So, in essence the revealing documents which I have received, which were created contemporaneously and by people with no apparent motive to lie, are mistaken. This explanation is almost identical to a an explanation supplied by Secretary

Peña when he was the mayor of Denver. According to a March 26, 1995 article in the Denver Post newspaper, Alvarado Construction Co. received a $13 million contract to build an administration at the new Denver airport. Alvarado got the bid, however, even though its first bid was disqualified. In order to ensure that Alvarado got the bid, someone voided the first round of bidding for the contract and set up a new round of bidding. Alvarado got the contract on the second round. According to George Doughty, who was the Aviation Director at the time, Peña made the ultimate decision to void the first round of bidding. Secretary Peña said he wasn't involved and he didn't even know that Alvarado had received the bid. Finally, Alvarado was a strong financial backer of Secretary Peña when he was the mayor of Denver as well as a member of the Latin American Management Association. I ask unanimous consent that this article be printed in the RECORD.

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

[From the Denver Post, Mar. 26, 1995]

MR. PENA AND A PAIR OF PROBES

(By Gil Spencer)

At the top of the Sunday, March 12, front page was this Denver Post headline: ''Probe Zeros in on Pena.''

At the top of the Friday front page just six days later, was this Denver Post headline: ''Pena Inquiry Dropped.''

With Commerce Secretary Ron Brown under investigation, with former Agricultural Secretary Mike Espy under investigation, with Housing Secretary Henry Cisneros under investigation, and with the president himself under investigation for financial dealings while he was governor of Arkansas, it is worth more than a mere mention that Transportation Secretary Federico Pena has been cleared by Attorney General Janet Reno, who is not under investigation.

I last talked to Federico Pena almost exactly three years ago. The topic was his integrity, which, if pushed, he might liken to a cross between the Hope Diamond and the Holy Grail. He thinks very highly of his integrity, and not very highly of anyone who might question it, which he said The Denver Post did.

Keeping Mr. Pena's opinion of his integrity in mind, imagine his reaction when some blabber-mouths in Los Angeles started making noises about Pena's former investment firm, which he founded after he left the mayor's office and which he sold in 1992, still bearing his name. The firm, Pena Investment Advisors, was awarded a rather succulent contract to manage a $5 million Los Angeles transit pension fund.

Pena Investment Advisors got the transit contract less than three weeks after its namesake became transportation secretary. The timing of the contract award and the investment firm's pedigree intrigued certain parties in Los Angeles and inspired an intriguing comment by the manager of the transit pension fund, one Melvin Marquardt.

Marquardt, a candid soul, was quoted as saying the investment firm would not have been retained if President Clinton hadn't made Pena secretary of transportation.

Enter Janet Reno. Investigation opens. Investigation closes. Federico and his integrity ride on.

That seems about right. There may possibly have been a case. If so, it was hardly visible to the naked eye. In the other words, the only thing on the table was timing: Pena gets a big job and his old firm gets a big contract. If the firm had been a hopeless loser, Ms. Reno's alarm would have gone off. It would have had to. As it was, the firm seemed qualified and, of course, richer. Life in big-time politics.

Incidentially, in dismissing the contract allegation, Janet Reno also closed down a Justice Department investigation into whether the city—both Pena and Webb—was illegally diverting revenue from Stapleton and using it for non-airport services.

Pena's own department is continuing to investigate that charge, for what it may or may not be worth. And because I know you're absolutely on the edge of your chair, we'll keep you advised.

So Federico Pena is in the clear and has issued a statement that he is pleased but not surprised, adding that his focus has been and remains on serving the president and the American people.

In that spirit, he might turn back the calendar to May 1991. He was mayor Denver and the Alvarado Construction Co. had been awarded a $13 million contract to build the administration building at the new airport. That contract drew political fire 10 months later, when it was learned that Alvarado's first-round low bid had been defective and thus was disqualified.

Standard procedure would have had the contract awarded to the second low bidder, which in this case appeared fully qualified. Didn't happen. The city rejected all bids, saying it did so in the city's best interest, and Alvarado wound up with the contract.

Alvarado got the contract on the second bounce. Mayor Pena said he didn't even know Alvarado had the contract. Aviation Director George Doughty said it was Pena's ultimate decision. Pena said somebody must have had the impression that he made a decision he didn't make.

There's a fat lie in there somewhere.

Pena said he didn't know Alvarado had a $13 million city contract? Pena's world was alive with Alvarados—enjoying his support before the city council, contributing to his '87 campaign and his post-mayorial investment firm (Linda Alvarado became a director of that firm in 1993). He didn't know?

It's been three years since Pena damned The Denver Post for questioning his integrity in connection with the Alvarado contract—three years since the issue was buried whole. This isn't the first time I have written about the issue and it isn't the second. There may be a fourth. That contract has a certain fragrance. Then there was the lying. But maybe we're got it all wrong. Care to straighten us out, Mr. Secretary?

Mr. GRASSLEY. Mr. President, I would also like to point out that D.M.E. has received approximately $30 million in contracts with the Transportation Department. Roughly one-half of those contracts were entered into after the Coast Guard audit detected financial irregularities. Did the questionable practices of D.M.E. at least cause concern within the Transportation Department?

Now these concerns shouldn't necessarily prevent Secretary Peña's nomination from going forward at this time, but there are serious questions about public integrity which require serious answers—not politically expedient ones.

Mr. DASCHLE. Mr. President, I am pleased that we have finally arrived at this point in the process to confirm Federico Peña as the new Secretary of Energy. In my view, it has already taken too long to bring this nomination to the floor of the Senate and I hope and expect that he will be confirmed overwhelmingly today.

The delays in bringing this nomination to the floor have had nothing to do with Secretary Peña's qualifications for the job. His reputation and integrity are unblemished. Through his long and distinguished career in public service, Secretary Peña has established an outstanding reputation as a creative and able administrator, including his work as mayor of Denver, CO, and more recently as Secretary of Transportation.

The questions that have been raised about his fitness for this job have all been answered through extensive questioning before the Senate Energy and Armed Services Committees. No one can argue credibly that Secretary Peña does not have the experience or leadership to head the Department of Energy.

The delay in bringing this nomination to the floor has resulted from efforts to force the administration into accepting an ill-conceived plan to establish an interim nuclear waste depository in Nevada. This effort to link this confirmation to changes in administration policy has been unfair to the administration and to Secretary Peña, who has pledged to work with Congress to try and find a solution to this complex and daunting problem in a manner that is acceptable to all involved.

The Energy Department needs a Secretary now to address the range of issues and challenges that lie before it, including nuclear waste disposal, electric utility deregulation, hazardous materials cleanup, and the broad questions about our Nation's future energy supply. Federico Peña will be an excellent Secretary of Energy and I fully expect that he will guide that Department through these many challenges in a decisive and competent manner.

I urge all my colleagues to join me in supporting the nomination of Federico Peña to be Secretary of Energy and to work cooperatively with him in the future to address responsibly the challenges that face our great Nation.

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

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction

of morning business not to extend beyond the hour of 12:30 p.m., with Senators permited to speak therein for up to 5 minutes each.

The Senator from Alabama is recognized to speak for up to 30 minutes.

JUVENILE VIOLENCE

Mr. SESSIONS. Mr. President, I have been asked to chair the subcommittee of the Judiciary Committee on juvenile violence. It is an issue and a problem that I have dealt with for many years. I have been a Federal and State prosecutor for 17 years. I know juvenile judges, I know sheriffs, I know police chiefs, I know juvenile probation officers and those who work with them. I have been involved in organizations that have dealt with youth crime for many, many years. I think it is a rare opportunity to have the possibility of contributing to an issue as important as this one.

I am particularly pleased that we have a bipartisan interest in real reform of juvenile justice in America. Not long ago, the Republican conference of this body listed juvenile violence as one of its top 10 priorities. The President has made it so in his remarks and in his recent address to the Nation. Just a few weeks ago, the majority leader, TRENT LOTT, met with the President, and they agreed to work to pass a good and effective juvenile reform bill. Senator LOTT had the occasion to talk with me about that, and his instructions to me were: ''JEFF, we want the best crime bill that we can get, something that will effectively reduce juvenile violence in America.''

Mr. President, let me discuss with you what our problems are. Understanding the situation we are in is important. The incidence of adult crime in America, since the early 1980's, has essentially been flat. During that time, we have doubled, tripled, and in some areas of the country, quadrupled the prison capacity for adult offenders in America. Many States have quadrupled their capacity. We have effectively targeted these repeat and dangerous offenders. Those offenders are not now out on the street, committing additional crimes, and we have, at great cost and at great pain, and I regret to say great loss of productivity, incarcerated people who needed to be incarcerated. But we have maintained more safety on our streets than would have been the case.

During this same period of time we have observed that juvenile violence has increased rapidly. We have not dealt with that in any effective way. Since 1982, violent crime committed by juveniles in America has doubled. Murder rates have increased 128 percent since 1982. This violent crime rate has been projected by the Department of Justice to double again by the year 2010. Indeed, by the year 2000 we will have 500,000 more crime-prone males, age 14 to 17. Many experts predict that these numbers alone will drive the juvenile violence rate even higher.

I think we must systematically and deliberately confront this problem, find real solutions to it, and deal with what I consider to be the real problem, which is a juvenile justice system that is simply not working. Those who have seen it, who have worked in it, who have been a part of it, know that. We care about it. We want to improve it. But we have to be honest: It is simply not working.

Let me tell you what is happening in America today. Recently, in Montgomery, AL, a night watchman was killed. I had one of my staff check to see about the three juveniles who had been arrested for that offense. One had 8 prior arrests, another had 8 prior arrests, and the third had 15 prior arrests. That is the kind of thing that is happening all over America. We do not effectively deal with juvenile violence and serious juvenile crime. We act as if it is the same kind of crime that existed 30 or 40 years ago when juvenile crime primarily involved vandalism or petty theft.

Can we do anything about it? Can we, as a nation, effectively deal with these instances of ever increasing violence by young offenders, and make the system work better? As somebody who has been in it, I believe sincerely that we can. It strikes me that we have a system which is so badly constituted that we have great opportunities to make it more productive and work better.

Mr. President, let me give you an outline of some of the proposals that will be in our bill and I think will be supported by the Department of Justice and the President. Senator JOSEPH BIDEN, the ranking Democratic member on our subcommittee, and others should be in general agreement with the proposals I am going to make. I certainly hope they will be.

First, we do have to make the Federal system work better. It is as a practical matter impossible at this time to effectively prosecute a juvenile offense in Federal court. The prosecutor must certify that the offender cannot be prosecuted in State court. Then the prosecutor must certify the offender as an adult. Then the offender has a right, at that point, to appeal the certification, to the U.S. Circuit Court of Appeals, which delays the trial as much as a year while the public waits on the results of that appeal. That is not necessary.

We believe that our bill, with the support of the President, and the Department of Justice, can eliminate those problems and allow the Federal prosecutors to effectively be engaged in prosecuting appropriate violent juvenile cases. But we have to be honest with ourselves: 99.9 percent of juvenile crime cases—99.99 percent—are being tried in State court. Overwhelmingly, those cases ought to continue to be in State court. We do not need to have the Federal bureaucracy, here in Washington, DC, taking over the prosecution of juvenile crime in the States.

What we need to do in this Nation, and what this Senate needs to do, and what our Federal Government needs to do, is develop ways to assist the juvenile systems throughout America to be more productive in prosecuting cases within their own counties, cities and localities. This is the most important thing. First, we need to fix the Federal system, but we do not need to ever think for one moment that that is going to be a serious detriment to the overall growth and threat of violence in our young offenders.

How do we improve the States' systems? We have to deal with it systemically, addressing the day-to-day things that are happening there. I would like to share with you some proposals that will be included in our bill, and share with you some of the problems that we face. First, let me tell you what is happening today all over this country, when young offenders are arrested.

Let us take this example. A young offender in a stolen car is arrested at 2 a.m. by a local deputy sheriff, caught flat-footed. What typically happens is, if there is not a juvenile facility nearby—and normally there are only a few approved juvenile facilities within the State—that offender cannot be kept overnight in a separate part of a local or city jail. Those offenders cannot be kept at the local jail because Federal mandates say they cannot be housed in any institution in which adults are housed. They cannot even be in an institution that shares the same dining facility. So they either have to be released that night, or they have to be taken to a juvenile facility that may be in a distant locality and may be at full capacity. So, routinely what happens is that young offender, caught flat-footed in a stolen automobile, is released that night to his parents. He is back on the street that night.

It is not just bad for him, that he receives a horrible message, but it is also bad for his younger brothers, perhaps, or his running buddies, his would-be criminal associates, because they know Billy got caught. They know the police caught him in a stolen car. They see him back on the street that very night or the next morning. They see him laughing about it. They do not respect the system, and that procedure undermines the moral authority of the police and the legal system in America. It encourages crime and it does not deter crime, and we have to deal with that fundamental problem. We can do so, and I have some ideas I would like to share with you.

As a matter of fact, as I traveled the State of Alabama as attorney general, talking to local police, that is the single most frustrating situation for local police officers throughout Alabama, and I think the Nation, in juvenile crime, because these officers say to me over and over, ''Jeff, they are laughing at us. They don't think we can do anything to them, and we can't.'' This creates crime by sending a clear message to all involved that these young offenders are getting away with their crimes.

How do we deal with that? We need to end these irrational Federal mandates that require total separation. We do not need to have young offenders in the same cell with hardened criminals. Nobody proposes that. But on separate floors, in separate wings, separate parts of jails can be carved out where young offenders can be kept, at least for short periods of time, totally apart from adult offenders. That can and should be done, and it is the only sane and logical thing to do. I believe there is a growing consensus in America to do that, and our bill will do that. I think we can have bipartisan support to end these regulations. This will free up, at little or no cost, significant amounts of bed space for juvenile offenders.

In addition, we need to put some money into juvenile facilities. Adult facilities, as I have said, have doubled and tripled and quadrupled in America, but facilities for young offenders have not increased. In fact, in some States, their jail space for juveniles has decreased. Florida, after decreasing juvenile jails for a number of years, has now recognized the need to increase their available space. Our bill will provide financial support to State and local governments who need to undertake to expand their existing facilities, such as by putting on a separate wing for juvenile offenders. That way, at a reasonable cost, we can add jail capacity.

A sheriff in Alabama told me just a few weeks ago that he was arresting and incarcerating people under a new Alabama law that our Attorney General's office helped get passed, but he did not realize he was also in violation of Federal mandates and he was called on the carpet by Federal officials who forced him to stop. His policy was to hold young offenders for several days when the charges were serious, taking them promptly to court, and having prompt hearings. As a result of that tough approach, his juvenile crime rate dropped significantly. He was just furious that he could no longer carry out that policy, because he was absolutely convinced that if he was given the capacity to identify the serious offenders, take them to court, and detain them, then he could make progress in reducing crime. That is what we want. We want to deter criminal conduct. We want to have a system that does, in fact, cause juveniles to think about the consequences of their actions before they are tempted to commit a crime. I am convinced that our plan will do that.

Some of these matters I will be talking about on the floor in the future in more detail, but I want to mention several other parts of this program that I think will have bipartisan support and which will be effective in thousands of everyday criminal cases in juvenile court, so that we can deter these young offenders from going further along. We need to make that first brush with the law their last.

Drug testing. I have always thought it was virtually irrational or insane for us to arrest offenders, when we know statistically as high as 60 and 70 percent of serious offenders test positive for an illegal substance in their body at the time of their arrest, and not drug test them to determine whether or not they have a drug problem. They will say they do not. Routinely, they will deny it, but through regular drug testing, we can identify those young offenders who are using drugs. We can identify those who can, through their own willpower and the discipline of the court get off drugs, and those who are seriously addicted and need treatment. We can involve their families, if they have families, in that process. We can give the judge the kind of information he needs to know. When he is crafting an appropriate sentence, he needs to know whether or not this person standing before him, the one he is about to sentence, has a serious drug problem, and the sure way to do that is drug testing. It is relatively inexpensive.

So we will be proposing legislation that will provide money for State and local juvenile courts to test young offenders. If they test positive, they can put them on a very intensive drug-testing program, and if they continue to flunk, they will either go to jail or some serious treatment facility. We need to stay on them. We do not do them a favor to act as if their drug problem does not exist and allow them to continue life as usual. We need to work on that very hard.

Another matter that is extremely important is recordkeeping. For years, we have had in the National Crime Information Center the capacity to put every adult person's criminal history in our national computer system, so when they are arrested, a law officer can call up the National Crime Information Center from any police department in America, and, indeed, many police officers have today in their vehicles the capacity to tap into that system to find out if the person they just stopped out on the highway is a fugitive from justice for a serious offense. It is one of the most worthwhile, productive criminal justice innovations this Nation has ever implemented. It is not being done for juveniles.

The greatest predictor of adult violence is a history of violence and crime as a youngster. We know that. That makes common sense. Yet, with regard to the young people who are being arrested, because of the secrecy laws around the country and an aversion for putting these records in the NCIC, the judges may not know about a history of violence and crime. They may know it if the offender committed a crime in their local community, but they will not know it if they committed it in another community.

Additionally, in the case of a 24-year-old, for example, who the judge is about to sentence, that judge would need to know, in crafting an appropriate sentence, whether that offender standing before him had committed two armed robberies as a juvenile in a distant city. We have made a serious mistake over the years in not putting those records in the National Crime Information Center, and our bill will end that policy. I think it is something long overdue.

I think it is appropriate for the Federal Government to provide training for State and local officials. It would be good to provide a national center, that no one State could afford to put together, to train probation officers who will be working with young offenders, to train sheriff deputies and police officers who will be working with young offenders, to train prosecutors who will be working with young offenders and, yes, provide the latest and finest training for juvenile judges so that they can be effective. I would love to see us establish training centers and scholarship programs so that virtually every young prosecutor, every new probation officer for juvenile offenders could have 1 week or 2 or 3 weeks in intensive training on what it means to have their job and how to best conduct themselves in it.

We also need, and it is appropriate for the Federal Government who has all 50 States under its jurisdiction, to provide a research center to study what programs work and what programs don't work, to give authoritative data to local officials as they struggle to decide what to do about juvenile violence in their community.

I sense, as I travel Alabama—and I know this is true nationally—that people in local communities are very concerned about juvenile crime, and they want to develop programs to do something. They are willing to invest money in that. They are just not certain what to do.

For example, a number of years ago, Congress developed a boot camp program in America. We had one of those in my hometown of Mobile. I was involved in helping to get it established. We had great expectations for it. The U.S. Department of Justice did an intensive study of the boot camps around and the studies produced, unfortunately, mixed results. The studies concluded that whereas many young offenders appear to be quite changed when they finish their short-term incarceration and intensive military-like discipline and really seem to be better, once they were released and went back into the community from which they came, they developed the same friends and same associates and the recidivist rates, the rearrest rates, did not change very much.

So since then, boot camps, because of that study and others, have adopted an aftercare program where the graduates have to come back to the training center with their parents or parent and go through a counseling and intense monitoring program. This has helped expand the productivity of the boot camp system and has helped keep more of these people from going back into a life of crime.

That is the kind of thing that is difficult for a State to do on its own. It is appropriate for the Federal Government to do that. That is not a Federal takeover of juvenile justice, but a Federal helping hand to give States the information that they need.

So, Mr. President, I would just say that we are dealing with an issue of great national importance. I cannot tell you how delighted I am that the President, that the Department of Justice, that the Democratic leadership of this body and the Republican leadership of this body are united in being committed to developing a workable plan that will actually and realistically improve our ability to deal with this juvenile crime problem, because if we don't, it will get worse. And I am excited about our prospects.

This proposal that I have outlined for you today will provide more jail space so that when young offenders violate their probation, so that when they commit crimes, they can be immediately incarcerated and disciplined by their judge. If the judge has no capacity to do that, then that judge is losing control of his courtroom; and the police officers who went out and made the arrest, their moral authority is undermined.

We need drug testing to find out which ones of these young people are addicted to dangerous drugs which may be the accelerant to their criminal activity.

We need better recordkeeping to identify serious dangerous offenders throughout this Nation as they move throughout this Nation.

We need a training center to train local and State law enforcement.

And we need a research center to identify the greatest and best ways to fight juvenile crime so that we can assist Federal and State activity in improving that effort.

Mr. President, I am excited about the potential for doing something good for America, for making our streets safer. I must point out that in some areas of this country almost the leading, if not the leading, cause of death of young people is murder. That is a horrible thing to say, because it is not just the young people who are committing crimes, they are also the victims of young criminals. It is something we have to put an end to if we care about our country.

It is a core function of government that we make our streets safe. This bill will help take us a long way toward that goal. I thank you, Mr. President.

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

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

The legislative 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.

CHANGE OF TIME OF VOTE

Mr. HATCH. Mr. President, I ask unanimous consent that the previously ordered vote at 12:30 p.m. today now occur at 12:45 p.m.

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

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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. Thank you, Mr. President.

Mr. President, parliamentary inquiry. I presume we are still in morning business; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of S. 426 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, is morning business time reserved at this point?

The PRESIDING OFFICER. The Senate is conducting morning business until 12:45.

Mr. DORGAN. Let me yield myself such time as I may consume, Mr. President. There is one hour calculated and my colleagues will also be taking some time. A couple of colleagues are not here yet.

THE BUDGET

Mr. DORGAN. Mr. President, we wanted to come to the floor today because we have watched for a number of weeks a discussion on the floor of the Senate about changing the United States Constitution to require a balanced budget. In fact, for a good many weeks we had a stack almost 5-foot tall of books. Apparently they represented budget books and budgets that were submitted by Presidents to Congress and described various budget deficits over many years. And that 5-foot stack of books resided on the desk over there for I think 3 or 4 weeks in the Chamber. The discussion was: ''Let us change the Constitution to require a balanced budget.'' We had that vote. Those books are now gone. Now, of course, comes the real work. Altering the Constitution of the United States is one thing. Balancing the budget by writing a yearly budget, which the Congress is required to do following the submission of a budget by the President, is quite another thing. I made the point during the debate on the constitutional amendment to balance the budget that we could alter the Constitution at 12 o'clock noon that requires a balanced budget and at 12:01 there would be no difference in either Federal debt or Federal deficit. Why? Because that is required to be done in the individual yearly choices of taxing and spending decisions here in the Congress.

I do not see anybody out here on the floor on the other side with nearly as much energy on the proposition of writing a budget that will really balance the budget. In fact, no one is here now, and there hasn't been for some long while anyone here to address the question of will there be a budget brought to the floor of the Senate? The deadline for the Budget Committee to act on a budget is April 1. That is not very many days away. The deadline for the adoption of a budget resolution by the Congress is April 15, about a month away. That leaves only 7 working days here in the Senate between now and the deadline by which the Budget Committee shall have acted to comply with its responsibilities. And it is only 14 working days in the Congress to actually pass a conference report on the floor of the Senate and the House to comply with the requirements of the budget act. But, contrary to 5 feet of documents when we discussed altering the Constitution, you can't find a single page scavenging anywhere in this Chamber. Not in the darkest recesses of the deepest drawer in these Senate desks will you find a page that explains what the plan is for actually balancing the budget—not altering the Constitution; the plan for actually balancing the budget.

We say we are ready. We want a plan to balance the budget. The President has submitted a plan. Now let's see the alternatives, and talk about them and describe the choices and what are the priorities.

Why do we not see a plan? And why do we see so little energy on this issue of actually dealing with the budget on the floor of the Senate?

I want to hold up a chart that describes why I think we are in this situation. The Joint Tax Committee disclosed to us that in the first 5 years of the coming budget the cost of the proposed tax cuts by the Republicans here in Congress will mean $200 billion in lost revenue but that in the first 10 years the lost revenue will be $525 billion. In other words, you lose a couple hundred billion dollars in the first 5 years, and then much, much more than that in the second 5 years; in 10 years, nearly half a trillion dollars.

What does that mean? It means, if you have that much less revenue—and, incidentally, most all of this tax cut

will be borrowed and will be added to the Federal debt—every dollar of tax cut proposed before the budget is balanced is going to be borrowed. But the point is when you are proposing very deep cuts in your revenue, then what happens? You have to make deeper and deeper and deeper cuts in some of the programs that people rely on. Then you have to answer the question that people in this Chamber ask and people around the country ask. What does this mean in terms of the programs that affect me, such as the Medicare Program? What does it mean in terms of the investments in education? What does it mean in terms of building and repairing highways and roads? What does it mean in terms of funding of the National Institutes of Health?

Those are the questions that you have to ask in order to construct a budget that will balance the budget, and those are the questions that are not being asked. I guess the reason is there are not answers.

So we come to the floor of the Senate today to say we are 7 working days in the Senate away from the requirement in law that the Budget Committee act on a budget resolution. It appears no such action will take place. The majority leader on the other side of this Capitol said they may act on some kind of a plan in May. He was unclear about that. That is not what the law requires. The law doesn't require anything other than that on April 1 a budget resolution be adopted by the Budget Committees and by April 15 adopted by the Congress.

As I said previously, it is easy enough to come to the floor of the Senate and breeze on about altering the Constitution of the United States, apparently allowing some people to believe that, if you can alter the Constitution, you would have balanced the budget. Of course, nothing could be further from the truth. Altering the Constitution will not alter the deficit by 1 cent. That will be done by making individual tough choices in taxing and spending decisions. Why are those choices not now being made? Why does there appear that there is no preparation on the part of those who anguished so hard to change the Constitution? Why does there seem to be no preparation on their part to anguish as hard and toil as long to create a budget that will actually balance the budget? Because I think that they have with their cans and brushes painted themselves into a corner promising tax cuts to the tune of $200 billion in 5 years, and $500 billion in 10 years; tax cuts undoubtedly that are popular but tax cuts that they know will require them to make enormously deep cuts in a wide range of programs that are very important in this country.

I believe they simply don't want to describe what those cuts will be and which programs those cuts will come from.

Mr. President, I would be happy to yield such time as may be consumed to the Senator from Illinois, Senator DURBIN.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Illinois is recognized.

Mr. DURBIN. Thank you, Mr. President. I thank my colleague for yielding, and I join him in this statement this morning.

For the last several weeks we have listened to the Republican leaders standing next to stacks of budget books in full-throated pride for balanced budgets, the key to America's economic future, the rallying point for this Nation to come together to balance the budget.

Their call for a constitutional amendment did not pass. It failed by one vote. I voted against it. And what I said then I will say now. The job before us is not to amend the Constitution but to balance the budget. And the two are not the same. Amending the Constitution is no guarantee that we will have a balanced budget tomorrow or the next day. The only guarantee that we can offer the American people is to our actions, actions in this Chamber and the House coming together with the President and reaching an agreement.

Many years ago, there was a Senator from Illinois whose name was Everett McKinley Dirksen. He served with my colleague from West Virginia. Senator Dirksen, in the early 1960's, made a momentous decision and decided to support civil rights legislation for the first time in his career. When Senator Dirksen was asked why, after years of resistance, he came to the point where he supported this legislation, he said, ''There is nothing more pregnant than an idea whose time has come.''

If the idea of a balanced budget has come, the obvious question is why the Republican leadership in control of the Senate and the House has not met their responsibility under the law to put together a budget, to bring it forward so the American people can see what their priorities are. Why in the name of all that is holy would they hold back from this responsibility?

I can tell you why. It is fairly clear. They have a serious problem. The Republicans have overpromised. They have promised tax cuts that create serious problems in balancing the budget. These tax cuts that have been promised by the Republicans this year are in excess of the tax cuts promised in the heralded Contract With America, which was presented for 2 years before Congress. Do you remember that scenario? At that time, the Republicans came forward and said, in the Contract With America, we are going to make the following tax cuts. And in order to pay for those tax cuts, we are going to cut programs.

When you took a close look at those tax cuts, you realized that they primarily went to wealthy people. A lot of us on the Democratic side of the aisle said, now, is that fair, to propose a package of tax cuts at a time when we are trying to balance the budget, when the tax cuts go to the wealthiest people in America? Then we took a look as well and said, well, how will they pay for them?

The proposals coming from the Republican side suggested deep cuts in Medicare, in Medicaid, in environmental protection programs, and college student loan programs, to name but a few. The President said: I will not buy it; it is not fair; we have to balance the budget, but we cannot do it at the expense of these critical programs like Medicare and college student loans and protection of the environment. So the President vetoed their bill.

They said, if that is what the President wants, we will close down the Government, and they did—two separate occasions, the longest shutdowns in the history of U.S. Government occasioned because of the inability of Democrats and Republicans to reach an agreement on balancing the budget.

After that experience came an election, and the American people, I thought, were given one of the clearest choices in our history—on one side, the Dole and Gingrich approach, and on the other side the Clinton-Gore approach and that supported by many of us as Democrats.

I think those were two sharply contrasting views of the world, and I expected the American electorate to speak in one voice and say, given this fork in the road, this is the course we want to travel.

The American people made a decision in the election last November, and they decided they wanted both. They wanted to preserve the Democratic leadership in the White House with the President, but they wanted to preserve Republican leadership in Congress.

Now this odd couple comes together, a Republican Congress and a Democratic President, trying to divine exactly what is the message sent by the American people. I think the message is easy to divine, and here is what I think it is. Balance the budget. Be fiscally responsible. But do it in a way that does not harm the most important programs to American families.

I do not think that is an unreasonable request, and I think it reflects where most Americans stand when they look to our future. Now the President has stepped forward and met his share of the burden. He has produced a budget which comes to balance by 2002, a budget which makes cuts and makes changes that he believes and I believe will reach balance without cutting important programs, and the President adds a safety valve. If he is wrong, if 5 or 6 years from now he has guessed wrong and we end up out of balance, the President has a trigger mechanism that comes in and makes an across-the-board cut to reach balance. Even the Congressional Budget Office, which has not been friendly to many Democratic proposals recently, has had to concede that is a way of balancing the budget. It is a trigger mechanism which will, in

fact, make certain that the budget comes to balance.

So the President put his proposal on the table, and if you follow recent history, in the natural course of events it is now the turn of the Republican leadership in Congress to come forward with their proposal. As was said by my friend from North Dakota, after viewing for weeks stacks of budget books that were viewed with derision by those who supported a constitutional amendment, we cannot find a single sheaf of paper on the Republican side suggesting how they will reach a balanced budget.

The reason? They have painted themselves in a corner. They find themselves in an impossible position. They have overpromised on tax cuts for wealthy people, even more than in the Contract With America, and they cannot figure out how to pay for it and balance the budget. So they have stepped back, removed themselves from the fray, and have basically said to the President, give us another budget now. You gave us one. Let us see a second one.

I am sorry, but the legislation that we have passed involving the budget and the history of these institutions suggests the President has met his responsibility and now it is the responsibility of the Republican leadership to come forward. They understand that if they are going to protect and preserve the tax cuts they have called for, it will force even deeper cuts in Medicare, even deeper cuts in college student loans, even deeper cuts in environmental protection than they suggested 2 years ago. They are in that corner and do not know the way out.

Let me suggest there is a way out. Reduce these tax cuts to those the President has targeted to help working families, make certain they are tax cuts we can afford, make certain as well that we preserve basic programs like college student loans and environmental protection. Let us work together in a bipartisan fashion to chart a course for Medicare that will bring it not only solvency but stability for years to come, and we can come up with this balanced budget. But it is time for the Republican leadership to step forward and to meet their responsibility.

Mr. DODD. Will my colleague yield?

Mr. DURBIN. I will be happy to yield to my colleague from Connecticut.

Mr. DODD. I thank my colleague for yielding. I wanted to make some of the same points. I see my colleague from California here as well.

There has been a lot of discussion about budgets, Mr. President. There has been an additional request now that the President submit yet another budget. Let me just suggest that I think the reception of the President's budget was, initially, encouraging. Our Republican colleagues can be commended for not declaring it ''dead on arrival,'' as we have seen all too often in past budgets. But as has been pointed out, year in and year out there is a dual responsibility not only for the executive branch to submit budgets, but also for those of us in the coequal branch of Government, the legislative branch of Government, which has control over the purse strings, to respond. We must respond in a way that gives the American public an opportunity, one, to either endorse what the President has suggested or, two, to offer alternatives that can be identified and seen so comparisons can be made.

I hope at this juncture the majority here would demonstrate leadership. The Budget Act requires that budgets be sent to the full Congress; that we then submit a budget, have our own budget here, that either duplicates the President or offers some alternatives so that we can then debate out the process and move in the direction that I think all of us have endorsed regardless of where anyone stood on the proposed constitutional amendment. I didn't hear a single Member of this body indicate anything but strong support for achieving a balanced budget as soon as possible, hopefully by the year 2002, for all of the very obvious reasons that the distinguished Senator from West Virginia and others articulated during that lengthy debate. Our colleague from Illinois has already pointed out—and these charts here, I think, give some indication of what we are looking at—the tax breaks that are being proposed. They are actually even larger than last year's proposals.

There are Members who endorse last year's proposals and I presume are in favor of having even larger ones. But I think the American public ought to know what the implications are. As it is right now, over the next 5 years we will be looking, here, at additional tax breaks that are relatively large even over the first 5 years, but then move up considerably over a 10-year period. That ought to be a concern to everyone here. Because, obviously, if we find ourselves again in a deficit situation, even a larger one than we were in the past 10 years, then we will be right back again debating, I presume, constitutional amendments and the like. So we have an obligation to be fiscally responsible.

Mr. DURBIN. Will the Senator yield on that point?

Mr. DODD. Of course. The Senator has the floor.

Mr. DURBIN. Naturally, every politician wants to propose a tax cut. Is there anything that draws more applause in a town meeting than the line that ''we want to cut your taxes''?

Mr. DODD. Of course not.

Mr. DURBIN. But think of what happened when Senator Dole proposed a substantial tax cut as the keystone of his campaign. It fell flat. The American people are skeptical. They want to make sure we keep our eye on the ball, and we have to move toward balancing the budget. Tax cuts are important, but if they are at the expense of balancing the budget, or at the expense of important programs, the American people say, ''Wait.''

Mr. DODD. My colleague is absolutely correct. They not only say ''wait,'' but they also ask the basic question that we all have to ask. If I were to stand here before you and suggest spending increases of $200.5 billion in the first 5 years, and spending increases of $525.8 billion over 10 years, the words would not be out of my mouth before one of my colleagues, either on this side or the other side, would ask me the very fundamental question, the steely-eyed question we are all asked to address today of, ''Senator, how do you intend to pay for this?'' And, if you cannot answer that threshold question, then you have to go back to the drawing boards.

All we are suggesting here is to put our constituencies and the American public on notice of what we are looking at here, that comparing these numbers over the next 10 years, the requests are even larger than they were before, and that we ought to be asking that question, without getting into the specificity of particular tax proposals here, how do we pay for them so we do not find ourselves in the situation that we have been placed in over the last 10 or 15 years with huge deficits?

Let me draw my colleagues' attention as well to this next chart which lays it out exactly. These numbers, by the way, are prepared by the Congressional Budget Office and the Joint Tax Committee. They are not prepared by some partisan group. This is a nonpartisan analysis, a bipartisan analysis. It says, if you took these tax cuts and carried them out to the year 2007, given the baseline deficits already projected, that you are looking at these huge new deficits. This year it is about $120 billion. But if unchecked and unpaid for, those deficits rise to $348 billion, exceeding by almost $50 billion the high-water mark for deficits in the last year, 4 years ago, of $290 billion. So those deficits continue to climb. By the year 2007, or before, we will be right back in the situation we were before. So, I draw the attention of my colleagues to that because I think it needs to be addressed.

How do you pay for these? Again, Members can offer their own solutions. But we are not talking about small change here. These are huge items. Obviously, if you look at the budget, where are the big ticket items that could pay for those kinds of proposals? It has been suggested that Medicare, Social Security, health, education, training, veterans, agriculture, infrastructure—these are the big ticket items, particularly up in this part of the bracket, the Medicare, Social Security, natural resources, health and education. Those are the larger items—veterans as well. Defense could fall into this area, obviously. So we ought to be addressing those issues that are before us.

So we raise this today because we think it is important that we engage in

this debate. We are a legislative body. It is deliberate, it is slow, it can be ponderous. But we are trying to prepare, now, a budget, in the wake of the proposed constitutional amendment to try to get us into balance, to keep those interest rates down so businesses can grow and expand and hire people. We have enjoyed 6 years of sustained economic growth now, in no small measure because we collectively have made progress. And I will not engage in the finger-pointing about who deserves credit or who is responsible—but the fact of the matter is, we have brought those deficits down, now, from $290 billion to $120 billion, actually down to $107 billion at one point. And we ought to be doing everything in our power to see to it we continue on that glidepath so those interest rates do not spike up again, costing American families and this Nation the burdens those increases would bring.

So we are suggesting here today, let us begin work on these. Making a request of the President on a daily basis or hourly basis, ''submit yet another budget, yet another budget, yet another budget'' is not productive. We bear the responsibility as legislators, those who control the purse strings, to respond to the budget the President has sent to us, either by rejecting it and submitting our own, or by proposing, in a clear way for the American public to see, exactly what the priorities will be and how you will pay for them.

Whether it is a spending increase or a tax expenditure, the American public wants to know the simple answer to the question: How do you intend to pay for this? So we are here today to urge our colleagues, who are in the position to most specifically respond to these matters, that in the coming days, rather than spending time by issuing press releases challenging the President to submit yet another budget, to fulfill our constitutional obligations here and to step forward and explain to the American public exactly what our proposals are.

Let me just conclude by saying there are a number of these tax cut proposals that are being suggested which I support. I am not opposed to them. Just as there are spending proposals of which I am in favor. But whether it is a spending proposal I am in favor of or a tax cut I am in favor of, the same question must be asked of either point: How do you pay for them?

So, whether it is capital gains tax cuts, estate tax cuts, or child care credits—there are all sorts of things people are proposing. Whatever it is, what the bulk of it is, the question must be raised: How do you pay for it? If, in fact, these tax cut proposals, as some have suggested, would drive us back into the very situation we found ourselves in only a few short years ago, then I think we have to meet our responsibility, that has not yet been met, of following our legislative mandates and responsibilities.

With that, I see my colleague from California here. I will leave these charts here for her to peruse, and for others who may want to come over and take a look at them. I know she shares similar concerns and thoughts, coming from the largest State in our Union, a State which has contributed much to the general welfare and health of our country. Obviously, whether you live in a small State like mine, Connecticut, or a large State like California, people on the respective coasts and everyone in between in this country want to know the answers to these questions.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, before the Senator from Connecticut leaves the floor, I just wanted to thank him, because we are really running into some statutory deadlines here, and, as he pointed out, because we do sit on the Budget Committee together, these are not just written down for fun. They are serious.

By April 1, the Budget Committee is statutorily required to vote out a budget. On April 15, the Congress is statutorily required to vote out a budget. We, on this side of the aisle, do not control the agenda around here. That is one very strong power of the majority. And believe me, we are sad that we do not have the ability to move an agenda, because if we did, we would have this budget on the floor today. We would be debating it.

Why do I say that? It is because the budget of the United States of America is, in fact, the priorities of this Nation. What we spend on really says to us what we are about as a country. Do we invest in education? The President in his budget says yes.

Do we make sure that our seniors are protected from deep, deep cuts in Medicare and Social Security? Yes, we care. The President cares.

Does the President think we should do more to clean up the toxic waste sites and enforce environmental laws? Yes, he does.

Does he think we ought to invest in NIH, the National Institutes of Health, so we can find cures for diseases, be it breast cancer or prostate cancer or Alzheimer's or scleroderma, all of these things which cry out for attention? The President says yes.

The President says we should put more police on streets into community policing. That is all in his budget.

A budget reflects the priorities of a nation. It tells the country who we are, what we think is most important, and, by the way, all in the context of a balanced budget, so certified by the Congressional Budget Office. So the President has put forward his effort. It is certified by the Congressional Budget Office to balance in 5 years. We have it in writing. We have the letter.

Now we are saying to our Republican friends who control this—they have 55 Senators, we have 45; they are in charge—that it is their responsibility now to bring to the Budget Committee their budget. They do not like the President's budget. They have criticized the President's budget. They have done it day after day. Where is their budget? They are playing hide and seek with their budget, and I think it is time for show and tell. Show us your budget. Where are your priorities?

We only know one thing from Republicans. We know that they want to institute a huge tax cut. The President has a tax cut proposal, and it is modest. It is $98 billion over 5 years. That is what it costs, and it is paid for. What does he do? He calls for tax relief to help middle-income Americans. He calls for a $500 tax credit for dependent children, a $10,000 deduction for post-secondary education, and a proposal to allow married taxpayers to exclude from capital gains taxes up to $500,000 in gains from selling a home. Single taxpayers could exclude up to $250,000. This would exempt about 99 percent of home sales from capital gains taxes. These are the President's tax proposals.

The Republicans have said they want to do $200 billion of tax-cut proposals. So we are saying, ''How are you going to pay for it? Where are your priorities?''

There are two ways to do it in the Budget Committee. One way is for the Republicans to offer their own budget. They have talked for weeks about a balanced budget amendment to the Constitution. Where is their balanced budget? They want an amendment to the Constitution, but where is their actual budget? They don't have it. We don't know what it is. We only know they want to cut taxes over 5 years by $200 billion, over 10 years by $500 billion. Are they going to go back to the big cuts in Medicare, big cuts in education that we fought off last year? Remember? The Government shut down over these very proposals because President Clinton and the Democrats in Congress said, ''Absolutely not, we're not going to do that to benefit the very wealthy.''

A recent study shows that the top 1 percent of taxpayers would get an average tax break of more than $21,000, and that is extraordinary—the top 1 percent.

Mr. President, I reiterate that right now, the Senate has only 7 working days prior to the April 1 deadline for the Budget Committee to bring a budget to the floor—7 working days—and the Budget Committee, on which I am proud to serve, does not even have a markup scheduled. Why is this? The President put his budget forward. The CBO has certified that it does reach balance in 5 years. June O'Neill signed the letter. I ask unanimous consent to have that letter printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 4, 1997.

Hon. FRANK R. LAUTENBERG,
Ranking Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR SENATOR: You asked whether the alternative set of policies proposed by the President in the event that Congressional Budget Office projections are used in the budget process would achieve unified budget balance in fiscal year 2002.

As we described in our March 3 preliminary analysis of the President's 1998 budgetary proposals. ''the alternative policies proposed by the President were designed to fill exactly any size deficit hole that CBO might project under the basic policies.''

I hope that this answer meets your needs.

Sincerely,

JUNE E. O'NEILL.

Mrs. BOXER. Mr. President, the President has submitted a balanced budget. In that balanced budget, he protects Medicare and he protects Social Security. He moves forward with an investment and commitment in education and the environment and health research and transportation and putting more community police on the streets. This is a good budget, and if the Republicans don't like it—and I don't expect them to like it, that is why there is a difference in the parties here, we know we have different priorities—let them come forward with a budget instead of playing hide and seek.

We only know one thing they want, and that is tax breaks to the very wealthy. They have put that out there. The President calls for $98 billion of tax cuts over a 5-year period. Those are targeted to the middle class so that when you sell your home, you will not have to pay capital gains taxes; so if you send your child to college, you can write off $10,000; so if you have children, you can exercise tax credits. These are modest tax breaks for the middle class.

The Republicans, on the other hand, have a tax break that is so huge that it is going to cost $200 billion. A recent study shows the top 1 percent of taxpayers would get an average tax break of more than $21,000 while 99 percent of the rest of us do not get that benefit. So it seems to me we are going back to the battle that we had last year when the Government shut down.

But this is even worse. They will not show us their budget. Where is it? We know the tax cut part. Where is the spending part? Where are we going to get the money to balance in the year 2002 to pay for those tax cuts? Are you going to do what you did the last time, take $200 billion out of Medicare? I hope not. That brought the Government to a shutdown.

So I just am very confused. I can understand why my Republican colleagues would not like the President's budget. I can understand that. Frankly, I think the budget the President put forward is an excellent product, and it makes the investments we need to make while protecting our priorities. It has tax breaks for the middle class. It balances by 2002. I think it is a budget that the American people will get behind. But I know that my Republican colleagues criticize everything this President does, and they are going to find some things in that budget they do not like. It is fair. It is absolutely fair for them.

But I will tell you what is unfair. It is unfair for them to point the finger at this President, by the way, and tell him to go back and redo it. That is what they are telling him to do. ''Go back and do a second budget,'' they say, when they have not even put a first budget forward. Let us see their first budget. Let us see their first budget. Maybe if they do a first budget, they will have some authority to say they want a second budget from the President.

But the President has put his best case forward, certified by the CBO to balance, that protects Medicare, protects Medicaid, invests in our children, invests in the environment, invests in health research, puts more cops on the beat. And it is being ridiculed and criticized, and they say, go back and do it all again. Look, it is irresponsible at this point that we do not have a markup of a budget.

If they do not want to produce a budget, I have another scenario. Let them take the President's budget, which they do not like, and amend it.

If they want to make the tax cuts bigger, make the tax cuts bigger. Offer an amendment to make the tax cuts bigger, and show us how you are going to pay for it.

You want to cut education? Have the guts to do it. Write an amendment. Tell the American people you do not think it is a priority.

You want to cut out Environmental Protection Agency enforcement? Have the guts to offer an amendment.

You want to spend less on health research, transportation? That is fine. That is your right. But what I do not think is your right is to criticize and point fingers at the President, tell him he has to go back and write a new budget before you even put your budget out there, all but your tax cuts—all but your tax cuts.

Well, that is the easy part, folks. I love to talk about the tax cuts in the President's budget because I have to think they are very helpful to our society. But at the same time we have to make some tough choices in the budget, some tough choices all the way across the board. And that is what the President has done.

So we have 7 working days to meet the April 1 deadline for the Budget Committee. We have only 14 working days before the deadline for final congressional passage. And the Republicans have no budget, or if they have a budget, it is in somebody's pocket or it is in some back room. It has not been brought out yet. I just think we are asking for trouble. We are going to miss these deadlines and are not going to do our work.

As I said when I listened to the debate on the balanced budget amendment, I believed that people on both sides of that issue wanted to balance the budget. They had disagreements over whether you need to put it in the Constitution, but I surely believed once we disposed of that issue, we voted on it, we would get to the hard business of balancing the budget. But it is awfully difficult to do it when the only one who has put out a balanced budget is President Clinton, and the other side is poking holes at it, pointing fingers at it, telling him to go back and do it again. They have yet to come out with a budget. This is not a level playing field around here. It just does not make sense. It is not fair. And I think the American people will understand.

There is a lot of time around here to dedicate yourself to lots of other issues—finger pointing and all the rest on campaign contributions and all of that. And I say, campaign finance reform is very important. We ought to bring that to the floor, too. That would probably be a real step forward for the American people. Bring forward the budget debate, bring forward the debate on campaign finance reform, two issues that are important to the country. But I do not see either of these headed for the Senate floor. I think that is most unfortunate.

There is lots of time for other things, but not the things that I believe are very pressing matters. Certainly the most pressing is the budget, because the budget is what our priorities are about.

When you sit down with the family and go over the monthly expenditures, you make some very important decisions, don't you? If we buy a new car, how much do we need to set aside for that car payment? Gee, maybe we should put that off a year and do something else. Maybe it is time that the family took a family vacation. So you decide to put off the new car, take the family vacation. We make these decisions in our families.

The American family needs to make its decisions, and it is called a budget. It is where we make the very important decisions. How much do we need to defend this country against all enemies foreign and domestic? How much do we need to get our children ready for that work force?

Today, we had a wonderful east-west initiative, a very bipartisan initiative. It included Senator HATCH, Senator FAIRCLOTH, Senator KENNEDY, Senator MURRAY and myself; Massachusetts, California, Utah, Washington State, and North Carolina. This was a great bipartisan initiative. It is about job creation, and it is about our working together to make sure that in this country we make the investments we need in new technologies, we make the investments we need in education, we make the investments we need at the FDA so new drug approvals move swiftly. These are the issues that Republicans and Democrats alike came together around today.

I will tell you, if we do not get moving on a budget, Mr. President, if we do not come together as Republicans and Democrats and work together, we are just going to come to a dead stop because out in the real world they meet deadlines—they meet deadlines.

If you have a new product and you have to get it out to the marketplace, you better not have delays, because if you have delays in getting that product out to market, you can go bankrupt.

Well, around here, statutory deadlines do not seem to mean much. Maybe I am wrong. Maybe my budget chairman right now is preparing to offer the Republican budget. He will lay it down next to the Democratic Clinton budget. We will look at the similarities. We will join hands. We will look at the differences. We will fight those out. We will look at the tax cuts. We will come together and move on.

But I would say—and the reason several of us came over here today to talk about this—that time is moving, the clock is ticking. We have not seen the budget. We know what your tax cuts are. Where are your cuts? What are your priorities?

I just hope that we can get back to why we were sent here. I mean, everybody said after this election it is time to put behind the rancor. But I think there is rancor when you point the finger at the President, in spite of the fact that the CBO said his budget balances, and tell him first, it does not balance, and second, do it again, when you have not even put your product on the table, except for your tax cuts, which benefit 1 percent, the top 1 percent of the people in this country instead of the middle class.

We have a lot of work to do. I look forward to seeing the Republican budget, finding those areas of agreement, working on those areas of disagreement, getting this budget down to the floor by the statutory deadline and moving forward.

Mr. President, I have the honor of not only serving on the Budget Committee but serving on the Appropriations Committee. This is, really, an extraordinary opportunity for the Senator from California to have both those assignments. I have an opportunity to debate the large priorities and then get it down to within those priorities—what is the most important investment to make, and in the context of a balanced budget, I might add. And I voted for several of those, one that Senator CONRAD wrote, and one that former Senator Bill Bradley wrote.

I am ready to make those tough choices. I like to believe my colleagues on the other side of the aisle are ready to make those tough choices. We should come together. The clock is ticking. So, we should do it, Mr. President. I hope we will back off this finger pointing at the White House. I hope we will look at this President's budget. I hope the Republicans will present their budget and we proceed to mark it up and proceed down the path of bipartisan cooperation so this country has a budget which is, in fact, our priorities.

Thank you, Mr. President.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. The galleries will refrain from any demonstration of clapping, please.

The Senator from West Virginia.

Mr. BYRD. I thank the Chair for calling the attention of the Senate rules to the galleries.

UNANIMOUS-CONSENT REQUEST—PERMISSION FOR COMMITTEE TO MEET

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 12, for the purpose of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider S. 104, to amend the Nuclear Waste Policy Act of 1982.

Mrs. BOXER. Mr. President, I object on behalf of two Senators.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, if I could be further heard on this, and I will be relatively brief, I must say, I think this objection is, at the very least, very unfortunate. It has been my understanding that we are operating in good faith with respect to the confirmation of Mr. Peña and the markup of the nuclear waste bill.

I have made a special effort to get this nomination up this morning. We had a lot of communication with the ranking member, the chairman and other Members interested in the confirmation of the Secretary of Energy designee, with the understanding, clearly, that the nuclear waste bill could go forward.

Since this objection has now been raised, the Energy Committee cannot complete its business with respect to reporting out the nuclear waste bill today. It is my understanding they will reconvene tomorrow at 9:30 in order to take action on this very important nuclear waste bill.

I say again, I have been trying to be cooperative in trying to move nominations. I worked with those who had objections in the committee. I helped work out a process where the chairman could schedule this nominee for a vote, and then I worked with the other objections we had on this side of the aisle from the Senator from Minnesota, Senator GRAMS. He was able to make his remarks this morning.

We agreed that we would have a vote at 12:30, or quarter to 1, I believe, now, all this under the assumption that we were working in good faith. Now we have an objection to the committee meeting to report out a bill which has overwhelming support of the full Senate and will have overwhelming support in the committee.

This is not a good sign, but it is just one of many bad signs that we are seeing, in my view, from the standpoint of being able to work together for the good of the country. So it is a very unfortunate decision, and it will not be without consequences. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, as the majority leader knows, every Senator has a right to make such an objection, and two of our Senators decided to exercise their right. I think that has to be put into context that every Senator is sent here primarily to represent his or her constituency in his or her own State.

I don't think the majority leader would suggest that Senators do not have the right to protect their constituency. I wanted to make that point because two Senators, who believe that this is not in the best interest of their State, had asked us to exercise their full and given rights as Senators to object to this meeting.

Mr. BYRD. Mr. President, I understand that the Senate will vote at 12:45.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, I ask unanimous consent I may speak until 12:45 as if in executive session.

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

NOMINATION OF FEDERICO PEÑA TO BE SECRETARY OF ENERGY

Mr. BYRD. Mr. President, I wish to voice my support for the nomination of Federico Peña to be Secretary of Energy during President Clinton's second term in office.

Mr. Peña served ably as Secretary of Transportation during the first Clinton Administration, and I look forward to working with him as he assumes new responsibilities at the Department of Energy. The challenges at DOE are vast, and Mr. Peña's management skills and ability to work with different groups should prove very useful in responding to the complex issues which are the responsibility of the Department of Energy.

Prior to joining the Clinton Administration, Mr. Peña served as Mayor of Denver from 1983 to 1991, and as a Colorado legislator. During his tenure as mayor, Mr. Peña played an active role in reviving the Denver economy from its mid-1980s decline through a series of bold initiatives. At a time when major new international airports were not being built in this country, he gained approval for one of the largest and most technological advanced airports in the world. As Secretary of Transportation, Mr. Peña proudly participated in the dedication of Denver International Airport in February, 1995.

While he served as Secretary of Transportation, I worked closely with

Secretary Peña regarding the transportation issues in my home state of West Virginia. He now moves to a department that has responsibility for a different set of issues, but issues that are very important to the current and future economic prosperity of my state. Coal is not only a major economic and employment influence in West Virginia, but coal is a critical component of our national energy picture. At the present time, and projected into the future, fossil fuels remain the dominant source for our energy supply picture. At present, fossil fuels supply 85 percent of our energy requirements. Coal is the source of 55 percent of our nation's electricity. So policies that affect coal and the role of fossil fuels in our energy picture are of great interest—not just to the states that are the source of these fuels but also to the nation as a whole because of the potential for significant disruption if abrupt changes are recommended without giving the economy a chance to prepare and adjust.

As Ranking Minority Member of the Senate Appropriations Committee, I look forward to working with Secretary-designate Peña on our energy policy issues. In addition to serving as the Ranking Member on the Interior Appropriations Subcommittee, I also serve on the Energy and Water Development Subcommittee—both of which have jurisdiction over parts of the DOE budget. At a time of constrained budgets and pressure to downsize the Federal workforce, we must also be attentive to the realities of our energy supply picture. Thus, I have been, and will continue to be, supportive of investments in technology development that will contribute to our using and producing energy more efficiently, as well as producing energy in more environmentally-sensitive ways. The Department of Energy has a visible physical presence in West Virginia at the Federal Energy Technology Center facility in Morgantown, which employs some 550 persons directly and under contract. I look forward to working with Mr. Peña to ensure a continued future for this important part of our Federal technical infrastructure.

There is a need within the Administration for a strong voice on behalf of fossil energy, and particularly coal, and I believe Mr. Peña is capable of meeting this challenge. I wish him well in his new job, and urge my colleagues to support his confirmation. I yield the floor.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent we extend for 2 minutes the debate.

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

The Senator may proceed for 2 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I want to say I do support the nomination of Secretary Peña. However, I think it is very important that this new Secretary take the opportunity to set an energy policy in this country that says to the American people that energy self-sufficiency is our goal. We should be able to create energy through our own natural resources, not only to create jobs in America, but also to make sure that our country is strong with energy self-sufficiency.

I am going to work with Senator JOHN BREAUX, my cochair of the Oil and Gas Caucus, to try to make sure that we take the duplication of regulation off of our oil and gas industry. Where State regulators are able to handle the issues, we should let it happen at the State level rather than the Federal Government duplicating the regulations which become costly and burdensome to our oil and gas industry. Why not put that money into new capital creations, to create new jobs in our country, rather than going through more bureaucratic morass that so hampers our businesses?

I also want to give incentives, incentives to drill and explore for our own natural resources, especially marginal drilling that is more expensive. Why not give incentives so we can create the jobs in America and also create energy resources for our country that would make us more able to be sufficient?

Mr. President, it is very important that the new Secretary come with the full support of the Senate. I hope that he will be committed to a strong energy policy for our country and that he will also take seriously the requirement that we work for the new alternative MOX fuels that will, I hope, come from the nuclear weapons that we are in the process of dismantling. I hope he will take the opportunity to visit Pantex in Amarillo to see what can be done with this great MOX fuel opportunity, to use the aging nuclear weapons in our arsenal.

In supporting this nomination, I would like to briefly discuss two issues of importance to my State of Texas and the Nation.

Mr. President, a healthy and competitive oil and gas industry—capable of producing adequate and affordable energy supplies—is crucially important to the U.S. economy and to the welfare of the American people. This is especially the case at a time when U.S. companies and workers face growing competition in the global economy.

As cochairman, of the Congressional Oil and Gas Caucus, I am concerned that U.S. policy, taken as a whole, has overtly encouraged increasing oil imports over expanding domestic production. I look forward to working with Secretary Peña to reverse this trend and to create conditions that foster a competitive and healthy oil and gas industry.

This year, I will be working with my colleagues in the House and Senate to continue our goal of reducing or eliminating redundant or unnecessary regulations on this industry. For example, there are many regulatory requirements to address the same concern imposed at both the Statese co- and Federal level. Where possible, we should eliminate one level of identical regulations, which have destroyed jobs, raised consumer prices, and sent American business to foreign countries. I look forward to working with Secretary Peña on these objectives.

I believe in most cases the State regulations should be given the greater deference.

I will also be working with my colleagues to provide tax incentives which encourage oil and gas drilling and production, especially for marginal wells and formations which are difficult to develop.

I know all the members of the Congressional Oil and Gas Caucus look forward to working with Secretary Peña on these issues and to ensure that Government policies which affect the oil and gas industry are the result of sound and informed decision making.

Mr. President, I would like to turn briefly to a second and final issue of concern to Texans and the Nation—the continued transformation of our Nation's nuclear weapons complex and the important work being performed at he Pantex Plant near Amarillo, TX.

Our victory in the cold war signaled the end of the arms race, but it has focused our current efforts on arms reductions. A benefit from these reductions is the potential energy source of special nuclear materials from dismantled weapons.

Just a few months ago, Department of Energy officials announced their intention to process excess plutonium into mixed-oxide, or MOX, fuel for use in commercial nuclear reactors.

Pantex has been the Nation's premiere nuclear weapons production site since 1951. Today, it is the only authorized site to assemble and disassemble weapons. Currently, the plant stores all the plutonium removed from dismantled weapons.

The 3,400 workers at Pantex played a key role in our cold war victory and their expertise in safety and security handling and storing plutonium should not be ignored as the Department searches for a MOX fuel fabrication site. The excellent safety record, cost savings and efficiencies established at Pantex over the last 40 years make it the ideal candidate for new DOE work.

As DOE proceeds with its assessments of potential sites, I invite Secretary Peña to visit Pantex so he can see firsthand the world class facilities and professionals available to the Department of Energy near Amarillo and in the Texas Panhandle.

I also ask Secretary Peña to take a close look at the safety and reliability of our nuclear stockpile. I am concerned that with an end to our nuclear testing, computer modeling alone will not be sufficient to maintain our deterrent nuclear capability. I hope that together with the Secretary of Defense, Secretary Peña will take a close look at how we manage and maintain this critical capability.

I look forward to working with Secretary Peña on these and other important issues. The next Secretary of Energy has a great opportunity to give our country an energy policy that values energy sufficiency for our country.

I thank you for this opportunity to speak on behalf of Secretary Peña. I yield the floor.

Mr. DOMENICI. Mr. President, I ask unanimous consent to speak for 30 seconds.

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

Mr. DOMENICI. Regarding soon-to-be-confirmed Secretary of Energy Peña, I want to tell the Senate I know him and his family very well, in particular his wife, who went to school with my children. We are good friends. I do not support him on that basis only. I think he is ready to undertake this very difficult job. I wish him well.

I think we can work together to make the Department of Energy a better department under his administration. I look forward to working to that end. I yield the floor.

EXECUTIVE SESSION

NOMINATION OF FEDERICO PENA, OF COLORADO, TO BE SECRETARY OF ENERGY

The PRESIDING OFFICER. Under the previous order the Senate will now go into executive session and proceed to vote on the Peña nomination.

Mrs. HUTCHISON. Mr. President, 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.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Federico Peña, of Colorado, to be Secretary of Energy? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. ROBERTS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 30 Ex.]

YEAS—99

Abraham	Coats	Glenn
Akaka	Cochran	Gorton
Allard	Collins	Graham
Ashcroft	Conrad	Gramm
Baucus	Coverdell	Grassley
Bennett	Craig	Gregg
Biden	D'Amato	Hagel
Bingaman	Daschle	Harkin
Bond	DeWine	Hatch
Boxer	Dodd	Helms
Breaux	Domenici	Hollings
Brownback	Dorgan	Hutchinson
Bryan	Durbin	Hutchison
Bumpers	Enzi	Inhofe
Burns	Faircloth	Inouye
Byrd	Feingold	Jeffords
Campbell	Feinstein	Johnson
Chafee	Ford	Kempthorne
Cleland	Frist	Kennedy
Kerrey	Moseley-Braun	Smith, Bob
Kerry	Moynihan	Smith, Gordon H.
Kohl	Murkowski	Snowe
Kyl	Murray	Specter
Landrieu	Nickles	Stevens
Lautenberg	Reed	Thomas
Leahy	Reid	Thompson
Levin	Robb	Thurmond
Lieberman	Roberts	Torricelli
Lott	Rockefeller	Warner
Lugar	Roth	Wellstone
Mack	Santorum	Wyden
McCain	Sarbanes	
McConnell	Sessions	
Mikulski	Shelby	

NAYS—1

Grams

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

CAMPAIGN FINANCE AMENDMENT TO THE CONSTITUTION

Mr. HOLLINGS. Mr. President, in accordance with the unanimous-consent agreement, I call up Senate Joint Resolution 18 on behalf of myself, Mr. SPECTER, Mr. DASCHLE, Mr. BYRD, Mrs. BOXER, Mr. BRYAN, Mr. BIDEN, Mrs. FEINSTEIN, Mr. REED, Mr. REID, Mr. CONRAD, Mr. DORGAN, Mr. FORD, and Mr. HARKIN, and ask the clerk to report.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Joint Resolution 18, which the clerk will report.

The legislative clerk read as follows:

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

The Senate proceeded to consider the joint resolution.

Mr. HOLLINGS. Mr. President, in a line, what we say is that the Congress is hereby authorized to regulate or control expenditures in Federal elections.

Let me say that I come now to this particular subject of a constitutional amendment, which we have been on for over 10 years, with some hope, because I noticed on yesterday, Mr. President, we had a fit of conscience. We were about to pass a resolution that said Congress was only going to look at illegal contributions and not at improper ones, and, finally, in a fit of conscience, the Congress, particularly here in the Senate, decided that was not going to fly. It would appear to be, if we took that course, a coverup whereby we did not want to get into soft money and all of these other extravaganzas, legal as they are, says the Supreme Court, but as improper as can be.

That is what is causing the headlines and the consternation and the money chase that we read in the headlines and news stories. We had a fit of conscience when we passed the 1974 act. This act came about due to the untoward activity in the 1967 and 1971 Presidential races. In the 1967 race, President Nixon had designated Maurice Stans, later the Secretary of Commerce, to collect the money.

And I will never forget; he came to the State of South Carolina, and he told our textile friends, ''your fair share is $350,000,'' almost like the United Fund or Community Chest. Well, I had been their Governor and everything else and had never gotten $350,000 out of the textile industry, and they were all my friends. But the ten of them, at $35,000 apiece, got up the money, and more than that. There were other large contributions, including one of $2 million from Chicago.

The fact was, after President Nixon took office, Treasury Secretary John Connally went to the President and said, ''Mr. President, you have got a lot of good support and you have not even met these individuals much less thanked them. Why not come down to the ranch and we will put on a barbecue and you can meet and thank them.'' President Nixon said, ''fine business,'' and they did. But as they turned into the weekend ranch barbecue on the Connally Ranch in Texas, there was a big Brinks truck. Dick Tuck, the prankster from the Kennedy campaign, had stationed a truck with signs out there. A picture of it was taken. And we in Washington, Republican and Democrat, said, ''heavens above, the Government's up for sale.'' Thereafter, you had the extremes of Watergate, which everyone is familiar with. So, in 1974 we had a fit of conscience. Yes, everybody thought they had advantages with respect to getting the money. They had gotten here on the ground rules as they then appeared, and said ''Why change? I can operate as the rules are.''

But, with that fit of conscience, we came and passed the 1974 act. I want to remind everyone that this was a very deliberate, bipartisan effort at the time. It set spending limits on campaigns, limited candidates' personal spending on their own behalf, 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.

When you hear the debates, some of the new Members will come on the floor talking about what we really need is disclosure. That is what we have, still, under that 1974 act. I am required to record every dollar in and out with both the Secretary of the Senate on the one hand and the secretary of state back in the capital of my State, Columbia, SC, on the other. We have complete disclosure. You cannot take cash.

I had always thought it was illegal to take a contribution on Government property. And we thought we had soft money and independent contributions regulated.

But, in Buckley versus Valeo they stood the original intent of the Congress on its head. It is this original intent of limited expenditures in Federal elections that our constitutional amendment is offered, in a bipartisan fashion, with the distinguished Senator from Pennsylvania, Senator SPECTER, and myself in the lead, along with the strong support of those I have enumerated.

Now, back to the fit of conscience. I initiated this particular approach, in frustration, over 10 years ago, after realizing, like a dog chasing its tail, we were not getting anywhere. We had voluntariness prescribed by giving certain amounts of money if you voluntarily limited. There was free TV. You had public financing. You had all the different little tidbits of the different bills that have come around.

Necessarily, I support them for the simple reason I am looking for votes. I am looking to finally get a concurrent majority of 67 Senators, so I do not want to turn off any of these sponsors, even though I know there are constitutional questions under the Buckley versus Valeo decision. But the real opposition is not the freedom of speech under the first amendment in the Bill of Rights to the Constitution. The real opposition, if you please, is a small group among us Senators who feel like this money is a tremendous advantage and they are not going to give it up.

I know where the opposition lies. It is in the very thought that we are not spending enough. As was said in the debates here on the floor: ''On Kibbles and Bits cat and dog food we spend $4 billion; why don't we spend $4 billion on national elections?'' So I hope we can flush those who really believe this to come up and debate this idea on its merits.

They will come under the cover of the freedom of speech. It is very interesting that what we have under consideration is paid speech, not free speech. Heavens above, we have all the free speech that you can think of.

I remember for 20 years in politics we had more or less a one-party system in my State. We would go around stump speaking, as we call it, from county to county. In some of the larger counties several speeches were made. Each of the candidates would come and get up on the stump and say what they stood for. The battle was not in the financial arena; the battle was in the political arena. It was not who had the most money but who had the better ideas, the better initiatives, the better vision, the better programs. But they have tried, following the Buckley decision, to equate just exactly that. What you pay for is free.

It amuses me when they come up here and read the Washington Post editorials. Go down to the Washington Post and say, ''Now I want some of that free speech. I would like about a quarter page of that free speech, or a half page of that free speech you just editorialized about.'' And they will say, ''Son, bug off. There is nothing free down here in this newspaper. You are going to have to pay for it, and you are going to have to pay for it under our rules and our regulations and our limits.'' The very crowd editorializing about free speech is the very crowd that is demanding their pay—paid speech. So let us not come here with an adulteration of the first amendment.

As Judge J. S. Wright stated in the Yale Law Journal, ''Nothing in the first amendment commits us to the dogma that money is speech.'' That was their finding. But, unfortunately, the Supreme Court found that you should have total freedom with respect to spending, speech, and politics. But when it came to the contributions, the court's Buckley decision amended them. They may come now and say the first amendment has never been amended in 200 years. They are very authoritative, but Buckley versus Valeo amended the first amendment. It limited speech of those who contribute.

What did Chief Justice Burger say about that? I will quote from the Buckley versus Valeo dissent of the Chief Justice.

> The Court's attempt to distinguish the communications inherent in political contributions from speech aspects of political expenditures simply will not wash.

That was Chief Justice Burger. And, as everybody with common sense knows, here was the original intent. Here were the big ads. Here were the big contributors. Here was all the cash and the corruptive influence of large amounts of money. And after Congress acted in a bipartisan fashion in 1974, here came the United States Supreme Court, in a 5-to-4 decision, if you please, and by a 1-vote margin, with this distortion, this more or less amendment of the first amendment.

Certainly it is an amendment with respect to contributors' speech. If I am a contributor and I want to contribute to the distinguished Presiding Officer, I am limited in my speech, my political expression. I can only give him $1,000 in his primary and $1,000 in his general election. That is the limit in Buckley versus Valeo, amending, if you please, the first amendment to the Constitution of the United States.

We act as if, Mr. President, there is some sanctimony or sanctified position of the first amendment, and, of course, the Senator would agree in a breath that there should be. We should really approach amending the Constitution of the United States with trepidation. I know some of the arguments are: Wait a minute, the President's got one on victims rights, and others have one on prayer in school. Somebody else has a constitutional amendment about the flag. Someone else has another constitutional amendment. This is an exception, already written in the Constitution and recognized in the Constitution in the 24th amendment, the influence of money on political expression, the influence of money on the freedom of political speech.

I have to emulate the distinguished leader from West Virginia, the Honorable Senator ROBERT BYRD, who says he carries his contract up here in his left-hand pocket, and I find that is a pretty good habit.

Let me read amendment 24, section 1:

> The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.
>
> Section 2. The Congress shall have power to enforce this article by appropriate legislation.

So they said, if you are going to put a financial burden on the voter that he can't participate in the freedom of political expression because of a tax, that is unconstitutional, and we have expressed already in that 24th amendment our abhorrence of the financial influence and corruption, so to speak, upon political expression.

In a sense, it gives us one man, one vote. The poorest of the poor can cancel out the richest of the rich. I can take Bill Gates and say, ''Ha-ha, I vote the other way,'' and his vote is gone. I can take Steve Forbes and say, ''Ah, yeah, you can pay your own $35 million,'' or whatever it was, ''to get in the race at the last minute and mess up Bob Dole.'' I better not get off on too candid a delivery here this afternoon. But, in any event, Steve Forbes cannot only buy a vote, he can buy several States in the primaries. He has proven that. But when it comes down to one vote, I can cancel him. That is the greatness of our democracy, our republic form of Government.

Here we are coming around and talking totally out of mystery and nonsense about the unlimited freedom of speech, that it has never been amended in 200 years. I want the Senator from Kentucky to come, because we are going to read those amendments. One, obviously, is with respect to public safety. You can't walk into a theater and shout, ''Fire.'' That is a limit on your freedom of speech and an amendment of the first amendment.

You have the exemption for national security with respect to disclosing secrets of the Government itself. Senator MOYNIHAN just sent around a book this thick about secrets and classifications and everything else. Perhaps the distinguished Senator is correct, we ought to do away with at least half of them, because when you see that book, you say, ''We are overwhelmed now with the so-called classified, the so-called eyes only, the so-called top secret.''

Although we have the best of the best intelligence systems, we didn't even know about the fall of the wall. It happened, and we all got the news within 24 hours. The intelligence community S2175—and

I was on the Intelligence Committee at the time—had nothing to say. We were talking about all the other extraneous things, but nothing about the greatest happening, in a sense, in the last generation of our time.

So we have the exception, too, for fighting words, where they would provoke retaliation or cause retaliation. We know about that one.

We know about the exception for obscenity. In fact, the FCC has been given the authority—we had the seven or eight little dirty words on a radio station out on the west coast, and that decision, Pacifica, went all the way up to the U.S. Supreme Court, and we found out that, yes, the Federal Communications Commission, the entity and agency of the executive branch, the administrative body, could determine whether or not it was a violation on the public airwaves of obscene talk and speech, and that is limited. We said it could be limited. We legislated that it could be limited.

False and deceptive advertising. If you want to come up to just 2 weeks ago, Mr. President, they had the buffer zone—I hate to raise the question of abortion—but by legislation, they put a buffer zone around these abortion clinics, and those who demonstrate and say, ''Wait a minute, we have the freedom of speech,'' the Supreme Court ruled 2 weeks ago, ''No, you don't, not in that buffer zone, keep your mouth shut, stay out of that zone, your freedom of speech is limited.''

Mr. President, I certainly want to hear from the distinguished Senator from Nevada. He has been a strong supporter and leader in this particular cause, and he has other commitments. So, at the present time, I yield the floor.

Mr. BRYAN. Mr. President, I thank my good friend for his courtesy and his most generous remarks and to say, again, as I have on previous occasions, that I am very pleased to be a supporter of this constitutional amendment that he has authored each and every Congress that I have been here since 1989. I believe what we are discussing today is central to the issue of meaningful campaign reform, and I want to publicly commend him for his leadership and express my admiration for him and my conviction that I share with him that this is the essence of what we need to do.

Let me just say that I believe that the most corrosive force in our political culture today, and what lies at the heart of many problems in our political system, is the amount of money required to run a campaign for elective office. Money has become the dominant factor in deciding who runs, who wins and, too often, who has the influence and power in the halls of Government.

Mr. President, I don't say that with a partisan vein. That is true with respect to the system that we are all a part of—Democrats, Republicans and Independents alike.

Every year, the expense of campaigning increases, and the pressure to seek financial support, wherever it can be found, intensifies. Clearly, good people are trapped in a system where the amount of money needed to run a campaign can overshadow their views and the issues. Too often, candidates are forced to spend as much time raising money as going out and meeting the voters or to develop responsible solutions to the critical issues that face our society.

It is a fact that all of us would acknowledge that every night here in Washington someone has a political fundraiser, either a Democrat or a Republican running for office, running for reelection.

And much like an ever-escalating arms race, the cost of Senate campaigns have increased sixfold over the last 20 years, from $609,100 in 1976, to $3.6 million in 1996.

The average cost for a winning House candidate during that same period of time increased from $87,000 in 1976, to $661,000 in 1996.

And between 1992 and 1996, fundraising by political parties increased 73 percent.

Simply put, Mr. President, there is too much money in the political process.

Mr. President, the recently concluded Presidential and congressional campaigns were the most costly ever in American political history, with combined amounts of more than $2 billion. The two parties raised $263.5 million in soft money in the 1996 campaign, almost three times the amount raised in the 1992 election.

Unless the rules are changed, candidates and their parties will continue to pursue the money chase and the amount of money involved in future campaigns will continue to grow exponentially.

Mr. President, I might make an aside here, if the distinguished primary sponsor has a moment for me to expand for just a moment.

Mr. HOLLINGS. Sure.

Mr. BRYAN. And I say that we all lament the declining participation in the political electoral process in America. The 1996 election turnout was said to be the lowest since 1920. I would offer this as at least a significant contributing factor. There is no question the folks back home are pretty upset with those of us who serve in the Congress. I believe that that is their thought, seeing each party and each of us who are part of this system—I want to be clear, Mr. President, I include myself as being part of this system—who are forced to go out there and raise these inordinate, scandalous amounts of money to be competitive—to be competitive.

In the State of Nevada, it was about $3.5 million for my last campaign for reelection to the U.S. Senate. They see this. And I think it has engendered a sense of public cynicism that all of this money that is involved—I believe in the public mind, they frequently link the big money, the big contributors to the political system that we have today. And because most of them are not in the category of being big money contributors, they have been turned off. The system no longer works for them, the system is no longer responsive to their needs, is their perception.

So, as a result, I hear good people, Democrats and Republicans alike, in increasing and in alarming numbers saying, ''I'm not going to vote. I'm not going to vote.'' I do not agree with that proposition and get into spirited discussions. ''What difference does my vote make? Look, the folks who have got the money, they're the ones who really control the electoral process in America today. Why should I get involved?'' And I must say, as we see these campaign expenditures continue to mount, I believe that we provide the evidence for their rising levels of cynicism.

I was a young man in the State legislature in the 1970's, and the centerpiece to the Watergate reform was, as the distinguished junior Senator from South Carolina has pointed out, the concept of controlling and limiting the amount of money that is spent in running for office.

The other provisions which continue to survive—individual campaign contribution limits and the Federal Election Commission disclosures, the distinction between soft money and hard money—which are still very much a part of the political environment, have survived, to some extent, successive legal challenges in the courts.

But the centerpiece, limiting the amount of money spent for running for office, has essentially been eviscerated by the Buckley versus Valeo decision. I was in the legislature and responding to some of the reforms that came out of the Watergate Congress. We adopted, in the State of Nevada, a series of campaign limitations. Those, too, fell by the wayside by the Supreme Court's decision in the Buckley versus Valeo case in 1976, which I believe to be an ill-considered decision, but which, as everybody in this Chamber knows, essentially equated political expenditures on behalf of the individual candidate as being tantamount to free speech, and any attempt to limit the amount of money that a candidate can spend is constitutionally infirm.

I must say, recent decisions in the Court, and the recent Colorado decision, give us no hope to believe that the Court is about to reconsider its position. It is my humble opinion that the Colorado case has made matters even more difficult and has continued to shred what vestiges remain of a comprehensive and, I think, carefully thought-out campaign finance reform legislation in the aftermath of the Watergate.

Amending the Constitution is not something that should be undertaken lightly. That admonition is frequently given by our colleagues. And they are

right. We ought not just to do that. We ought not to think of the Constitution as a rough draft that we can improve upon with a wholesale series of amendments. I agree with that admonition.

But I would say, Mr. President, with great respect, that our forefathers could never have anticipated the consequences of the electoral system they put in place, with all of its checks and balances and with the genius that we all revere, Democrat and Republican alike, that this has increasingly become a money chase. So it seems to me we have two choices: To either do nothing and to allow a situation which I believe to be appalling to get measurably worse, or we can take corrective action.

The American people want us to take corrective action. The American people do not fully understand that it is the Court's decision itself that prevents us from legislative action to impose a limit on the amount of money as candidates we spend in running for the Congress and in other elective offices in America.

I believe one of the most important steps we can take to restore public confidence in our political process is to pass the amendment, which I am proud to cosponsor with my friend and colleague from South Carolina, and to give the Congress and to give State legislatures power that they thought that they possessed in the 1970's and to impose limitations on the amount of money that is spent in running for public office.

Individuals who want to run for Congress and other elective offices ought to be able to run on the basis of the ideas that they represent, the vitality that they bring to the process, not as is so often the case, ''Can I raise $3 million or $4 million or $10 million or, in some instances, $20 million?''

Unless we can find a way to limit the amount of money spent on Federal campaigns and place a greater emphasis on getting support from the people back home that we represent, we will fall short of real reform. Any serious reform proposal must start with the constitutional amendment to allow the States and Congress to craft measures that would take Government out of the pockets of the special interests and back in the hands of the American people who we represent.

Mr. President, I am not unmindful of the fact that our task is difficult. Many of our colleagues do not agree. But I must say that as I talk with my own constituents, I think there is an overwhelming interest across a broad spectrum, Republican, Democrat, liberal and conservative, to do something about this political process that we are all a part of.

In the Nevada legislature this year there is a proposal that will require further disclosure on the amount of campaign contributions. That, so far, the Supreme Court has said is legal, and that enjoys bipartisan support and is likely to pass overwhelmingly.

A ballot proposition on the Nevada ballot this past fall which sought to further limit the amounts of individual campaign contributions in statewide and local races passed by 71 percent.

I understand if you ask people about things that concern them most in life, they are not going to list campaign finance reform. They are interested in crime, in schools, in drugs, and those kinds of issues, which I understand. But I have yet to be in an audience of any size in which you ask people about this system that we are part of, and they do not say, ''I hope that you will do something to reform it. Campaign finance reform is something that you should undertake.'' They understand, as do each of us in this Chamber, it will not come about without bipartisan support.

Mr. President, let me again commend my friend and colleague, who has really been the laboring force on behalf of this constitutional amendment, for his courage and tenacity and, I think, the wisdom of his proposal. I am proud to support in this Congress, as I have previous Congresses, such a constitutional amendment.

I thank him for his courtesy in allowing me to speak, as I need to return to a committee hearing.

Mr. HOLLINGS. The distinguished Senator from Nevada made a very valuable contribution to the consideration of this all-important initiative.

Our democracy has cancer. It has to be excised. As I explained in my opening remarks, and as has been emphasized by the distinguished Senator from Nevada, all of these little things that come about—whether you get the money from the State, whether you get the money from bundling, soft money, hard money, voluntarism, free TV—just go around and everybody has an eye on it. But if you put a limit, as the 1974 act said, of so much per registered voter, then you have stopped, once and for all, that problem, because with disclosure you can see exactly what you have on top of the table.

I remember in one of the debates we had with the distinguished then-Senator from Louisiana, Senator Russell Long, and we both agreed that if I appeared, by my disclosure, to get a substantial sum of contributors from the textile industry, call me the textile Senator. There it is. I defend it. I frankly brag about it. If he gets the contributions all from the oil industry and is known as the oil Senator, so be it. The distinguished Presiding Officer, the farm Senator, the agriculture Senator, because his leading talent has been in that field over the years.

But by disclosure you can see it, and by the limit you cut out all of the shenanigans of the soft money, hard money, bundling and all of the roundabout end course taken to get around the law.

This amendment, Mr. President, is absolutely neutral. My friend from Kentucky, Senator MCCONNELL, who has been the leader in opposition, can still prevail under the amendment. The amendment says Congress is authorized to limit. It does not say limit; it does not say not to limit. It just gives the authority to Congress to act so that when we do get out here, we can have a majority vote so without going through the legal hurdles and delay and put off that we have been going through now for 30 years. That is why I say a constitutional amendment is our only recourse.

I got into a debate on this in 1967 when we passed an act. It is now 1997. We have been trying to get our hands around this problem of campaign finance without a constitutional amendment. Having made the good college try now over the many, many years and listened to all the others, and analyzed as they put up McCain-Feingold and the many other fine initiatives, you can look at the Supreme Court, particularly in the Colorado case, not just the Buckley case, and you can say you are wasting your time. The voluntarism we know in politics means temporary. You saw this in the race up in Massachusetts. They voluntarily said they would have a limit. They got down to the wire and that limit went out of the window.

What we are trying to do is give everybody back their freedom of speech. Namely, that I may not be extinguished by money. When I say that I say that advisedly. I know the mechanics of political campaigns, and when you have an opponent with $100,000 and I have $1 million, all I need do is just lay low. He only has $100,000 and I know that he wants to wait until October when the people finally turn their interest to the general election in November. Say he is only in print, in polls, and what have you, he spent over $25,000 and you cannot get a good poll for less than $26,000 or $27,000, but he only has $50,000 to $75,000 left, and then I let go, come October 10. That is 3 to 4 weeks leading into the campaign, and I have yard signs, billboards, newspapers, TV, radio for the farmer in the early morning, I have early morning driving-to-work radio, I have radio for the college students. I know how to tailor make with my million bucks, and I can tell you by November 1, after 3 weeks of that, my opponent's family has said what is the matter? Why are you not answering? Are you not interested anymore?

I have, through wealth, taken away his speech. I know that, you know that, that is the reality, the political game. That is what we are talking about, making it so that you cannot take away that freedom of speech, so that you can reinstill the meaning of the first amendment. It was adult rated by the five-vote majority against the four minority in Buckley versus Valeo.

We will see what the Court said and go to some of the expressions, Mr. President. Here is not what politician HOLLINGS said, but what a Supreme Court Chief Justice says, ''The Court's result does violence to the intent of

Congress.'' Can I say that again for all those who are listening? That is exactly the belief of this Senator. I am not saying because I need money or want money or I think I have a financial advantage or whatever it is.

Incidentally, I can get on to the point of incumbency. We just swore in some 15 new Senators about 6 or 8 weeks ago. All my incumbents, friends I used to sit around with, are just about gone. I know it is less than 10 years average in the House of Representatives, and I think it is exactly that on the Senate side. What did incumbent minority assistant leader Senator WENDELL FORD of Kentucky say just the day before yesterday about money? He said, ''I neither have the time nor the inclination to collect that $14,000 to $20,000.'' He has to get $5 million in Kentucky. I think he mentioned $100,000. But he said ''Look, in order to qualify as a candidate, I have to defend my incumbency role, and my incumbency role involves thousands of votes.'' I can say to the other side of the aisle, I have been in the game. They are very clever. They know how to put up and force-feed votes on very, very, controversial amendments or subjects.

How do you explain in this day and age in a 30-second sound bite, a particular vote? You take 5 minutes, and you can go down to WRC, right here in Washington, with all the money they talk about, or freedom of speech as they call it, with the wealth of Bill Gates, and say I want to buy an hour on the eve of the election, the night before the election. They will tell him to bug off, it is not for sale. It is limited. It is paid speech.

Free speech—I am trying to reinstill a freedom of speech among those who are financially limited so we make certain that our democracy is not imperiled.

I read again what Chief Justice Burger said. ''The Court's result does violence to the intent of Congress.'' He is exactly right. I was there in 1974.

> In the comprehensive scheme of campaign finance, the Court's result does violence to the intent of Congress. By dissecting bit by bit and casting off vital parts, the Court fails to recognize the whole of this act is greater than the sum of its parts. Congress intended to regulate all aspects of Federal campaign finances but what remains after today's holding leaves no more than a shadow of what Congress contemplated.

Now, I cannot say it any better. That is exactly what we had in mind, to limit the spending. And that is exactly what they did not do. They limited the contributions on the premise that it gave the appearance of corruption, or was corruption itself, but not the expenditures. Let's see what Byron Raymond White, the Associate Justice said:

> Congress was plainly of the view that these expenditures also have corruptive potential, but the Court strikes down the provision, strangely enough, claiming more insight as to what may improperly influence candidates than is possessed by the majority of Congress that passed this bill and the President who signed it. Those supporting the bill undeniably included many seasoned professionals who have been deeply involved in the elective processes and who have viewed them at close range over many years. It would make little sense to me—and apparently made none to Congress—to limit the amounts an individual may give to a candidate or spend with his approval, but fail to limit the amounts that could be spent on his behalf.

There, again, I could not say it better. That was Justice Byron White.

I quote him further:

> The judgment of Congress was that reasonably effective campaigns could be conducted within the limits established by the act and that the communicative efforts of these campaigns would not seriously suffer. In this posture (section 264 of the case) there is no sound basis for invalidating the expenditure limitations so long as a purpose is served or is legitimately and sufficiently substantial, which, in my view, they are.

We might get into the debate, Mr. President, about the word ''reasonable.'' That word appears, if you please, because of the suggestion by the commission on the constitutional system. They wanted ''reasonable'' limits. I think they were right. I am going back to the Court's decision, trying to aim the gun barrel down the constitutionality of the better constitutional thought in these dissenting opinions.

> Expenditure ceilings reinforce the contribution limits and help eradicate the hazard of corruption.

That is exactly what common sense would indicate. Here is a court finding that expenditures do not contribute at all to any kind of corruption whatsoever and, therefore, spend to the ceilings. We will have a chart here and put it up and show you how, as the Senator from Nevada said, a Senate race used to be. In 1980, it was about $1 million. By 1986, it was $2 million. By 1990, it was $3 million. By 1994, the average one was $4 million. So it keeps going up, up and away. Expenditures in the Presidential race are up around $670 million. It has gone through the roof.

Now, Mr. President, I will quote further Justice White:

> I have little doubt that, in addition, limiting the total that can be spent will ease the candidate's understandable obsession with fundraising and so free him and his staff to communicate in more places and ways connected with the fundraising function. There is nothing objectionable, and indeed it seems to me a weighty interest in favor of the provision, in the attempt to insulate the political expression of Federal candidates from the influence inevitably exerted by the endless job of raising increasingly large sums of money. I regret that the Court has returned them all to the treadmill.

Here, this was written 20 years ago. How pathetic. ''Treadmill.'' When I was first here in the U.S. Senate, from time to time we would rearrange the fundraisers in accordance with the schedule that we had. You would not dare go up to a leader on either side of the aisle and say: Mr. Leader, I hope we can get a window, or whatever it is, because I have a fundraiser. He would look at you and—if nothing else, I guess it was unethical. They ought to refer that to the Ethics Committee. But we have given up on that now. It is like the tail is wagging the dog. It is now turned around, and we schedule the Senate around the fundraising schedules—what 20 years ago Justice White called the treadmill. You are just constantly having a fundraiser to get on TV, to have a fundraiser to get on TV, to have a fundraiser to get on TV; all paid speech, not free. I haven't seen anything free yet out of that TV crowd. They will charge you for it one way or the other.

I will quote Justice Marshall, and then I will yield. I see that my colleague is prepared to comment. Justice Marshall said:

> It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start. Of course, the less wealthy candidate can potentially overcome the disparity and resources through the contributions from others. But ability to generate contributions may itself depend upon a showing of a financial base for the campaign or some demonstration of preexisting support, which in turn is facilitated by expenditures of substantial personal sums. Thus, the wealthy candidate's immediate access to a substantial personal fortune may give him an initial advantage that his less wealthy opponent can never overcome. And even if the advantage can be overcome, the perception that personal wealth wins elections may not only discourage potential candidates without significant personal wealth from entering the political arena, but also undermine public confidence in the integrity of the electoral process.

And here we continue and oppose, willy-nilly, any effort, really, to excise this cancer.

I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, this is a very important debate, which I always enjoy with my distinguished colleague from South Carolina, who fully admits that the various campaign finance reform bills we have tried to pass here in the last few years are unconstitutional. He is right, and I commend him for his observation.

That having been stated, clearly, the only way you can do the kinds of reform bills that have been proposed around here in the last 10 years is to amend the Constitution—amend the first amendment for the first time in history, to give the Government the power to control the speech of individuals, groups, candidates, and parties. The American Civil Liberties Union calls that a recipe for repression. It clearly is, and I am happy today that we are finally having the debate on this amendment, which is indeed a recipe for repression.

I see my good friend, the Senator from Kansas, here, who is anxious to speak on this. I yield to the Senator from Kansas.

Mr. ROBERTS. Mr. President, I come to this issue not only as a Member of

the Senate, but also as a former newspaperman. So when we get to the freedom-of-speech issue, I have some pretty strong feelings. In saying that, I want to make it abundantly clear—very clear—that I do not, in any way, question the intent of the supporters, but I do question their practical effect.

When I was presiding, I listened intently to the distinguished Senator from South Carolina, whom I respect. I was very interested in his comments with regard to the kind of political debate that he would like to go back to, that I would like to go back to. He calls it a stump speech. In South Carolina, it is a stump speech. My wife is from South Carolina. Many times I have listened to the distinguished Senators from South Carolina. It is a privilege to hear them discuss the issues—old-style campaigning and politics, grassroots politics. In Kansas we call it ''listening tours.'' I had the privilege before serving in this body to be in the lower body. I represented 66 counties. I went on a listening tour every August. It took about 5,000 miles and about 3 weeks. That is the old style of discussing the issues for people where they come to the courthouse and the sale barn or the Rotary Club. And we would discuss the issues. I enjoyed that. The Senator from South Carolina is a master. That is why the people doubtless send him back to represent that outstanding State.

In entering this debate I am reminded that America has been here before. It seems to me that our task today is a moral and ethical and philosophical exploration of free speech, and its role in the political affairs of mankind. It is that serious. It is that encompassing.

''Tyranny, like Hell, is not easily conquered,'' said the patriot Thomas Paine in ''Common Sense.''

This resolution—not the intent, but this resolution—in terms of practical effect is tyranny. Adopt it and wonder whether ''Common Sense'' could exist in our time in terms of public distribution and dissemination and understanding.

This resolution is tyranny of the worst kind: Government tyranny. Adopt it and wonder whether ''The Federalist Papers,'' written by James Madison and John Jay to influence voters in New York to adopt a new Constitution, could, in fact, exist in our time.

Listen carefully to this resolution where Congress and the States are given unlimited power to set limits. Limits on what? 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, State, and local offices.

Now my colleagues, I urge you. Do not be misled. The debate today is not about elections. It is not about campaign finance reform. We are all for that, more especially in regard to public disclosure, as the distinguished Senator from South Carolina certainly has described in his remarks. It is not about Republicans, or Democrats, or what party controls the Congress. That is not what it is about.

It is, rather, about the most basic right of individuals guaranteed by our Constitution—the right of free speech, the right written first, the right without which no other right can long exist.

Listen carefully again to the language of the first amendment, which we proposed to change:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the government for a redress of grievances.

My colleagues, those words have magic. They are among the most important accomplishments of mankind. Democracy is an experiment in progress. Yet, the rights guaranteed in the first amendment have stood for more than 200 years. Seldom have legislative assaults on the first amendment been so far-reaching and so onerous as the resolution that we debate today.

Columnist George Will has called this effort more dangerous than the infamous Alien and Sedition Acts passed in 1798. Those laws placed Government controls on specific kinds of speech. This resolution proposes general Government controls on both the quantity and the quality of political speech.

The Alien and Sedition Acts were passed by a young country that had adopted, but did not fully appreciate, the first amendment rights of free speech. They were passed because some in the Government didn't like what some of its citizens were saying about politicians, politics, and Government.

Like we are today, some in the Government were worried, of course, about the national security. But it is instructive to note that Government's attempt to limit free speech is like walking in a swamp—your good intentions are tugged and pulled simply from all sides.

Abigail Adams, for example, urged passage of the acts to deal with Benjamin Franklin Bache. He was an editor who had referred to her husband as ''old, querulous, bald''—I can sympathize with that—''blind, crippled, toothless.''

He was arrested but died before he could be prosecuted, according to historians Jean Folkerts and Dwight Teeter in their book, Voices of a Nation.

Twenty-five persons were charged under the sedition laws. Included was one unlucky customer in a Newark tavern who staggered into the sunlight to make a negative comment about John Adams' anatomy as the President's carriage passed by.

Only after the rights of American citizens to speak freely were trampled by their Government did our young country come to appreciate the real meaning of the first amendment.

James Madison and Thomas Jefferson objected to the attack on free speech with their Virginia and Kentucky resolutions.

Madison presented the importance of free speech to democratic government. His argument has great relevance to our discussion today as he drew the connection between free speech and elections.

''Let it be recollected, lastly, that the right of electing members of the government constitutes more particularly the essence of a free and responsible government. The value and efficacy of this right depends on the knowledge of the comparative merits and demerits of the candidates for public trust; and on the equal freedom, consequently of examining and discussing these merits and demerits of the candidates respectively.''

That is the essence of free political speech. That is the essence of the philosophy advanced by the great philosophers like John Milton, John Locke, John Stuart Mill: The consent of a marketplace of ideas based on unfettered speech and thought.

Mill argued that people could trade their false notions for true ones only if they could hear the true ones. And he denounced all government attempts to censure expression.

One of America's great jurists, Louis Brandeis, warned us to ''be most on guard to protect liberty when the Government's purposes are beneficent * * *''

We could substitute ''reform'' for ''beneficent.''

''* * * the greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.''

Well, the advocates of this resolution want us to believe that the need for Congress to limit campaign spending is so great that the first amendment's rights are secondary. Well, first let me lay to rest any notion that virtually everybody in this distinguished body is somehow against campaign reform. It is the definition of campaign reform in the practical effect that is exceedingly important. But the proponents of this legislation further argue that limits on campaign spending are really not limits on speech at all. I think that is the point that was made by the distinguished Senator from South Carolina.

The Supreme Court, in its Buckley decision, dispensed with that argument in this way: Yes. It was a 5-to-4 vote. Yes. I know it is controversial. But listen.

''A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached.

I can go to 66 counties or 105 counties in Kansas, and I can meet with every

farmer, businessman, any member of a civic group, and I can discuss the issues. And when I am done, I have probably touched 1 percent of the populace.

This decision by the Supreme Court certainly applies.

''This is because,'' and I am quoting again, ''virtually every means of communicating ideas in today's mass society requires the expenditure of money.''

I wish it was not so but that is the case.

''The distribution of the humblest handbill or leaflet entails printing, paper, and circulation costs. Speeches and rallies generally necessitate hiring a hall and publicizing the event.''

''The electorate's increasing dependence on television, radio''—and I am quoting again from the Buckley decision—''and other mass media for news and information has made these expensive modes of communication indispensable instruments of effective political speech.''

Now, in Kansas, Mr. President, a full-page advertisement in the Topeka Capital Journal costs $4,400. One 30-second television ad to reach across the State costs more than $33,000. Too much? Well, I would think it would be too much. Of course, if you are the publisher of the Capital Journal, or the advertising manager, or the same in regard to the TV station and you look at your costs and the comparative costs of what is happening in today's mass communications, it might not be too much. That is the going rate. I do not think we can legislate that rate. Even speech via the Internet or the Postal Service requires the spending of resources.

Now, suppose we adopt this resolution and that it is ratified by the States. What will we tell the Kansas business owner who wishes to petition his Government either for a redress of any kind of a grievance or to criticize a candidate or to urge the election of another candidate? Will we say that free political speech is only a half-page of advertisement? In our infinite wisdom as incumbents in office, will we say free speech only applies to 15 seconds at one TV station?

Mr. MCCONNELL. Will the Senator yield?

Mr. ROBERTS. I would be delighted to yield to the distinguished Senator.

Mr. MCCONNELL. Reading from the Hollings amendment, it says, ''A State''—this is referring to the power given to the States. Same power to the Federal Government. ''A State shall have the power to set reasonable limits.'' I say to my good friend, the Senator from Kansas, put another way, the Government would decide how much speech is reasonable. Is that the interpretation of my good friend?

Mr. ROBERTS. The incumbents of the Government, whether it be State, I suppose county, or in the Congress of the United States, would decide what is appropriate in terms of spending limits not only for themselves but for their challengers.

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

Mr. ROBERTS. I would be delighted to yield.

Mr. MCCONNELL. So it would not be inconceivable then that all of us in the Senate and House might decide that what is a reasonable amount of speech for a challenger could be $5,000 in the next election.

Mr. ROBERTS. That might be a little harsh.

Mr. MCCONNELL. We have total power to do that under the amendment.

Mr. ROBERTS. That is correct.

Mr. MCCONNELL. I say to my good friend from Kansas, if the candidates in the next election in a typical race were limited to spending $5,000, who does my good friend from Kansas think would win?

Mr. ROBERTS. I think probably the incumbent would have an edge.

Mr. MCCONNELL. Just might. So the Government here has the power to determine how much speech there may be. I thank my good friend from Kansas.

Mr. ROBERTS. I thank the Senator from Kentucky for his contribution and his leadership.

If this resolution is adopted, what will we tell the local citizens group working to elect a new mayor or a city council? Will we say that free speech extends no further than the classified advertisements? Remember, we have full-page ads costing x and we have 30-second television ads costing x but you put a limit on it: Sorry, no TV. Maybe it will get on the news, maybe not.

The Supreme Court in Buckley put it this way: ''Being free to engage in unlimited public expression subject to a ceiling on expenditures is like being free to drive an automobile as far and as often as one desires on a single tank of gasoline.'' You can't get there from here to Kansas on a single tank of gasoline—whether it is traveling the State or in regards to any kind of expression in regard to any kind of politics or any kind of campaigning.

The tyranny of this resolution, like tyranny forever, is based on a false assumption that somehow we have too much, too much political speech and it should be limited. How much political speech in a democracy is too much?

Last year, millions of Americans gave $2.6 billion to fill 476 offices. Again, columnist George Will points out they still had enough left over to spend $4.5 billion on potato chips. We spent more on yogurt in this year than we spent on political discourse, discussing the great issues of the day. Or put another way, one Super Bowl ad could finance two campaigns for Congress. One Super Bowl ad, 2½ districts in the Congress. How much is enough? I submit we need more political speech, not less. And further, what will be the chilling impact of this resolution on citizen involvement in the election and the governmental process?

The Senator from Nevada said people are sick and tired of politics and business as usual and they are not choosing to vote. I submit it is not because we need to give more power to the Federal Election Commission and limit political debate. The problem is, in my view, that too many candidates do not speak out on the issues in candor and say they are for something that identifies with the individual who is going to vote.

Our democracy survives solely on the consent of the governed. That is pretty basic. That consent is given as long as the governed have confidence in the men and women they elect to public office.

We have in place a number of filters through which candidates must be sifted to ensure those who survive receive a consensus. These filters give the electorate opportunities to eliminate candidates, many candidates who aspire to public office but quite frankly, judged in the eyes of the public, are not serious candidates, they sift out those who cannot attract a consensus. We do this in order that our form of government can so long exist.

I want to ask the question. There is a feeling here in this body that Senators feel put upon that they have to sit, hopefully in another office, and raise campaign funds. My word, what a terrible chore. What a condescending, elitist point of view, that we should be free of asking people for their trust and their support, their investment in good government, their partnership in good faith so we can shine the light of truth in the darkness and discuss these issues free from that terrible burden. What a terrible burden.

Is a candidate's ability to attract campaign funds—let me repeat this. Is a candidate's ability to attract campaign funds any less important to this process than his or her ability to attract votes? How can a candidate expect to get the consent of the governed if he or she cannot attract their support in funds to wage a campaign?

Make no mistake. Our debate today is important. It is about freedom. Said the distinguished Hugo Black: ''There are grim reminders all around this world that the distance between individual liberty and firing squads is not always as far as it seems.''

The great men and women who debated this issue before us arrived at a simple but eloquent conclusion—to limit political speech is to limit and lose freedom. We are called again to reach this same conclusion. I urge rejection of the resolution. Said the statesman George Mason: ''No free Government, or the blessings of liberty, can be preserved to any people, but by frequent recurrence to fundamental principles.''

First amendment freedoms are fundamental principles. Let us preserve the blessings of liberty.

I thank the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I thank my distinguished colleague from

Kansas for an excellent speech. I ask him if he has just one more moment here before he leaves the floor?

Mr. ROBERTS. I will be delighted to respond.

Mr. McCONNELL. I say to my friend from Kansas, in looking at the Hollings amendment, in addition to giving to the Government the power to control the speech of candidates, as we just discussed in our earlier colloquy, which could be, presumably, $5,000, which would certainly guarantee the election of every incumbent, I would also ask my good friend how he would interpret the following power given to the Government. It says the Government could limit the amount of expenditures that may be made ''by''—I assume that is the candidate—''in support of the candidate, or in opposition to the candidate.''

Now, let me ask my good friend from Kansas, since we would be making the rules here in Congress, and since we would be given the permission to make these rules since this is an amendment to the first amendment of the Constitution of the United States for the first time in history, I ask my good friend from Kansas, might it not be a shrewd move on the part of all incumbents to say that those in support of or in opposition to a candidate cannot speak at all?

Mr. ROBERTS. I really had not thought of that proposal because it is so farfetched from democracy as we know it and participation in the election process as we know it. It could happen. It could happen. I have confidence it would not happen, but, then, one never knows.

Could I ask the distinguished Senator a question? And that is this: Right now, in the campaign process, we have regular contributions. As the distinguished Senator from South Carolina has pointed out, there are limits in terms of giving; in terms of individuals it is $1,000 an individual, et cetera. And he uses that as a reference point from which to control the total spending.

But in the real world, what we have found, more specifically in this last election cycle, those regular contributions are reported. If there is one thing I agree very strongly with the Senator from South Carolina on, it is we need full public disclosure. He referred to Steve Forbes. As a matter of fact, he was very candid with regard to Mr. Forbes' candidacy, and what happened to my dear friend and former senior Senator from Kansas, Bob Dole, in his campaign. So, public disclosure, I think, is very important. I think the American people are six jumps ahead of the whole process. If they discover where the money comes from and the amount of money spent, they make the appropriate decision.

But we have other contributions. We have independent expenditures, and in the Colorado case it is very clear where the court is. So here is the challenger and the incumbent limited in terms of spending, and then in comes a ''independent expenditure,'' which we all know in some cases are not quite so independent.

Then, second, we have other expenditures. They are called ''educational ads.''

How on Earth do we control those expenditures with the campaign limits envisioned in many of the alleged campaign reform bills? I can tell you, we have colleagues who subscribe to State campaign limits, only to find we have these other contributions coming in, these other expenditures, and, frankly, they were beaten about the head and shoulders so much in the last part of the campaign, they had to violate that campaign limit or they would have been defeated, paying a fine, filling out paperwork. It is a very unfair system. I do not see anything in this particular endeavor that would prevent that.

That is a long question for the Senator to answer.

Mr. McCONNELL. I would say to my friend from Kansas, most of us in the political arena do not like independent expenditures. But the court has made it quite clear that it is constitutionally protected speech. No matter how much we do not like it when people criticize us, these individuals and groups have a constitutional right to engage in these independent expenditures. As a result of the Colorado case, parties do as well.

In looking at the Hollings amendment, it seems to me that Congress would be given the power to completely shut up these groups. They could say, ''No longer can you speak at all.'' That way, we would be able to silence all of these people who do not like what we stand for, totally—totally—under this. If Congress is given the power to control the amount of expenditures that may be made ''by''—I assume that is the candidate—''in support of,'' referring to outside groups, or ''in opposition to,'' referring to outside groups, why, by golly, under this amendment we could shut them up entirely. Our lives would be a lot easier. We could just limit spending in the campaign to about $5,000, eliminate all the speech of these outside groups. Boy, you would never have any turnover here, would you?

Mr. ROBERTS. If I could ask one other question of the Senator, I think an additional two questions that people should be asking are: Who decides? Who decides what the limit is?

Mr. McCONNELL. We do.

Mr. ROBERTS. That is the incumbency, with all due respect. And second, who is going to enforce all this? We are going to need a SWAT team down at the Federal Election Commission.

Mr. McCONNELL. If I may say to my friend, I often say the FEC would soon be the size of the rest of the administration. There would be battalions of auditors and lawyers crawling all over the books, not just of candidates for public office but every organized group out in America seeking to express itself in the course of the campaign. They would be crawling all over them. Let some little group in Kansas utter a peep in the next race against Senator ROBERTS, and the FEC could come down on them like a house of bricks saying, ''Shut up. Congress has said you don't get to speak. You don't get to say how you feel in the election—or any other time. Shut up.''

All of that is possible under this amendment, to amend the first amendment for the first time in history, to give this Congress the power to quiet the voices; quiet the voices, not just of Members of Congress and the people who may oppose them, but anybody else who may oppose it, any individual, any group, anybody. We could shut them all up. And in what way would America be better for that?

Mr. ROBERTS. I thank the Senator for his contribution and again would only summarize by saying that we could get at much of the problem here with real campaign reform legislation that centers on public disclosure. I repeat my remarks that I think the American people are six jumps ahead of the process here. It has been my experience, if they know how much money is being spent and where the money is coming from, they make a pretty good decision. Candidates cannot—well, in some cases it might work —but in most cases they cannot buy elections. It works against them. I will put my money on the free press and free speech and public disclosure, and I urge rejection of this resolution.

I thank the Senator for yielding.

Mr. McCONNELL. Mr. President, once again I thank the distinguished Senator from Kansas for an outstanding speech. I appreciate his contribution to this debate.

The question before us, as I have said, as we all know, is whether to amend the first amendment for the first time in history to give to the Government the power to control the political discourse in this country across the board; the political speech of candidates, political speech of individuals, the political speech of groups—all of this, because we have concluded that there is too much political discourse in this country.

Senator ROBERTS mentioned, and others are familiar with, some of the statistics. Of all the commercials run in the previous year, 1 percent of them were about politics; 1 percent of them. The notion that we have an excessive amount of political discussion in this country is absurd on its face. It is absurd on its face.

The good thing about the debate that we are having is it is an honest debate. The Hollings amendment concedes that there is very little you can do, consistent with the first amendment, in the campaign finance reform field that the Supreme Court will not strike down. The measure most commonly referred to by the reformers, the McCain-Feingold proposal, is unconstitutional at least 12 different ways. It would be dead on arrival in the Federal courts.

At least this debate helps sum up what is really needed if Senators believe that there is too much political discussion in our country.

It should not be surprising, Mr. President, that this amendment has almost no constituents. Common Cause, the group most often thought of when you think of the subject of campaign finance reform, opposes this constitutional amendment. The Washington Post, which writes a story on these kinds of issues virtually daily, opposes this amendment. The New York Times opposes this amendment. The American Civil Liberties Union opposes this amendment.

In short, even the proponents of some kind of effort to restrict the speech of people who are involved in the American political process look at this particular effort to carve a big hunk out of the first amendment for the first time in history as an overreaching and ill-advised step in the wrong direction.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter I received from the ACLU dated March 6, 1997, in opposition to the constitutional amendment.

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

AMERICAN CIVIL LIBERTIES UNION,
WASHINGTON NATIONAL OFFICE,
Washington, DC, March 6, 1997.

DEAR SENATOR: The American Civil Liberties Union strongly opposes S.J. Res. 18, 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. 18 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. 18 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. 18 would enable the Congress to set limitations on expenditures and contributions notwithstanding current constitutional understandings.

Once S.J. Res. 18 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 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.

S.J. Res. 18 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 more 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 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 an unlimited number of billboards for the same candidate? Likewise, why would it be permissible for a major weekly news magazine 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 by 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 kind of 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 in some form for broadcast advertising through vouchers or reduced advertising rates; improving the resources for the FEC so that it can provide timely disclosure of contributions and expenditures; and providing vouchers for 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 process.

The ACLU urges Senators to oppose S.J. Res. 18.

Sincerely,

LAURA W. MURPHY.

Mr. MCCONNELL. Also, I ask unanimous consent that a Washington Post editorial of Monday, December 2, 1996, in opposition to the constitutional amendment, be printed in the RECORD.

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

WRONG WAY ON CAMPAIGN FINANCE

Campaign finance reform is hard in part because it so quickly bumps up against the First Amendment. To keep offices and officeholders from being bought, proponents seek to limit what candidates for office can raise and spend. That's reasonable enough, except that the Supreme Court has ruled—we think correctly—that the giving and spending of campaign funds is a form of political speech, and the Constitution is pretty explicit about that sort of thing. ''Congress shall make no law * * * abridging the freedom of speech'' is the majestic sentence. So however laudable the goal, you end up having to regulate lightly and indirectly in this area, which means you are almost bound to achieve an imperfect result.

As a way out of this dilemma, Senate Minority Leader Tom Daschle added his name the other day to the list of those who say the Constitution should be amended to permit the regulation of campaign spending. He wasn't just trying to duck the issue by raising it to a higher level as some would-be amenders have in the past. Rather, his argument is that you can't win the war without the weapons, which in the case of campaign finance means the power not just to create incentives to limit spending but to impose spending limits directly.

But that's what everyone who wants to put an asterisk after the First Amendment says: We have a war to fight that we can win only if given the power to suppress. It's a terrible precedent even if in a virtuous cause, and of course, it is always in a virtuous cause. The people who want a flag-burning amendment think of themselves as defenders of civic virtue too. These amendments are always for the one cause only. Just this once, the supporters say. But having punched the one hole, you make it impossible to argue on principle against punching the next. The question becomes not whether you have exceptions to the free speech clause, but which ones?

Nor is it clear that an amendment would solve the problem. It would offer a means but not the will. The system we have is a system

that benefits incumbents. That's one of the reasons we continue to have it, and future incumbents are no more likely to want to junk it than is the current crop.

The campaign finance issue tends to wax and wane, depending on how obscene the fund-raising was, or seemed, in the last election. The last election being what it was, Congress is under a fair amount of pressure to toughen the law. The Democrats doubtless feel it most, thanks to the revelations of suspect fund-raising on the part of the president's campaign, though the Republicans have their own sins to answer for—not least their long record of resistance to reform. with all respect to Mr. Daschle, a constitutional amendment will solve none of this.

The American political system is never going to be sanitized nor, given the civic cost of the regulations that would be required (even assuming that a definition of the sanitary state could be agreed upon), should that be anyone's goal. Rather, the goal should be simply to moderate the role of money in determining elections and of course the policies to which the elections lead. The right approach remains the same: Give candidates some of the money they need to run, but exact in return a promise to limit their spending. And then enforce the promise. Private money would still be spent, but at a genuine and greater distance from the candidates themselves. It wouldn't be a perfect world, and that would be its virtue as well as a flaw.

Mr. MCCONNELL. Senator ROBERTS referred to the recent George Will column entitled ''Government Gag,'' which appeared in the Washington Post of February 13, 1997. I ask unanimous consent that that also be printed in the RECORD.

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

GOVERNMENT GAG

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 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.

Mr. MCCONNELL. Mr. President, a couple of years ago, George Will, in his Newsweek column, wrote an article in opposition to the constitutional amendment. The headline is, ''So, We Talk Too Much?''

The Supreme Court's two-word opinion of the Senate's reform bill may be, ''Good grief.''

I ask unanimous consent that that also be printed in the RECORD.

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

[From Newsweek, June 28, 1993]

SO, WE TALK TOO MUCH?

(By George Will)

Washington's political class and its journalistic echoes are celebrating Senate passage, on a mostly party-line vote, of a ''reform'' that constitutes the boldest attack on freedom of speech since enactment of the Alien and Sedition Acts of 1798. The campaign finance bill would ration political speech. Fortunately, it is so flagrantly unconstitutional that the Supreme Court will fling it back across First Street, N.E., with a two-word opinion: ''Good grief!''

The reformers begin, as their ilk usually does, with a thumping but unargued certitude: campaigns involve ''too much'' money. (In 1992 congressional races involved a sum equal to 40 percent of what Americans spent on yogurt. Given the government's increasing intrusiveness and capacity to do harm, it is arguable that we spend too little on the dissemination of political discourse.) But reformers eager to limit spending have a problem: mandatory spending limits are unconstitutional. The Supreme Court acknowledges that the First Amendment protects ''the indispensable conditions for meaningful communication,'' which includes spending for the dissemination of speech. The reformers' impossible task is to gin up ''incentives'' powerful enough to coerce candidates into accepting limits that can be labeled ''voluntary.''

The Senate bill's original incentive was public financing, coupled with various punishments for privately financed candidates who choose not to sell their First Amendment rights for taxpayers' dollars and who exceed the government's stipulated ration of permissible spending/speech. Most taxpayers detest public financing. (''Food stamps for politicians,'' says Sen. Mitch McConnell, the Kentucky Republican who will lead the constitutional challenge if anything like this bill becomes law.) So the bill was changed—and made even more grossly unconstitutional. Now it limits public funding to candidates whose opponents spend/speak in excess of government limits. The funds for the subsidy are to come from taxing, at the top corporate rate, all contributions to the candidate who has chosen to exercise his free speech rights with private funding. So 35 percent of people's contributions to a privately funded candidate would be expropriated and given to his opponent. This is part of the punishment system designed to produce ''voluntary'' acceptance of spending limits.

But the Court says the government cannot require people ''to pay a tax for the exercise of that which the First Amendment has made a high constitutional privilege.'' The Court says that the ''power to tax the exercise of a right is the power to control or suppress the exercise of its enjoyment'' and is ''as potent as the power of censorship.''

Sen. Fritz Hollings, the South Carolina Democrat, is a passionate advocate of spending limits but at least has the gumption to attack the First Amendment frontally. The Senate bill amounts, he says candidly, to ''coercing people to accept spending limits while pretending it is voluntary.'' Because ''everyone knows what we are doing is unconstitutional,'' he proposes to make coercion constitutional. He would withdraw First

Amendment protection from the most important speech—political discourse. And the Senate has adopted (52–43) his resolution urging Congress to send to the states this constitutional amendment: Congress and the states ''shall have power to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election'' for federal, state or local office.

Hollings claims—you have to admire his brass—that carving this huge hole in the First Amendment would be ''a big boost to free speech.'' But by ''free'' he means ''fair,'' and by ''fair'' he means equal amounts of speech—the permissible amounts to be decided by incumbents in Congress and state legislatures. Note also the power to limit spending not only ''by'' but even ''in support of, or in opposition to'' candidates. The 52 senators who voted for this included many who three years ago stoutly (and rightly) opposed carving out even a small exception to First Amendment protections in order to ban flag-burning. But now these incumbents want to empower incumbents to hack away at the Bill of Rights in order to shrink the permissible amount of political discourse.

Government micromanagement: The Senate bill would ban or limit spending by political action committees. It would require privately funded candidates to say in their broadcast advertisements that ''the candidate has not agreed to voluntary campaign limits.'' (This speech regulation is grossly unconstitutional because it favors a particular point of view, and because the Court has held that the First Amendment protects the freedom to choose ''both what to say and what not to say.'') All this government micromanagement of political speech is supposed to usher in the reign of ''fairness (as incumbents define it, of course).

Incumbents can live happily with spending limits. Incumbents will write the limits, perhaps not altogether altruistically. And spending is the way challengers can combat incumbents' advantages such as name recognition, access to media and franked mail. Besides, the most important and plentiful money spent for political purposes is dispensed entirely by incumbents. It is called the federal budget—$1.5 trillion this year and rising. Federal spending (along with myriad regulations and subsidizing activities such as protectionist measures) often is vote-buying.

It is instructive that when the Senate voted to empower government to ration political speech, and even endorse amending the First Amendment, there was no outcry from journalists. Most of them are liberals and so are disposed to like government regulation of (other people's) lives. Besides, journalists know that government rationing of political speech by candidates will enlarge the importance of journalists' unlimited speech.

The Senate bill's premise is that there is ''too much'' political speech and some is by undesirable elements (PACs), so government control is needed to make the nation's political speech healthier. Our governments cannot balance their budgets or even suppress the gunfire in America's (potholed) streets. It would be seemly if politicians would get on with such basic tasks, rather than with the mischief of making mincemeat of the First Amendment.

Mr. MCCONNELL. Finally, Mr. President, in terms of insertions into the RECORD, I ask unanimous consent that a letter dated March 12, by Common Cause, opposing the constitutional amendment which is before us, be printed in the RECORD.

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

COMMON CAUSE,
Washington, DC, March 12, 1997.

DEAR SENATOR: The Senate is expected to vote later this week on a proposed constitutional amendment to provide Congress with the ability to impose mandatory limits on campaign spending, thus overriding a portion of the Supreme Court's 1976 decision in Buckley versus 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 the McCain-Feingold bill are consistent with the Supreme Court's ruling in Buckley. He further concludes that ''Congress possesses clear power to close the soft money loophole by restricting the source and size of contributions to political parties. . . .'' He also concludes that efforts to close loopholes relating to independent expenditures and so-called ''issue ads'' are also within Congress' existing authority.

It is, therefore, not necessary to amend the Constitution in order to enact meaningful campaign finance reform. Congress has the power, consistent with the First Amendment, to enact comprehensive reform by statute.

A constitutional amendment for campaign finance reform should not be used as a way to delay reform legislation. Typically, amending the Constitution takes years. After both Houses of Congress adopt an amendment by a two-thirds vote, it has to be approved by three-quarters of the state legislatures. Even then, the Congress would still have to take up enacting legislation. This is a lengthy and arduous process.

Congress needs to act now to address the growing scandal in the campaign finance system. Congress can act now—and constitutionally—to adopt major reforms. Congress need not and should not start a reform process that will take years to complete by pursuing campaign finance reform through a constitutional amendment. Instead, the Senate should focus its efforts on enacting S.25, comprehensive bipartisan legislation that represents real reform. It is balanced, fair, and should be enacted this year to ensure meaningful reform of the way congressional elections are financed.

Sincerely,

ANN MCBRIDE,
President.

Mr. MCCONNELL. Mr. President, the question before us, the resolution by the junior Senator from South Carolina to amend the Constitution, grounds the campaign finance debate right where it needs to be and where it is, in the first amendment. That is where this debate should be centered. Lest anyone outside of the Senate construe this as an endorsement, I hasten to clarify that I regard this proposal as totally abhorrent. However, this is a debate we needed to have. This is an important discussion which clarifies that the campaign finance issue is really about political speech and about participation in our democracy. That is what this is about. That is the whole discussion.

In an effort to pave the way for restrictive legislation, such as the McCain-Feingold campaign finance bill, the amendment before us would amend the Constitution to grant Congress and the States the 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, or in support of, or in opposition to, a candidate.''

When Senator ROBERTS was here a few minutes ago, we talked about just what that means. Clearly, this amendment would give incumbent Members of Congress the ability to make it impossible to lose, short of some commission of a felony or some outrageous act on the part of an incumbent that brought total disfavor upon his or her head in their constituency. It would give to the Congress the power to totally mug, muzzle, shut up critics out in our constituencies who may have organized together. In fact, about the only group it leaves untouched are our friends in the gallery, the press, who would have enhanced power as a result of an effort to shut up everybody else. If you are going to go down this route, some would even advocate telling the press how much they can criticize us.

While we are messing with the first amendment, if we wanted to make it totally impossible for us to be defeated, why not, in addition to shutting up our challengers in the next election and muzzling all of the groups outside that may or may not like what we do, let's just go on and trash some of the rest of the first amendment. We can get rid of those nasty editorials that all of us despise, put some restrictions on those pesky little reporters who tend to point out our shortcomings, as they see them.

In short, there is no end to how much of this speech we could contain if we really wanted to do it. I mean, it is a short step, it seems to me, from amending the first amendment to give the Government the power to shut up its critics in a campaign to giving the Congress the power to shut up its critics in the gallery, and pretty soon, of

course, the first amendment doesn't have any resemblance whatsoever to what it has today.

This amendment that we are debating applies to Federal, State, and local elections. Any future Congress would have a free hand to regulate, restrict, or even prohibit any activity which is perceived by the Government—perceived by the Government—to constitute an expenditure by, in support of, or in opposition to a candidate.

Mr. President, the words are few; their ramifications are simply stunning. Quite simply, this amendment empowers future Congresses to severely restrict—I would argue eliminate—the universe of political spending/speech which is deemed by Congress or some Government bureaucracy to effect an election. Candidate spending, independent expenditures, even issue advocacy by private citizens and groups, all of it could be muzzled under this amendment.

Senate Joint Resolution 18, which is the amendment before us, is a blank check for a Congress 10, 50, 100 years from now, or maybe tomorrow, the day after this is approved, to gag American citizens, candidates, groups, and parties. They could do it with a Constitution altered by this resolution. And some call this reform.

Mr. President, maybe some people believe that the 105th Congress or the 106th Congress would not do much damage with the power granted by this resolution, but I ask our friends on the left: Are you confident that some Republican-controlled Congress in the future with a 60-plus majority, with a Republican in the White House, will not seize the occasion to limit political activities by liberal-leaning groups, labor unions, the media, and others? Would you not like the Court to be able to stop such an effort on the grounds that it violated the first amendment?

My conservative friends, I ask you: Are you not relieved the Supreme Court was able to strike down the draconian restrictions on independent expenditures in campaigns in the 1978 campaign finance law?

I say to my conservative friends: Are you confident that liberal Democrats would never be in a position to enact into law a regulatory scheme on campaign finance that restricts your ability to communicate while leaving the media and labor unions unfettered and even more powerful than they already are? All of that, Mr. President, would be possible under this amendment.

No campaign finance bill will pass this or any Congress that was not drafted and amended by people fully cognizant of the partisan implications. That is why it is so important to have the impartial reasoning of the Supreme Court. The Supreme Court is the backstop. It saves the country from legislative excess, ignorance, and mischief.

Having said that, it doesn't mean I agree with all the Supreme Court's decisions or I will not scrutinize Supreme Court nominees, but I do recognize that the Court, be it of liberal or conservative leaning—it is interesting to note in the Buckley case there were many liberals on the Court at that time. The Court was much more liberal than it is now when the Buckley case was rendered, a very sound decision, which the Court has only expanded in the direction of more permissible speech during the years, including the Colorado case last summer.

The Court is an essential check on legislative and executive branches. This amendment seeks to take the Court out of the picture where campaign finance is concerned so that those who desire campaign spending limits and restrictions on independent expenditures and issue advocacy will not be inconvenienced, will not be inconvenienced by Court action such as the Buckley decision.

The Supreme Court got in the way. The Supreme Court got in the way and said you cannot do that, that it is impermissible for the Government to dole out political speech to candidates, individuals, or groups.

Revolting as the Clinton reelection team's fundraising practices were, or anybody else's, they do not justify restricting the rights of law-abiding American citizens in the future to participate in politics and spend as much as they want on their own campaigns for office. American democracy should not be diminished because a 1996 reelection effort violated current laws and flouted commonsense decency out of a ruthless, ruthless desperation to get reelected or some self-righteousness that their success was essential to the country, that the ends justified even illegal and unethical means.

Freedom should not be negotiable because one political party or other benefits disproportionately at a given point in time from some form of political speech or participation. Nor should freedom, Mr. President, be dialed back—dialed back—because some level of campaign spending violates somebody's notion of what is proper. The future should not be made to suffer so that some may appear to atone for misdeeds in the present or impose on the country their own view of what is an appropriate level of campaign spending.

Mr. President, God bless their souls, the Founding Fathers had the wisdom and the courage to construct the Constitution of the United States. Though I have much admiration for my colleagues in this Senate, I do not think we have the collective wisdom to improve upon the first amendment ratified by the States in 1791.

The amendment says:

> Congress shall make no law [no law] respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The critical part is ''abridging the freedom of speech.'' That is what the Buckley case is about. And that is what this amendment seeks to revise.

Mr. President, reflecting upon the formulation of the Constitution, De Tocqueville observed in the 19th century that:

> The course of time always gives birth to different interests, and sanctions different principles, among the same people; and when a general constitution is to be established, these interests and principles are so many natural obstacles to the rigorous application of any political system with all its consequences. The early stages of national existence are the only periods at which it is possible to make legislation strictly logical; and when we perceive a nation in the enjoyment of this advantage, we should not hastily conclude that it is wise, but only remember that it is young.

I would contend that our Nation 200 years ago was both young and its leaders wise. I have also considered the environment in which the Founding Fathers toiled, free of the harsh glare of our modern media, unfettered by the influence of present-day polling, and blissfully unacquainted with grassroots lobbying machines.

Absent those factors, I suspect much in the legislation in this body, most especially campaign finance reform, would have a different outcome. Then again, we did not have to face down the Red Coats, and I am confident that the confluence of greatness which gave us the Constitution would have done so by candlelight or klieg lights.

The first amendment has served our Nation well for over 200 years. If this Senate will resist the temptation to scale it back, it can serve our descendants for 200 years more. The first amendment's speech protections are a legacy we are extremely fortunate to have inherited. It is the one we most certainly ought to bequeath, in turn, to generations to come.

The first amendment is America's premier political reform. It is at the heart of the campaign finance debate. This is not just my view. It is the opinion of the U.S. Supreme Court and the American Civil Liberties Union—America's specialists on the first amendment. As the Court stated in the 1976 Buckley case:

> The first amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive or unwise.

That gets right to the heart of it. The first amendment prohibits the Government from determining ''that spending to promote one's political views is wasteful, excessive or unwise.'' In other words, when it comes to our political speech, we can be wasteful, we can be excessive and we can be unwise, and it is none of the Government's business.

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

So the proponents of this amendment look at that decision and say we need

to cut a niche out of the first amendment and hand over to the Government the power to determine what is reasonable speech. In short, they could determine that no speech was reasonable under this amendment.

The Court has been clear and consistent on campaign finance, stating further in Buckley:

> A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money.

It just does. The Court observed that even ''distribution of the humblest handbill'' costs money. Further, the Court stated that the electorate's increasing dependence on television and radio for news and information makes ''these expensive modes of communication indispensable [the Court said ''indispensable″] instruments of effective political speech.''

''Indispensable.'' Under this amendment there would be nothing to keep the Congress from saying you do not get to use television at all—at all.

Quite simply, the Government may no more ration the political speech of an American citizen via campaign spending regulations than it can tell the Washington Post how many newspapers it may distribute or how many hours a day CNN may broadcast. Nor can the Government dictate the content of campaign ads, just as it cannot control the content of television news programs.

Mr. President, there is no reason sufficient to justify, in the eyes of the Court, campaign spending limits. Not to alleviate the appearance of corruption: The Court held there is ''nothing invidious, improper or unhealthy'' in campaigns spending money to communicate—nothing. Not to stem the growth in campaign spending. Again, the Court was clear:

> . . . the mere growth in the cost of federal election campaigns in and of itself provides no basis [no basis] for governmental restrictions on the quantity of campaign spending. . .

And not to level the political playing field, a notion flatly rejected by the Court in Buckley.

> . . . the concept that the government . . .

This is in response to the level playing field argument, Mr. President. In the Buckley case the Court said:

> . . . the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment.

''Wholly foreign.''

So, Mr. President, the Government cannot, by congressional edict or regulatory fiat, impede or impair the ability of candidates, groups, individuals or parties to communicate with the electorate. Nor can Congress, as the American Civil Liberties Union has observed, coerce what it cannot command. In other words, spending limits that are voluntary in name only, such as in the McCain-Feingold bill, would have in the Court a half-life of an ice cube on a sun-baked Constitution Avenue on the 4th of July. That is about how long that would last.

There is nothing in Buckley, or any subsequent Supreme Court decision, upon this to pin hope that McCain-Feingold or any similarly coercive bills would be upheld. Buckley was not an aberration. In fact, the Court is increasingly of a deregulatory mind on campaign finance, as evidenced by last June's Colorado decision allowing the political parties to make independent expenditures.

Now, some seek to nullify the Court, and thereby pave the way for bills like McCain-Feingold, by amending the first amendment, and that is the issue before us—amending the first amendment for the first time in two centuries and thus make the unconstitutional, constitutional. They would rewrite the first amendment, a frontal assault on American freedom that the ACLU has characterized as ''a recipe for repression.''

That is what is before the Senate today. What is before us today has no constituency. Common Cause is against it. The New York Times is against it. The Washington Post is against it. The ACLU is against it. Importantly, an overwhelming number of Senators will be against it.

I personally recoil at the prospect of a Constitution so altered, while I relish the debate itself. This is an honest debate because it shows what you have to do to carve a big hunk out of the first amendment, if you will try to achieve the result that some are trying to achieve. This is an honest debate. It draws a clear line between those like myself who look on last year's record election spending as illustrative of a robust national debate over the future of the Nation, and those who believe you cannot have both freedom of speech and a healthy democracy.

Looking upon the first amendment as an impediment to reform, rather than reform, itself steers even well-intentioned reformers on a path of Government regulation, restriction, and even prohibition of fundamental political freedoms. A myopic determination to restrict campaign spending can result, as it has today, in an effort to essentially repeal the first amendment's protection of political speech. That is what is before the Senate today.

The Court stated in the 1937 case Palko versus Connecticut that freedom of speech ''is the matrix, the indispensable condition, of nearly every other form of freedom.''

Whatever one believes about the current state of campaign finance or the validity of the Buckley decision, surely it is not cause to carve out of the first amendment fundamental protection for core political speech by American citizens. The first amendment was borne of extraordinary people in an extraordinary time. Let us not diminish that freedom, 200 years later, out of frustration with Court decisions.

The campaign finance reform debate is necessarily difficult. It is difficult because the ramifications of any significant change in this area are serious. A ban on soft money, for instance, will have serious repercussions, because—like it or not—the political parties do some good things. For one, they are the only entity in the system that will support challengers without regard to ideology.

The Democratic Party committees support challengers—pro-choice or pro-life, or pro-gun control or con-gun control, you name the issue and they have supported candidates of their side. In the case of the Democratic committee, because they are Democrats; in the case of the Republicans, because they are Republicans.

Our criteria is, first and foremost, a candidate's party affiliation. Then we consider their ability and the availability of money to help their candidates. The political party's helping challengers is often all that stands between an incumbent having real competition and not just a coronation on election day.

Much is said about independent expenditures and issue advocacy. The truth is, politicians hate independent expenditures because by definition they are out of our control. We do not get to control them. A group that thinks your reelection is the most important goal may make independent expenditures that are intended to help you but, in fact, inject into the election an issue you wish was not going to be discussed. In other words, a group can love you to death with independent expenditures. That is why politicians would like to have complete control of elections. That is what they would be given under this amendment—complete control.

Mr. President, the candidates do not own the elections. They are the people's elections, not the candidates. They are the people's elections to influence through independent expenditures, issues advocacy, and through the support of candidates and political parties of their choosing. These reform bills would take elections away from private citizens, groups, and parties and hand them over, exclusively, to the candidates and to the media.

Issue advocacy is a recent addition to the reform lexicon. Some reformers profess to be horrified by all the issue advocacy that occurred last year because—news flash—they affected the election. They decry issue advocacy as another loophole that has been blasted through allowing groups to circumvent campaign finance restrictions.

A funny thing about citizens, groups, and parties who wish to make themselves heard in a democracy: They always seem to find a way around Government speech roadblocks.

If Congress ever does impose Government regulations on issue advocacy

and the courts do not strike them down, the first amendment will be a hollow shell. Soft money limits, independent expenditure limits, issue advocacy regulations, spending limits, PAC limits—these are all euphemisms for speech limits.

Under this amendment before the Senate—by carving out a huge chunk of the first amendment—Congress could succeed in imposing all of these speech limits. America would then spend less on elections. Elections would be quieter, politics—at least, on the surface—would be more civil because dissent would be tightly regulated by this Congress and incumbents would be less bothered by fundraising. And we will have gutted American democracy.

Mr. President, I am confident this amendment is not going to be approved. I hope it will be rejected overwhelmingly. It is one of the most frightening proposals we have had before this body in the 13 years I have been here. The first amendment should be the touchstone of reform, and the Buckley case, its guide.

Within those parameters, we could enact bipartisan reform to strengthen, rather than diminish, our democracy. I hope at some point that is what we will be doing.

The PRESIDING OFFICER (Mrs. COLLINS). The Senator from South Carolina.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. Madam President, I ask unanimous consent that Maury Lane be permitted privileges of the floor during the consideration of Senate Joint Resolution 18.

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

Mr. HOLLINGS. Madam President, there were certain statements made that I am sure should be corrected immediately. I ask unanimous consent the statement in support of overturning Buckley versus Valeo, some 50 law professors from the various schools, be printed in the RECORD.

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

STATEMENT IN SUPPORT OF OVERTURNING BUCKLEY VERSUS VALEO

In its 1976 decision. Buckley v. Valeo, the United States Supreme Court held that limiting political expenditures by law is an unconstitutional denial of free speech in violation of the First Amendment.

We believe that the Buckley decision is wrong and should be overturned. The decision did not declare a valuable principle that we should hesitate to challenge. On the contrary, it misunderstood not only what free speech really is but what it really means for free people to govern themselves.

We the undersigned call for the reconsideration and reversal of the Buckley decision.

Bruce Ackerman, Professor of Law and Political Science, Yale Law School
Ellen Aprill, Professor, Loyola Law School
Peter Arenella, Professor of Law, UCLA Law School
Robert Aronson, Professor of Law, University of Washington Law School
Robert Benson, Professor of Law, Loyola Law School
Steve Bachmann, General Counsel, ACORN
Gary L. Blasi, Professor of Law, UCLA Law School
John Bonifaz, Executive Director, National Voting Rights Institute
Richard M. Buxbaum, Dean of International and Areas Studies, Boalt Hall Law School
John Calmore, Professor of Law, Loyola Law School
Erwin Chemerinsky, Professor of Law, University of Southern California Law School
Joshua Cohen, Professor of Political Science, Massachusetts Institution of Technology
James W. Doig, Professor, Woodrow Wilson School, Dept. of Politics, Princeton University
Ronald Dworkin, Professor of Law, New York University School of Law
Roger Findley, Professor of Law, Loyola Law School
Catherine Fisk, Professor of Law, Loyola Law School
Edward B. Foley, Associate Professor, Ohio State University College of Law
Milton S. Gwirtzman, member, Senior Advisory Board, Institute of Politics, John F. Kennedy School of Government, Harvard University
Richard L. Hasen, Assistant Professor of Law, Chicago-Kent College of Law
Roland Homet, Principal, Public Purpose Presentation
Lisa Ikemoto, Professor of Law, Loyola Law School
Gregory C. Keating, Professor of Law, University of Southern California Law School
Stephen Loffredo, Associate Professor of Law, CUNY Law School
Harry Lonsdale, Founder, Campaign for Democracy
Karl Manheim, Professor of Law, Loyola Law School
Frank Michelman, Professor, Harvard Law School
Ralph Nader, Center for the Study of Responsive Law
Burt Neuborne, Professor of Law, New York University School of Law
John Nockleby, Professor of Law, Loyola Law School
H. Jefferson Powell, Professor of Law, Duke University Law School
William Quigley, Associate Professor, Loyola University School of Law
Jamin Raskin, Associate Dean, American University Washington College of Law
John Rawls, University Professor, emeritus, Harvard University
Clifford Rechtschaffen, Professor of Law, Golden Gate University School of Law
Joel Rogers, Professor of Law, Political Science and Sociology, University of Wisconsin-Madison
E. Joshua Rosenkranz, Executive Director, Brennan Center for Justice at New York University School of Law
Thomas M. Scanlon, Jr., Professor of Philosophy, Harvard University
Whitney North Seymour Jr., former U.S. Attorney, Southern District of New York
W. David Slawson, Professor of Law, University of Southern California Law School
Rayman L. Solomon, Associate Dean, Northwestern University School of Law
Peter Tiersma, Professor of Law, Loyola Law School
Georgene Vairo, Professor of Law, Loyola Law School
Jim Wheaton, Founder, First Amendment Project
Louis Wolcher, Professor of Law, University of Washington School of Law

Mr. HOLLINGS. Madam President, I ask unanimous consent that the 24 State attorneys general also asking for reversal of Buckley versus Valeo be printed in the RECORD.

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

TWENTY-FOUR STATE ATTORNEYS GENERAL ISSUE CALL FOR THE REVERSAL OF BUCKLEY VERSUS VALEO

DES MOINES, IOWA—The attorneys general for twenty-four states released a joint statement Tuesday calling for the reversal of a 1976 Supreme Court decision which struck down mandatory campaign spending limits on free speech grounds. The attorneys general statement comes amidst a growing national debate about the validity of that court ruling; *Buckley v. Valeo.*

Former U.S. Senator Bill Bradley has denounced the decision and has helped lead the recent push in the U.S. Congress for a constitutional amendment to allow for mandatory spending limits in federal elections. The City of Cincinnati is litigating the first direct court challenge to the ruling, defending an ordinance passed in 1995 by the City Council which sets limits in city council races. And, in late October 1996, a group of prominent constitutional scholars from around the nation signed a statement calling for the reversal of Buckley.

The attorneys general statement reads as follows:

''Over two decades ago, the United States Supreme Court, in *Buckley v. Valeo,* 424 U.S. 1 (1976), declared mandatory campaign expenditure limits unconstitutional on First Amendment grounds. We, the undersigned state attorneys general, believe the time has come for that holding to be revisited and reversed.

''U.S. Supreme Court Justice Louis Brandeis once wrote '[I]n cases involving the Federal Constitution, where correction through legislative action is practically impossible, this court has often overruled its earlier decisions. The court bows to the lessons of experience and the force of better reasoning * * *' *Burnet v. Coronado Oil & Gas Co.,* 285 U.S. 393, 406–408 (1932) (Brandeis, J., dissenting).

''As state attorneys general—many of us elected—we believe the experience of campaigns teaches the lesson that unlimited campaign spending threatens the integrity of the election process. As the chief legal officers of our respective states, we believe that the force of better reasoning compels the conclusion that it is the absence of limits on campaign expenditures—not the restrictions—which strike 'at the core of our electoral process and of the First Amendment freedoms.' *Buckley v. Valeo,* 424 U.S. 1, 39 (1976) (quoting *Williams v. Rhodes,* 393 U.S. 23, 32 (1968).''

The United States has witnessed a more than a 700% increase in the cost of federal elections since the *Buckley* ruling. The presidential and congressional campaigns combined spent more than $2 billion this past election cycle, making the 1996 elections the costliest ever in U.S. history.

Iowa Attorney General Tom Miller, Nevada Attorney General Frankie Sue Del Papa, Arizona Attorney General Grant Woods, and the National Voting Rights Institute of Boston initiated Tuesday's statement. The Institute is a non-profit organization engaged in constitutional challenges across the country to the current campaign finance system. The Institute serves as special counsel for the City of Cincinnati in its challenge to *Buckley,* now in federal district court in Cincinnati and due for its first court hearing on January 31.

''*Buckley* stands today as a barrier to American democracy,'' says Attorney General Del Papa. ''As state attorneys general,

we are committed to helping remove that barrier.'' Del Papa says the twenty-four state attorneys general will seek to play an active role in efforts to reverse the *Buckley* decision, including the submission of friend-of-the-court briefs in emerging court cases which address the ruling.

''Maybe it wasn't clear in 1976, but it is clear today that financing of campaigns has gotten totally out of control,'' says Iowa Attorney General Tom Miller. ''The state has a compelling interest in bringing campaign finances back under control and protecting the integrity of the electoral process.''

Arizona Attorney General Grant Woods adds, ''I believe that it is a major stretch to say that the First Amendment requires that no restrictions be placed on individual campaign spending. The practical results, where millionaires dominate the process to the detriment of nearly everyone who cannot compete financially, have perverted the electoral process in America.''

The full listing of signatories is as follows:

Attorney General Grant Woods of Arizona (R)
Attorney General Richard Blumenthal of Connecticut (D)
Attorney General Robert Butterworth of Florida (D)
Attorney General Alan G. Lance of Idaho (R)
Attorney General Tom Miller of Iowa (D)
Attorney General Carla J. Stovall of Kansas (R)
Attorney General Albert B. Chandler III of Kentucky (D)
Attorney General Andrew Ketterer of Maine (D)
Attorney General Scott Harshbarger of Massachusetts (D)
Attorney General Frank Kelley of Michigan (D)
Attorney General Hubert H. Humphrey of Minnesota (D)
Attorney General Mike Moore of Mississippi (D)
Attorney General Joseph P. Mazurek of Montana (D)
Attorney General Frankie Sue Del Papa of Nevada (D)
Attorney General Jeff Howard of New Hampshire (R)
Attorney General Tom Udall of New Mexico (D)
Attorney General Heidi Heitkamp of North Dakota (D)
Attorney General Drew Edmondson of Oklahoma (D)
Attorney General Charles W. Burson of Tennessee (D)
Attorney General Jan Graham of Utah (D)
Attorney General Wallace Malley of Vermont (R)
Attorney General Darrel V. McGraw of West Virginia (D)
Attorney General Christine O. Gregoire of Washington (D)
Attorney General James Doyle of Wisconsin (D)

Mr. HOLLINGS. Madam President, I ask unanimous consent to have printed in the RECORD the rollcall of May 1993, of the majority of the U.S. Senate expressing the sense of the Senate that the Congress should be empowered constitutionally, the Constitution should be amended to authorize the Congress to regulate or control expenditures in Federal elections.

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

ROLLCALL VOTE No. 129, MAY 27, 1993

YEAS (52)

Democrats (46 or 85%): Akaka, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Byrd, Campbell, Conrad, Daschle, DeConcini, Dodd, Dorgan, Exon, Feingold, Feinstein, Ford, Glenn, Graham, Harkin, Hollings, Inouye, Johnston, Kennedy, Kerry, Lautenberg, Levin, Lieberman, Mathews, Metzenbaum, Mitchell, Moseley-Braun, Murray, Nunn, Pryor, Reid, Riegle, Robb, Sarbanes, Sasser, Shelby, Simon, Wellstone, Wofford.

Republicans (6 or 15%): D'Amato, Hatfield, Kassebaum, Pressler, Roth, Specter.

NAYS (43)

Democrats (8 or 15%): Boxer, Kerrey, Kohl, Leahy, Mikulski, Moynihan, Pell, Rockefeller.

Republicans (35 or 85%): Bennett, Bond, Brown, Burns, Chafee, Coats, Cochran, Cohen, Coverdell, Craig, Danforth, Dole, Domenici, Durenberger, Faircloth, Gorton, Gramm, Grassley, Gregg, Helms, Jeffords, Kempthorne, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Packwood, Simpson, Smith, Stevens, Wallop, Warner.

NOT VOTING (5)

Democrats (3): Baucus, Heflin, Krueger.
Republicans (2): Hatch, Thurmond.

Mr. HOLLINGS. I thank the distinguished Chair.

When you sit up limply and say there is no constituency for this, the constituency is building. There is no question about that.

It is bipartisan. It is very clever in trying to say that the Hollings resolution is the Hollings-Specter, when it is bipartisan. They will talk with conviction that McCain-Feingold is bipartisan, but not Hollings-Specter. The fact of the matter is, Madam President, that we had a news conference—we have had various ones over the 10-year period—and hardly anyone attended. On yesterday, the room was overflowing, in the context that they realize now that after all the endeavors made to try to reconcile this situation, the only route left for us now to correct this cancer that imperils our democracy is authority for the Congress to act.

Now, they, in sanctimony, stand and talk about Buckley versus Valeo, and in the same breath, ''200 years,'' ''the first amendment,'' ''loopholes,'' ''let's don't have a loophole or gut out the first amendment''— my opponent is very erudite, a very learned Senator, and he has been working on this particular subject for quite some time, and he has to know that Buckley versus Valeo does exactly that.

Buckley versus Valeo limited the speech, the first amendment rights, of contributors. Say I make a contribution to the Senator from Utah for only $1,000 in the primary and $1,000 in the general election; my freedom of speech has gutted a hole in the first amendment by Buckley versus Valeo, because my freedom of speech to contribute and participate has already been limited by Congress, of all people, and upheld by the U.S. Supreme Court. I gave example after example of the safety measures with respect to not being able to shout ''fire'' in a theater. I went to the national security. I went to the obscenity provisions. I wish I had the time and disposition here this afternoon to put in Laurence Tribe's restatement of the freedom of speech, and you would have a powerful grasp of what is in order and what is not in order. You can bet your boots that this has been building.

In 1993, we had a sense-of-the-Senate resolution, and a majority of the U.S. Senate said that they should have a constitutional amendment, such as is here now introduced. The Senator comes and limply says, ''I have Common Cause, the Washington Post, the New York Times, and the ACLU, and the Senator from South Carolina has no constituency.'' We have the constituency. We know about the newspapers. They don't want to recognize the fact that we are talking about ''paid'' speech in this constitutional amendment—expenditures—not ''free'' speech. ''Limit the amount of contributions that may be accepted by and the amount of expenditures that may be made by''—expenditures for speech, paid speech, not free speech.

A State shall have the power to set reasonable limits on the amount of expenditures made. So they don't have to go to the straw man. I got interested in the straw man. They said Congress could come around and limit you to $5,000 in a campaign and get rid of all of these groups. I hadn't thought of that. That would probably be a pretty good idea, because we know all the groups are really not interested, except in beating those candidates, getting over them.

Our colleagues on the other side of the aisle very cleverly got out in Saturday's Washington Post—I will have to get a copy of that article about all of these different groups. You wonder where their names come from. I remember one out in California, with some spurious name, and they found out that Philip Morris, the tobacco folks, were behind it. Upon that being discovered, they said they had to take credit for that particular group. But you have them all bouncing up and down. The gimmick today is to get a group for ''free Government,'' or for ''free speech,'' or ''for clean politics,'' or anything that sounds pretty. You will find out that it is politically motivated by either national party.

I can tell you, our national groups are there and they are really ruining the political process. But the Senator from South Carolina just says ''expenditures.'' Once you limit the expenditures, you can get those groups, you can get the bundling, you can get the soft money, you can get the direct money, you can get whatever you are going to get. If you have the wrong kind of support, then your opponent is going to be quick to point it out and expose it because you have disclosure. That's what we had in the 1974 act, and that's what we must continue.

But this has to do with expenditures and paid speech. Of all people to really talk—let me comment, Madam President, about the limits of speech. We know that there is good reason to limit speech. The U.S. Senate, the U.S.

House of Representatives, the U.S. Congress knows better than any that you must limit speech in order to get a good product. Over on the House side, you are given, under the rule, 1 minute or 3 minutes, and over here, we have bragged about the unlimited speech. But the fact of the matter is that we can cut off the filibuster, and we further limit it. Rather than the two-thirds—you need the accepted large majority of a 60-vote majority to limit the speech, cut it off.

I was at a committee hearing and we had a 5-minute rule. We accept that. So all the Senators limit speech. You are not allowed to stand up and say: Wait a minute, the first amendment, we can't gut a hole in this first amendment for the first time in 200 years.

That is hogwash. Buckley versus Valeo limits speech—the very authority that the opposition uses here to maintain and oppose the joint resolution to amend the Constitution, so that we can reinstill the freedom of speech that is robbed by way of financial power from an individual trying to express himself. That is the nature of the campaign financing now.

As I explained earlier, you could take an individual with $100,000 and me with $1 million. I can tell you that any candidate who is going to start anywhere to get recognition, he is going to spend half of his money on polls. Then he is going to come in in October with $50,000 for TV. I will have a million, and I will squash him; I can tell you that right now. I could come in there and take over the airwaves and billboards and newspapers, and radio at various times, for the various groups, and his family will wonder why he is not interested in his campaign. He is not interested for the simple reason that he is not financially capable of responding. That is what Buckley versus Valeo provides.

That is why Chief Justice Burger, in the dissenting opinion, said this differing of contributions, where it can be limited from expenditures, which cannot be limited, ''simply won't wash.'' That is Chief Justice Burger's expression. You can go right on down the various comments I have given. But them there is the same argument, the same straw man, what the Congress might do. They assume the actions of Congress. That is why we put ''reasonable limits.''

They talk about, I think, the ACLU. I could not get the copies of the other ones just inserted into the RECORD, but I have the ACLU letter. It says, reasonable limits is vague and overbroad.

That is why we said ''reasonable'' because of the straw men that have been erected back in all of these elections. They could limit here, they could do this, or they could do that. We assume that the Congress is going to be reasonable and that the Congress and the courts are not going to stand for any egregious conduct on the part of the Congress that would do as they threaten this particular constitutional amendment would. These straw men that they put up and knock down: Who is going to enforce? We are going to have to put a SWAT team down there, and everything else of that kind. And that, oh, horrors, this applies not only to the Federal but the States and the local elections.

Madam President, I can tell you that the State elections are included because they requested the Senator from South Carolina that they be included. There is no question in my mind that this would be ratified in the 1998 elections in November of next year; no question. I will bet anybody on it. You come and put this before the American people. They have been denied the right by the Senator from Kentucky and others who come around and try to erect straw men talking about 200 years of freedom of speech, when the very authority, the Supreme Court, already has in Buckley versus Valeo. But they said, ''please include State elections.'' I have already inserted the statement of the States' attorney generals in the RECORD. There is a driving force that this Congress has prohibited now for the last 10 years because we put it in. We have had a majority vote. The majority of the Senators themselves expressed the sense of the Senate. They now say that the majority of the Senate is not any constituency. I don't know of a better constituency, if I can get the 67. That is what we need; not just the majority. If I can get the 67, we would really be in a good state.

The Washington Post says we should have limits on advertising, but a constitutional amendment is a bad idea. ''It would be an exception to the free speech clause.'' Oh, no. It is an exception to the paid speech clause. ''And once that clause is free for one purpose, who is to say how many others may follow?'' That is a misgiving. That is a concern. That is a concern in this Senator's mind. It was after 10 years was wasted—from 1976 to 1987. We tried all of these things and got nowhere that you could see, by the way the Court was talking, and particularly now with the Colorado decision. There is no question in my mind that the Court is not going to reverse Buckley versus Valeo. They have pretty well thrown all caution out of the window, and said, ''So long as it is not coordinated, these separate groups can come in and come to the national parties,'' and, by Jove, they spend the money, and, obviously, it is going to be to the benefit of this particular candidate.

That is what we call soft money. It has adulterated the process so that I have business friends at fundraisers when that occurred that said, ''My heavens, Senator. I gave the $1,000, and I am willing to give the second $1,000. But I am getting calls on the phone now to raise $100,000. What in the world? They are calling and asking for $50,000 and $100,000, and so forth, for soft money to give to the party.'' They say that you will benefit from it. They might under oath say something differently. But everybody knows what the national parties are doing, and that is why we have this investigation going on.

It says here again in that particular Washington Post editorial that ''The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections in Federal offices. But that is much too vague.'' It says ''vague.'' I do not think it is vague at all. I think it has worked out in accordance with the wording of the Buckley versus Valeo decision. It is not vague at all—not as the ACLU would state it, and not my good friend George Will. We have his particular comments. That is the gentleman who believes that we ought to have term limits for Senators but not for editorial writers. I think we ought to have term limits for these editorial writers. It is sort of getting boring. You can look at the name, and you pass over it because you know what is going to be written. They are hired hands for a particular viewpoint, and on and on again.

I am quoting from the editorial by George Will:

''Hollings claims—and you have to admire his brass—that carving this huge hole in the first amendment''—that is where they get the ''carving,'' the pejorative expressions without any real substantive argument—''would be a big boost to free speech.''

Mr. Will says there isn't any question that ''by 'free' I mean 'fair.'" No; I mean ''free.'' I do not mean ''paid speech.'' I mean what I say: ''Free speech.'' By limiting contributions you have come in and stated that they are going to have a corruptive influence and that is why contributions need to be limited. If that is the case, most assuredly the amount of spending, not just the contributions, in campaigns is most corrupt.

When Mr. Will refers to ''amounts of speech,'' he means the permissible amounts to be decided by incumbents in Congress and State legislatures. Well, when he says ''incumbents in Congress'', he is speaking in the pejorative again because he doesn't like incumbents. He just likes incumbent news editorialists but not incumbent Congressmen or incumbent Senators.

Will continues, ''Note also the power to limit spending not only by but even in support of or in opposition to candidates.''

That is exactly right.

''The 32 Senators who voted for this include many who 3 years ago stoutly opposed carving out a small exception to the first amendment protections in order to ban flag burning.''

I am going to come back to that. He jogs my memory.

''But now these incumbents want'' —that is the third time he has used ''incumbent'' in this passage—''to hack away at the Bill of Rights'' —this is not to hack away at the Bill of Rights; we are trying to restore the Bill of Rights freedom of speech for the impoverished individual in this country in order to strengthen the permissible amount.

''Government micromanagement,'' Will says. Well, that is exactly what Buckley versus Valeo sustains. It says you can only give $1,000. A PAC, no matter how large the organization, can only give $5,000. We had individuals at the time we passed this in 1974 giving $500,000, giving $1 million, and giving $2 million in cash. Now we know with the Colorado decision and the investigation that will ensue, that we all voted for yesterday, that we are back to the millions, the $500,000, the $100,000 contributions. It destroys the confidence of the people in their representative government. They think ''representative.'' It is, by gosh, bought-and-paid-for government. Whoever has the money is going to control.

Going back to the Will writings,

> Government micromanagement: The Senate bill would ban or limit spending by political action committees. It will require privately funded candidates to say in their broadcast advertisements that the candidates have not agreed to voluntary campaign limits.

Well, that is not in any Hollings joint resolution whatsoever.

''All this Government micromanagement of political speech is supposed to usher in the reign of 'fairness' as incumbents define it, of course.'' Here is a strawman. Vote against incumbents. If you read this, get rid of the incumbents. He is back to term limits again. Let me read the next paragraph.

''Incumbents,'' it starts off—this is the sixth time in 10 lines that he has used the word ''incumbents.'' He knows how to get a drumbeat going. ''Incumbents can live happily with spending limits. Incumbents will write the limits, perhaps not altogether altruistically, and spending is the way challengers can combat incumbents advantages such as name recognition, access to media and franked mail. Besides, the most important and plentiful money spent for political purposes is dispensed entirely by incumbents. It is called the Federal budget—$1.5 trillion and rising * * * Federal spending often is vote buying.''

Now, he even blames us for passing a budget, and he calls that political. Why can't we get a vote on the budget? We have been here since January. It is the middle of March. We cannot even get the Republicans to put up a budget. I remember back on December 18, 1994, on ''Meet The Press,'' they had Mr. GINGRICH and Mr. KASICH and Mr. DOMENICI, the two budget chairmen and the Speaker, and they said we are going to have three budgets. We do not care about the President. We are going to pass them and he is going to sign them or else, that the President is irrelevant.

That was the argument in the first part of 1995. They came on on ''Meet The Press'' and they had three budgets. Now I cannot get one of them. But George Will says it is a political document and an advantage to the incumbents. The incumbents do not think so. Nobody wants to support any budget because nobody wants to pay for it. It is not complicated at all. But so much for the Mr. ACLU and Mr. George Will and Mr. Washington Post and Mr. New York Times.

I want these gentlemen talking about free speech to go to the New York Times and say I want a half-page. See how free it is. Go to the Washington Post and say I want a quarter-page, I want to put this ad in here. There is nothing free about it.

From time to time they will take an editorial, but they will have to review it and like it or else they will not take it. I can tell you that, because I have been trying to point out one that has been refused for many years as to the matter of now having to spend $1 billion a day just on interest costs on the national debt. It amounts, in essence, because you add it to the debt, to increasing taxes $1 billion a day. We are on that particular treadmill of a $1 billion-a-day increase in taxes.

The American people have no idea of it. They have no idea that the deficits for the past 15 years on an average have been $277 billion. It has been $277 billion in Government that we are giving them but we are not willing to pay for. But the American public, depending on the free press, does not know that because the free press does not report that.

And back now to their so-called freedom of speech and first amendments, you are not going to get any freedom of speech there at all. It will be ratified by the States. It is not the first time, in all candor, for the strawman that they have been proposing here. But let me read this that was stated in ''Politics and Money'' by Elizabeth Drew. I quote:

> Until the problem of money is dealt with, it is unrealistic to expect the political process to improve in any other respect. It is not relevant whether every candidate who spends more than his opponent wins, though in races that are otherwise close this tends to be the case. What matters is what the chasing of money does to the candidates and to the victor's subsequent behavior. The candidate's desperation for money and the desire to effect public policy provide a mutual opportunity. The issue is not how much is spent on elections but the way the money is obtained. The point is what raising money, not simply spending it, does to the political process. It is not just that the legislative product is bent or stymied. It is not just that well armed interests have a head start over the rest of the citizenry, for that often is not even a contest. It is not even relevant what interest happens to be winning. What is relevant is what the whole thing is doing to the democratic process. What is at stake is the idea of representative Government, the soul of this country.

That is 15 years ago now, Madam President, by the distinguished writer Elizabeth Drew in ''Politics and Money.''

I think that is what we have to get our media to have, is that fit of conscience developed that we saw developed on the floor of the Senate on yesterday afternoon. In that fit of conscience, we got together in a unanimous vote, a unanimous vote—one Senator abstained under the rules, but the other 99 Senators, Republican and Democrat, Conservative and Liberal, all joined in to not only investigate the illegal but the improper.

Now, there was a little band over there that fought that. They fought Chairman THOMPSON's idea that he was going after not only the illegal but the improper. Under the Klieglight of the free press, not the paid or the expenditures but the free press and the free speech, not the paid speech, under the free press and the free speech, they realized that it was going to be tremendously embarrassing, appear as a coverup.

That is the kind of fit of conscience that must be developed if we are really going to come to grips with this cancer on the body politic. As Justice Jackson says, ''The Constitution is not a suicide compact.'' We do not have to look at the Constitution in a casual way, but we do not have to look upon it as having any relation to this particular predicament. The Founding Fathers had no idea of television. They had no idea of the expense. They had no idea of the time. They had no idea of the effort. They had no idea of the corruption. There is no better word for the process than what is demanded now, as you can see, is going up, up and away. As Justice Byron ''Whizzer'' White said, ''We are going on a treadmill and you can see its direction.'' All election spending back in 1976—I have it all here estimated—was only $540 million. Now, by 1996, in 20 years, it has gone up 641 percent, to $4 billion.

Necessarily, the newspapers who are looking for these paid ads are going to say, ''free press, free press.'' No: Paid speech. ''Free speech, free speech,'' they will caterwaul. The truth of the matter is, we are talking about expenditures, and paid speech. There it is. It is going up, up, and away. I do not know how we are ever going to get a grip on that unless we give Congress the authority.

Once again, I emphasize not what, ipso facto, will happen under these straw men that the Senator from Kentucky puts up. I have no idea of those things he talked about, of limiting the campaign to $5,000, and only the incumbents could run, and do away with all the committees and everything else of that kind. He just arranged a hall of horrors with respect to an amendment. It simply does just exactly what that 24th amendment did when they found the freedom of speech, namely the most solemn act of political speech, voting, was adulterated by money, namely a poll tax. The Congress came immediately back in the 24th amendment to the Constitution and said thou shalt not exact a poll tax or any other kind of tax, as a financial burden on that vote.

Here, now, we have a financial burden on the entire political process. The decision is not being made in the political marketplace, the marketplace of

ideas and vision and programs. The decision is being made in the financial marketplace. And then we go around and ask each other, why don't the people have more confidence in the Congress and the Government up here in Washington?

I see my colleague is momentarily wanting to speak. Madam President, I thank the Senators for listening and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Madam President, I appreciate the opportunity to visit on this subject. My mind goes back to a little history lesson, which many probably know but I would like to rehearse, just as a background for this.

The Constitution was written primarily by one man, James Madison. After it went through the convention in Philadelphia, James Madison went back home to Virginia to campaign for its ratification.

Ratification of the Constitution really depended on two States. Yes, it required that it be ratified by three-fourths of the States, but if New York and Virginia had not ratified, it would not have mattered if every other State did because those were the two dominant States in the confederacy and without their ratification and joining the new federation, created by the Constitution, the country would not have survived.

So, Madison's role in getting ratification by Virginia was as important to the survival of the Constitution as his role in writing it. He had a significant opponent in the State of Virginia, arguably the most popular and powerful political figure in that State, five times, I believe, Governor of that State, a man named Patrick Henry. Patrick Henry took the stump in opposition to the Constitution, put his full prestige and oratorical powers behind the forces that were in opposition, and his reason was, among others, that the Constitution did not include a list—or, in 18th century language, a bill—of rights.

It is not necessary, said Madison in the debates, because the rights of the individuals of this new country, created by this Constitution, are all implied in the Constitution itself. They do not need to be listed. If they are listed, they will be limited only to those rights on the list. So the best thing we can do, said Madison, is ratify the Constitution as it stands, rather than talk about a list or Bill of Rights.

Patrick Henry wasn't buying it. And he was powerful enough in the State of Virginia, that he could have blocked ratification of the Constitution by virtue of his political power. Well, Madison being the practical politician he was, as well as the theoretician, said to the voters of Virginia: I'll make a deal with you. If you will ratify this Constitution, I will run for Congress and in my first term as a Member of the House of Representatives, I will propose a Bill of Rights. And Madison prevailed in that debate, Virginia ratified the Constitution, it became the basic document upon which this country was built, and Madison was true to his political promises. He came to the House of Representatives and Representative James Madison of Virginia proposed 12 amendments to the Constitution, every one of them outlining rights of individuals. Ten of those were adopted and have come to be known as the Bill of Rights.

As a historical footnote, the 11th one that was lost to history for over 200 years got discovered a few years ago and ratified. So that the so-called Madison amendment now, which was No. 11 of his 12 listed amendments to the Constitution, as the Bill of Rights, is now also part of the Constitution. The 12th one is gone and deserves to be gone, it is so tied to that period of time it has no relevance to us today and nobody wants to revive it.

The first of those amendments offered by Representative Madison was, of course, the amendment outlining freedom of speech, freedom of religion, freedom to petition the Government for redress of your grievances. That is his generation's term for lobbying, Madam President—lobbying is a protected, constitutionally recognized activity that is a key part of our democracy. I like to remind people of that, as they stand up and talk about the evils of lobbying. Heaven help us if the day ever comes when citizens are denied the right to petition the Government for redress of their grievances or are told that they cannot hire an advocate more articulate than they are, to do it for them. That would diminish our constitutional rights.

That is all in that first of those amendments offered by Madison. Patrick Henry lost the battle in terms of the ratification, but this country owes Patrick Henry a tremendous debt of gratitude for his forcing James Madison into that political deal and putting down on paper those rights that we have listed for us in the Bill of Rights.

What does that have to do with this debate? What does that have to do with this discussion about campaign finance reform? I stand here, not as a lawyer, but I hope as one who can read the English language and one who has made something of a study of the Constitution throughout his life. I put myself in the context of that debate between Madison and Henry, and I say: Mr. Henry, would you be satisfied with the reassurance of the following words:

> Congress shall have the 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.

I think Mr. Henry would say, ''I will accept James Madison's assurances that all of our rights are, by implication, in the Constitution, before I will accept the notion that Congress has the right to set reasonable limits on what people do in support of or in opposition to a candidate.''

Now, it is presumptuous of me to try to put words in Patrick Henry's mouth. I don't think any of us in this body is a good enough orator to make that attempt. But I, for one, feel that the spirit of Patrick Henry says we have to be a whole lot more specific than this, if we are going to amend the fundamental document that stands as the basis of this Nation.

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

Mr. BENNETT. I will be happy to yield.

Mr. McCONNELL. Given the general anxiety that candidates for public office experience when independent expenditures, constitutionally protected speech, is directed for or against us, could my friend from Utah not envision a situation in which the Congress would conclude that there should be none, no expenditures in support of, or in opposition to, a candidate? Might not the Congress, in its wisdom, conclude that it was reasonable to have no such expressions by outsiders in the course of the campaign under this amendment?

Mr. BENNETT. As I read the language of this amendment, the determination of what is reasonable and what is not reasonable is left to the Congress. And under those circumstances, I can see a Congress of incumbents deciding that it was eminently reasonable not to allow anyone to oppose them.

Indeed, if I may quote, to the Senator from Kentucky the rationale currently being given by the White House for the excesses to which they went in extracting expenditures which now have had to be returned in the millions of dollars. Their rationale was that they were facing the possibility that the Republicans would win the election, and that that possibility was so overwhelmingly devastating to the future of the country that they had no choice but to go to the absolute limits of propriety and, on occasion, beyond in order to prevent that from happening.

If someone believes that is reasonable, certainly I agree with the implications of the question from the Senator from Kentucky that Members of Congress might agree that it is reasonable to put such low limits on the amount that could be spent in opposition to an incumbent that, in fact, the net result would be zero in support.

Mr. McCONNELL. I ask my good friend from Utah, might not the Congress, full of incumbents, by arguing that the expenditure of money is such a tainting thing in our democracy, conclude that maybe there should be a $10,000 or a $20,000 limit on expenditures by candidates in the next election, thereby virtually guaranteeing the reelection of every one of these incumbents?

Mr. BENNETT. I agree completely that the Congress might do that. Now, to be honest, I would have to say to my

friend from Kentucky, the outcry that would arise from the press, the groups who watch what we do, would be very, very severe if Congress were to do that, and they would scream that that was not reasonable and would demand that the limit be raised.

But you would create, in that circumstance, a political thicket, to use a phrase that the Supreme Court, I understand, has used on occasion, wherein the threads of intelligent debate would be lost completely. You would spend all of your time in that election arguing whether a $5,000 limit or a $10,000 limit or a $100,000 limit, or wherever it might be, was the right limit, and you would never spend your time talking about the important issues facing your country.

Frankly, we are in a microcosm of that right now. We are arguing about the things that get in the way, I think, of more substantive issues.

Mr. McCONNELL. If the Senator will yield, I wonder if the press would argue for more spending. They seem to believe—most of them—that spending is a tainting thing in our democracy. To the extent the campaigns are, basically, out of business, in terms of their own expenditures, to convey their own message to their own constituencies, would that not enhance the power of the press enormously?

Mr. BENNETT. I think it would enhance the power of the press enormously, but I say this to my friend from Kentucky. If we had those kinds of limits, I think the people on the editorial page would begin to hear from the people on the business page, or, that is, on the management side of the paper, saying Congress has just prevented us from selling ads to anybody on any public issue—and there is very significant revenue connected with this—and we think you editorial writers ought to ease up to the point where we can begin to get some of the advertising dollars back that we used to have.

In that circumstance, I agree with my friend from South Carolina, that as a practical matter in a campaign, this speech is not monetarily free. I draw a distinction between ''monetarily free'' and ''philosophically free.'' I believe when I buy an ad in a newspaper, as the purchaser of that space, I am, therefore, philosophically free to say whatever I want. Indeed, I have heard radio ads where, in advance of the ad, the radio commentator has come on and said, ''The ad you are about to hear contains language which this radio station is forbidden to broadcast under normal circumstances, but it is a political ad, and, therefore, the station cannot censor it in any way,'' and people are warned that the ad they are about to hear comes under the freedom of political candidates to say whatever they want.

The ad then used words that, in fact, the station would never otherwise allow. I can say, the candidate who purchased the ad got about 2 percent of the vote, but he was out for the shock value, and he got it in the State of California. Then after the ad was run, the station announcer came back, once again, to disclaim any connection with this but to say we had no choice, since this was a political speech, to allow it to go forward untrammeled and unchanged.

If you want free speech, the Senator from South Carolina is right, in today's world, you have to buy space on the media in order to have it, but if we put limits on the amount of money that can be spent, the net effect of that is to destroy my right to have free speech and to turn the debate over to the commentators who have access to the airwaves and the newsprint without any limitation.

Mr. McCONNELL. One final question for my friend from Utah, following up on the observations he astutely made about the transfer of power to the media when you mandate less speech by the candidates and by groups in support of candidates. Might it not then be the next step for Congress to conclude that since now the press has all the power, that maybe we ought to amend the first amendment a little further and give the Congress the power to maybe say how many hours a day a station may broadcast, because we might conclude that they were engaging in an excessive amount of discussion of our issues, or we might conclude that the circulation of a newspaper might be limited to a certain number, because there was an excessive amount of news out there, an excessive amount of discourse about daily events?

That is also part of the first amendment, is it not, and that is also part of the discourse that goes on in this free society. That would be potentially the next step, might it not?

Mr. BENNETT. Certainly it would be a logical extension of the reasoning behind this. I agree with my friend from Kentucky that would be the case.

My friend from Kentucky raises another issue with respect to the language of this amendment, when it refers to expenditures that may be made in support of, or in opposition to, a candidate.

Let us suppose this circumstance, Madam President. Let us suppose that a corporation—we will call it the ABC Corporation so as to not taint any existing company—purchases half an hour of television time for a news broadcast; in other words, it becomes the sponsor of ''The McConnell-Bennett Hour,'' assuming for just a moment that both my friend from Kentucky and I have concluded our service in the Senate honorably and are looking to extend our careers in the public arena. And McConnell-Bennett, sponsored by the ABC Corp., has a half-hour news show.

In that, McConnell proceeds to say nice things about the Senator from Texas, who has joined us on the floor. And the Senator from Texas has an opponent who immediately calls the network and says, by putting ''The McConnell-Bennett Hour'' on, the ABC Corp. has made an expenditure in support of the Senator from Texas. If the ABC Corp. would just pull their support and sponsorship of that program, MCCONNELL would not have the opportunity to say all those nice things about GRAMM. And GRAMM's opponent says the expenditures made by the ABC Corp. in sponsoring that program are in violation of the Constitution.

If this sounds somewhat silly, Madam President, it is because it is.

I yield to my friend from Kentucky.

Mr. MCCONNELL. I thank the Senator, and think the Senator from Texas would be interested in this as well.

The ACLU, in a letter to me dated March 6, says that this language before us may well give the Congress the power to interfere with editorializing in newspapers. Let me just read this observation for my colleagues and for those who are interested.

> Senate Joint Resolution 18 [referring to the resolution before us] 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.

So what we have here, America's experts on the first amendment—sometimes we agree with them; sometimes we do not—but clearly America's experts on the first amendment, the ACLU, say that this amendment before us gives the Congress, us, the power to control editorial comment in this country.

Mr. BENNETT. If I may, Madam President. I have just thought of an example that I think is a real-life example and not one of the theoretical examples we have been talking about.

I hope I am not offending anyone to say that the new magazine called the Weekly Standard, in my opinion, is not making any money. I know enough about the business world to look at the number of ads in the Weekly Standard and know what it costs to produce the Weekly Standard to say that the Weekly Standard is at the moment a loser financially.

I also know enough about the business world to know that Rupert Murdoch, who is funding the Weekly Standard, hopes that that will change. I know that he is not doing this strictly out of the goodness of his heart. And he has sound past history behind him.

Sports Illustrated, published by Time magazine, did not make any money for

years and years and years while it built a constituency for its product. It is now, I understand, the most profitable publication Time magazine has. Undoubtedly, Rupert Murdoch is hoping for a similar track record for the Weekly Standard. But as of now, the Weekly Standard is not making any money.

Anyone who reads the editorials of the Weekly Standard knows that it is in support of candidates for nomination for office. And Rupert Murdoch is bankrolling it. He is bankrolling it with corporate funds. These are not his personal dollars. He is bankrolling that magazine with corporate funds.

Suppose we pass this amendment and put limits on candidates to the point where they felt they could not get their message out, and a candidate then went, under cover of night, to Rupert Murdoch's office and said, ''Rupert, I am in terrible trouble. Will you please editorialize in the Weekly Standard on my behalf and reprint 400,000 copies and send them as promotional issues to every voter in my home State?''—a corporate contribution made in the name of seeking circulation improvement. It is not an unreasonable scenario.

And the point that it illustrates is the point that the Senator from Kentucky has made since the day I walked in this Chamber and heard him address this issue. And that is this: Somehow, some way, somewhere the inventive American mind will find a way to spend money on political campaigns no matter what we do. Somehow, somewhere—I love his analogy: Like putting jello on a rock, the thing will find someplace else to go.

It seems to me, if we want free, honest, open, fair, direct elections, we should focus on the issue of disclosure rather than limits, because the limits have proven time and again throughout our history never to work.

We talk about how terrible this present situation is. Madam President, I lived through the Watergate era. Indeed, I lived through the Watergate era much closer to the Watergate scandal than I wanted to be.

When I ran for the Senate in 1992, the entire campaign against me mounted by my Democratic opponent was that I was somehow tainted by my association with all of the figures in Watergate. And there are still occasions when I am in these parades on the Fourth of July in the rural towns of Utah where people who are not my political friends holler out, ''Hey, Watergate'' at me hoping the taint will still stick. FRED THOMPSON and I are probably the two Members of this body who know more about Watergate from a personal inside experience than anybody.

Virtually the entire system that we have right now was constructed in response to Watergate. And we were promised at the time it was constructed in a way that it would solve all of our problems. We were promised that with the creation of political action committees, special interest money would disappear. We were promised that with limitations on individuals, we would get democracy like we have never seen it before in campaigns. We were promised that everything would go away if we would just simply adopt these reforms in the name of clean elections.

Twenty years later, what do we hear? From the same people who made those promises, we are told if we adopt this constitutional amendment all will be wonderful, everything will now suddenly take on a rosy hue and there will be no corruption in American politics again.

Madam President, I did not believe them then. And I do not believe them now. And I think the track record of the last 20 years indicates that I was right not to believe them then. I hope we do not have a track record for any of us to find out from actual experience that we should believe them now.

Let me conclude with a personal experience. Everybody always says, no, you should not tell your personal stories. But this is a story I know the best.

I looked at all of the proposals for campaign reform that were around when I ran. And I realized very quickly they were designed for one purpose—to protect incumbents. Of course, you want to have a spending limit if you are an incumbent. The challenger cannot take you on if there is a spending limit. I ran against an incumbent Congressman.

What did that mean? That meant when he put out a press release, the taxpayers paid for it because he had a press Secretary that was on his congressional staff. When I put out a press release, I had to pay somebody out of campaign funds in order to write it and disseminate it.

When he went to see someone in the home State after traveling to Washington, the taxpayers paid for it because he had a travel allowance. When I came to Washington to try to see somebody to raise some money for myself, I had to pay for it myself out of my campaign funds because I did not have any travel allowance. And so on down the list.

Plus the fact, he had all those years of being invited to Rotary clubs and Kiwanis clubs and Lions clubs to be the speaker. I have been involved with trying to line up speakers for clubs. You are always delighted when you can get someone like a Congressman to come talk to you. I had not been to any of those clubs. None of them was interested in talking to me.

So you know what I had to do, Madam President, in order to get anybody to listen to me in that campaign? I had to buy them lunch. When I filed my FEC report, I had $86,000 for food. Because the only way I could get anybody to listen to me: I bought them lunch, I bought them breakfast, I bought them dinner. They would come with no intention of voting for me, but they wanted the free meal. I just hoped if I could get in the room long enough and talk to them, maybe I could pry a few of them away.

I started out in that first campaign for the Republican nomination, and there were four of us running for the Republican nomination. One candidate was at 56 percent, in first place. I was at 3 percent, in fourth place, and there was a 4-point margin of error, so I could possibly have been minus 1.

Would the incumbents have loved a spending limit faced with the opportunity that BOB BENNETT might challenge him? Absolutely, absolutely. And a spending limit would be marvelous because then I could not spend all that money for lunch because I simply could not have done it.

Now, I have said facetiously to some of my Republican friends around here, look, we were opposed to this when we were in the minority. Now that we are in the majority, why are we not for it, because it will return our incumbents and hold the other side down, because their challengers cannot beat us. I am afraid I am not that cynical. I still remember what it is like to be a challenger and the recognition that if we are going to have free and open elections, we have to give the challengers the opportunities to take on the incumbents, and the opportunities to take on the incumbents on the part of the challenger means that the challengers have to have the opportunity to raise the money to pay for the press secretary that the taxpayer pays for for the incumbents, to pay for the travel budget that the taxpayer pays for for the incumbents, to pay for the lunches so they can get in before the audience, that the incumbents get for free. If we put this limit on and say we are going to hold everybody to the same limit, we have just automatically said we are going to take care of the incumbents.

The only thing that makes any sense to me in terms of campaign finance reform is to increase the level of disclosure, not put any limits, recognizing the reality of what the Senator from Kentucky says, that the money will find a way to be spent. The more limits you put on it, the more you make sure it is the rascals who survive and the naive who get caught. The only way you will get the naive, the fellow who has not figured out all of the ins and outs, who has not worked his way through all of the labyrinth and opportunity to serve in public office is to remove the ins and outs and wipe away the labyrinth.

I am sure we will have more to say on this as it goes on. I see my friend from Texas has something to say, as he always does. I will listen with interest, as I always do.

I will leave it at this, Mr. President, but I will return at some future point. I end this as I began.

Patrick Henry was right when he said, you nail it down, you put it on paper, and you make it very clear.

James Madison was right when he caved in to Patrick Henry on that argument, and did it in writing, the Bill of Rights, instead of accepting the assurances that everything would be OK.

I cannot accept the assurance that Congress will automatically come up with what is the right definition of reasonable. I cannot accept the assurance that expenditures made in support of or opposition to a candidate will be reasonably handled by the Congress. I cannot support putting that kind of language into the Constitution of the United States and thereby creating a circumstance of uncertainty over which lawyers will argue for the next 200 years.

I was part of the majority that defeated this amendment the last time it came up. I will be part of what I hope will be the majority that defeats it this time. I yield the floor.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Chair recognizes the very honorable and distinguished Senator from Texas.

Mr. GRAMM. Thank you, Mr. President. I begin my discussion of the resolution before the Senate by reading two things. The first thing I will read is the first amendment to the Constitution. I will then read a statement made by the principal proponent of this amendment as it has evolved through the legislative process, the distinguished minority leader of the House of Representatives, Richard Gephardt. And then I will discuss the fact that for the first time in the debate on campaign finance reform, for the first time ever, we are debating the real issue.

To this point, as is often so true, even in this greatest of deliberative bodies on the planet, we have not really debated the underlying issue, because often either one side or both sides of an argument has an incentive to cloud the real issue so that people do not understand.

The one thing that I am very thankful for, and that I want to congratulate our colleague from South Carolina for in proposing this amendment, is that for the first time in the debate on campaign finance reform, we are finally debating the real issue that is being contested here—I rejoice in having this opportunity to debate.

I will debate the issue a little, then I want to talk about the underlying issue, and then I will say something about our distinguished colleague from Kentucky.

The first amendment to the Constitution, which has been memorized by most schoolchildren in our country, is one of the most recognizable part of the Constitution, and says the following thing:

> Amendment I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the Government for a redress of grievances.

That is the first amendment to the Constitution of the United States, and that is the massive thorn in the side, the impediment, and the giant mountain that serves as a barrier to those who want to reform American campaigns to limit the ability of people to raise and spend money. It is this impediment that they face which makes it impossible, without trampling this amendment into constitutional dust, to achieve what they want.

Today, we are debating this issue in a proposal to amend the Constitution and to amend, in particular, the free speech clause of the first amendment.

Now, I want to next read a quote from the distinguished minority leader of the House, Richard Gephardt. This is a quote where Mr. Gephardt is talking about his amendment. He says:

> What we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both.

Now, let me read that again: ''What we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both.''

Now, Mr. President, I wish the Founding Fathers could have heard that statement and could have realized that the distinguished leader of the Democratic Party in the House of Representatives, in setting out what he views as desired healthy campaigns and desired healthy democracy, believes that free speech must die for these healthy campaigns to occur. This logic would have rightly been rejected by every single Founding Father. I know it because when they wrote the Constitution and when the first Congress adopted the Bill of Rights, they picked one amendment to be first, and that amendment is very clear: ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech * * *''

Now, why this amendment is so important, why this debate is so critical to the debate on campaign finance reform is that, for the first time, we are now discussing the real issue: Do you believe in freedom of speech or not? I do. Therefore, I am opposed to this amendment, and I am opposed to what is posing as campaign finance reform. Or do you believe that Government ought to be given the power to circumscribe free speech to achieve the Government's decision of what, in essence, good elections are? That is what the issue is. For the first time in this long, convoluted debate, we are really now down to that key issue.

I hope and I believe that we are going to reject this amendment and that we are going to say, once and for all, that we believe in free speech. In fact, how can you have genuine elections without free speech? Ultimately, the speech that our Founding Fathers were most concerned about was political speech. Yet, we have an amendment before us that would amend the Constitution and that would limit free speech in the name of—to go back to Leader GEPHARDT's language—''promoting healthy campaigns in a healthy democracy.''

Mr. President, what Mr. GEPHARDT wants to do, and what proponents of this amendment want to do, is to limit free speech because they want to change the balance of power in the political process. Those who believe that the first amendment is a sacred part of the Constitution have to reject this amendment out of hand—and I do. And I believe the majority will as well.

But let me go one step deeper into the process to try to at least give my view as to what this whole debate is about. If you went out in the public, which is reading all of these stories written by all these groups who are promoting various ideas about campaign finance reform, I think what the American people would be saying is that they are concerned that too many groups exert too much control over Government and they would like to fix it. Well, it is interesting, because the Framers of this document, the Constitution, were concerned about exactly the same thing. But maybe because their world was simpler than ours, maybe because their vision was clearer than ours, they understood that the solution to bad speech or ineffective speech or speech you disagree with is not limiting speech, but opening speech up and guaranteeing free speech.

Now, here is the problem. People are worried about interest groups influencing the Government. But, let me go back one more basic step. What is it about Government that people want to influence? Well, what it is about Government that people want to influence is that Government does things that are very valuable. Government sets the price of things. Government runs programs where we set interest rates, where we set rents, where we set the price of commodities, where we impose regulations that benefit some people and hurt others. Government is a major player in the economy as a setter of prices and regulations that accumulate and destroy fortunes. So people want to influence Government.

The second reason people want to influence Government is that Government spends a lot of money and people want part of it.

A third reason people want to influence Government is they care about it. They care about the future of their children. They love their country, and they have philosophies that they believe in. They have a vital interest in their children and grandchildren and they take seriously either their obligations as a citizen, defined in the Constitution, or the biblical admonition, ''Render unto Caesar what is Caesar's.''

Now, nobody wants to limit the third kind of influence, I don't think. If somebody loves America and they want to be involved, or if somebody believes our colleague from North Carolina is the next Thomas Jefferson and they want to support him because they believe in him, nobody in this debate

claims they want to interfere with that right.

It has always amazed me that never once in the campaign debate has anybody proposed eliminating the power that people are trying to affect by engaging in campaigns. If we are worried that milk producers are going to give money to candidates to raise the price of milk, why not stop having the Government set the price of milk? Then, if milk producers are involved in the debate, you do not have to worry about why they are involved. They are involved because they care and they have opinions and they have an interest in the country.

If we are worried that people are wanting to sleep in the Lincoln bedroom or go to a coffee with the President because they want a contract from HUD, and we think that is the wrong use of political power, why not get HUD out of the contract business? Why do we not mandate competitive bidding? Why not eliminate all of this discretion? If we are worried that people want a contract or a benefit or something, why do we not go after that power and eliminate it? That is what the Founders would have said we should do, yet nowhere is that being proposed.

What is being proposed, then, is not eliminating all the reasons people want to influence the Government for their own benefit, but what is proposed is changing who is allowed to intervene in that debate. The basic argument, which on its face is a self-contradiction, always seems to be that we want to limit the ability of citizens to contribute to the candidate of their choice so that this candidate can express his views.

I have heard nobody object to the AFL–CIO endorsing a candidate, which is worth millions of votes nationally, is worth hundreds of thousands of volunteers, and has the monetary equivalent of millions of dollars. Nobody says there is anything wrong with that. Nobody says that there is something wrong with the teacher's union, the National Education Association, endorsing the President and putting thousands of teachers into phone banks and doing all kinds of letters to their members to promote the President.

But there is an effort to single out one particular type of involvement, and that involvement is where a person puts up their time, talent, and especially their money to support a candidate. There is somehow supposed to be something wrong with somebody writing a check to support their local candidate or their State candidate or their national candidate. But notice that if we ban contributions completely so that nobody could spend any money and so that the only people who would have the ability to communicate would be big, powerful organizations like the AFL–CIO, organizations that are able to manipulate the media—like environmental groups or Ralph Nader—people who are rich enough to own newspapers, and people who were simply influential enough to command attention for their ideas. I have a constituent, Ross Perot, who is worth over a billion dollars. When you are worth over a billion dollars, people listen to what you have to say.

But the point is that this effort to limit the ability of free people to contribute does not eliminate what people do not like about the system; it simply makes other groups more powerful.

I would like to establish a principle which I think it is made very clear by this proposed amendment. What we are seeing here is an effort not to eliminate political power, but to redistribute it. Limiting the ability of people to raise money or contribute money or spend money would clearly eliminate part of the competition in the battle for ideas in America. But it would leave all the other competitive groups in place and would clearly tilt the balance of power.

What is really being said here is that something pretty fundamental has happened in America. It is really the confluence of two forces, and if I were on the other side of this political debate, it would scare me to death. No. 1, people don't write small checks, by and large, to Democrats. I have had the great honor of heading up the National Republican Senatorial Committee, where we had a power that our Democratic colleagues never had. We could send out a letter to millions of people and we could get hundreds of thousands of people to write us checks for $25, $50, or $75. Never was there a day while I was chairman of the National Republican Senatorial Committee when the Democrats average donor did not give somewhere between 3 and 10 times as much, in terms of the amount of money, as our average donor. The plain truth is, if your agenda is more government, more taxes, and less freedom, you have a hard time sending out a fundraising letter and getting people to give. You have to let them sleep in the Lincoln Bedroom. You have to hold meetings with them. You have to make them believe they might be getting something for it. So, obviously, if you are on the losing end of this battle of free speech, you want to limit free speech.

The other force that is coming to bear in this confluence is that Reconstruction is over. Reconstruction in the South ended in 1994 when we elected a Republican majority of House Members, Senators, and Governors from the Old South. It is hard to believe that the Civil War and Reconstruction took that long to work its way through the system. But it did, and it is forever changed.

So what we are really seeing here—and, unfortunately, it is aided and abetted by those who want the change to occur because it makes them more powerful—is an effort to change the political landscape of America to give more power to editorial writers, to unions, to teachers, to groups that can manipulate the media, and to take power away from working men and women who are willing to voluntarily contribute their time, their talent, and their money.

Unfortunately, the people who give report cards on this debate and write nasty editorials about our dear colleague from Kentucky are editorial writers who are probably the biggest beneficiaries of this proposed amendment. After all, if we are limited in our ability to either spend our own money or to raise money from other people and then spend it, then editorial writers become very, very important. On the other hand, if you have the ability to raise money and to tell your story, they become far less important. As I have said to those friends that I have had in meetings with editorial boards, ''Endorse my opponent on the editorial page, and write a good story about me on the front page.'' Editorial endorsements are not nearly so important when people can engage in free exercise of free speech.

The issue here is freedom. You either believe in it or you don't. And I do. I have never bought, and I will never buy, the logic that somehow, if you have 88,000 people in your State who have contributed to your Senate campaign, which I do, that somehow we ought to have a law that says we can allow up to 50,000 people to contribute, but when we reach the point of that 50,000th person that has contributed, the 50,001st person will not be allowed to participate. I totally and absolutely reject that. The whole purpose of this amendment is to limit the free speech of that last person because Congress is going to decide who will have power, who will exercise it, and how that power will be exercised.

The founders of this nation, in this debate, would rejected this proposal. They would have said that if you are worried about Congress setting the price of a product, and you are worried that people will give money to politicians to try to get a higher price to benefit themselves and line their pockets, then take the power to set prices away from Congress. If you are worried about construction contracting, eliminate the discretion in giving contracts and limit the number of contracts that Government is engaged in. But do not limit the ability of people to speak and to express their opinion.

I think it is interesting to note—and it is not a debate that I want to get involved in, but I think it is interesting to note—that in the amendment before us, when the amendment says that it gives Congress the power ''to limit the amount of expenditures,'' it is pretty clear that this is very, very broad language. That language could be interpreted, it seems to me, to mean something far more than the authors of this amendment intended.

The authors of this amendment intend to limit one particular kind of free speech; that is, free speech by a candidate and by that candidate's supporters. They clearly do not intend to

eliminate free speech by editorial writers, by unions, or by whomever else. But the point is that this amendment is probably so broad that ultimately it could mean the limitation of that free speech as well.

We have to make a choice as to what we are for. I submit that it is very tempting, in looking at these bills, to say, ''What benefits me?'' And it is very easy for me to devise a campaign finance reform system that benefits me. In fact, I think it is easy for any of us to do that. It might well benefit me to limit contributions because then someone running against me would have no real opportunity to get the kind of exposure I am getting by speaking on television right now with millions of people watching C–SPAN. But I think we have to take a longer view of what these changes are going to mean to people, 20 years from now, who are going to be standing right here where we are standing today.

Limiting free speech is not in America's interest. This is a very bad amendment. The intentions of it are basically founded on the principle that free speech and healthy democracy are in conflict. Free speech and healthy democracy can never be in conflict because when free speech dies, democracy dies. If dead democracy is healthy democracy, then you would view that as a good thing. But I do not view it as a good thing.

The final point on the amendment: We have voted on this as an amendment to the balanced budget amendment. I believe that we have touched on it with other issues. But today this is a freestanding proposed amendment to the Constitution of the United States. I hope some of the people who voted for it, as a way of making it harder for us to pass the balanced budget amendment, will today vote against it on the merits. I know no simpler way of defining what it is about than to quote its author when he said, as I have already read two previous times, ''What we have is two important values in direct conflict, freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both.'' If that is the choice—and it is the choice —do we not choose free speech? Do we not believe in the end, to quote a biblical admonition, ''Ye shall know the truth, and the truth shall set you free''?

Before I yield the floor, I want to say something about our colleague from Kentucky, Senator MCCONNELL.

These issues are very difficult issues. It is not very popular to get into a discussion about these issues, and there is one Member of the Senate who, more than anybody else, has been willing to stand up on these issues, and his leadership and his courage have become fundamental to protecting our constitutional rights.

I just want to say to my colleague from Kentucky that there are millions of Americans who will never know your name, who will never know what you have done, and certainly there are hundreds of editorial writers who will castigate you for it. But I want to tell you in the opinion of one of your colleagues, you have earned our great and permanent appreciation for the courage you have shown on these kinds of issues in standing up for our fundamental constitutional rights. And you have certainly earned our admiration and affection for doing it. Millions of people who will never know your name, will never know about this debate, are beneficiaries of the great leadership you have provided.

I wanted to say that on the floor of the Senate because I believe it.

I yield the floor.

Mr. MCCONNELL addressed the Chair.

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

Mr. MCCONNELL. I thank my friend from Texas for his brilliant discourse on the potential damaging effects of this amendment. I thank him deeply for his comments about my work on this first amendment issue. He has been a steadfast ally throughout this debate, and I appreciate very much his being there when we all needed the Senator to be there when we needed to protect the first amendment.

Mr. President, the Senator from Wyoming is here patiently waiting to address the body, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Wyoming, Mr. ENZI.

Mr. ENZI. I thank the Chair.

I am pleased to be here today and have an opportunity to address Senate Joint Resolution 18, the proposed constitutional amendment to limit campaign contributions and expenditures. I am a freshman Senator. I came through an election last fall and have a number of things I would like to see addressed on campaign reform, but I have to say that I do not think a constitutional amendment is the right forum for beginning that debate.

This attempt to exclude core political speech from the first amendment's protection is a terrible assault on one of the very cornerstones of American representative democracy, the freedom of private citizens to participate in the public forum of political discourse through freedom of speech.

This constitutional amendment is dangerous both in its design and its broad and sweeping scope. This expansive amendment would grant Congress the future power to prohibit independent citizens from distributing leaflets, writing editorials, producing independent commercials, and/or handing out voter guides if Congress finds these measures to be ''in support of or in opposition to a candidate for Federal office.'' This is precisely the kind of Government intrusion our Founders feared when they drafted and adopted the first amendment to the Constitution. The first amendment was designed to protect citizens against the dangers of a tyrannical Federal Government. It was adopted because our Founders rightly realized that there are some freedoms that are so intrinsic to the nature of a representative democracy that they must be protected from the momentary wishes of a majority in the Federal Congress.

When asked what use the Bill of Rights served in our popular Government, James Madison explained, ''The political truths declared in that solemn manner acquire by degrees the character of fundamental maxims of free Government, and as they become incorporated with the national sentiment, counteract the impulses of interest and passion.'' In other words, it was to protect against such impulses as those now suggested by many of the would-be reformers that the founders drafted the first amendment's protection of speech in broad and unequivocal terms. ''Congress shall pass no law abridging the freedom of speech.''

A brief analysis of the effects of this amendment should terrify even the most ardent reformers. A few examples should show the chilling effect this amendment could have on political freedom of speech. This amendment gives Congress the power to set limits on the amount of expenditures that may be made in support of or in opposition to a candidate for Federal office.

I will start with the worst example first. Suppose that one party again gains control of both Houses of Congress and the Presidency. In order to maintain its monopoly on Government, this Congress could pass a law limiting the expenditures of congressional challengers to $5,000. What sort of possibility would this give any challenger. Such a proposal would all but guarantee a perpetual Congress of incumbents. As outlandish as such a proposal sounds on its face, it would be legal under this amendment.

Again, even the freedom of the press could fall under the vast scope of this amendment. Let us consider a proposal which would prohibit any editorial against a candidate or a group of candidates. Such a law could well be passed under this amendment if Congress decides that such editorials are expenditures by the newspaper ''in opposition to'' a candidate for Federal office. Congress could have the power to limit or even prohibit press reports for or against a particular candidate since expenditures must be made to print and distribute a newspaper or broadcast a television or radio news report.

Finally, let us consider the case where a private citizen wishes to write an editorial or hand out leaflets in favor of a particular candidate or his or her positions. Again, this amendment would give Congress the power to prohibit such activities. Expenditures must be made to write and publish editorials or hand out handbills. Congress could pass a law outlawing such expenditures in support of candidates if it so desired. This amendment would have a drastic and dangerous impact on the free discussion of ideas in this country.

Newspapers also might not come under the law but we might come under an expenditure law, so they could write things about the candidate to which they may now not be able to respond in light of not having sufficient funds within the limited amounts.

Proponents of this constitutional amendment have accepted as their first premise in the campaign reform debate that the first amendment to our Constitution is incompatible with a healthy electoral process. One of the original House sponsors of this gutting of the first amendment proclaimed unabashedly: ''What we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy Democracy. You can't have both.''

This remarkable confession by one of the leading reformers is as startling for its boldness as it is for its inaccuracy. We should beware of any campaign reform which can only be achieved by destroying the first amendment. This false conflict between free speech and democracy was rejected by our Founding Fathers, and it should be rejected by the Members of this Senate. Our Founding Fathers rightly understood that it is precisely the unhindered protection of freedom and open political speech that makes democracy possible.

I find it fascinating that in the 2 months I have been honored to serve in this deliberative body we have debated now two proposed constitutional amendments. These two amendments could not be more opposed in their purpose or their effect. The balanced budget constitutional amendment, of which I was a proud cosponsor, would have placed constitutional limits on Congress' power to squander away our children's economic future. Senate Joint Resolution 18 would give Congress expansive and unprecedented new powers of prohibiting core political speech. The balanced budget amendment would have limited the Congress' power by restricting its ability to spend money it does not have. Senate Joint Resolution 18 would constitutionally expand Congress' power to regulate the speech of candidates, businesses, private citizens, and perhaps the press and media.

I support the balanced budget constitutional amendment because I believe that by forcing Congress to live within its means, we give our States, our communities and, most important, our families more freedom to make the decisions which most affect their lives and their futures. I have to oppose this constitutional amendment because it would grant Federal and State governments the power to stifle one of the most basic political freedoms: the freedom of individual citizens to express themselves freely and without restraint in the public forum.

I urge my colleagues to join me in affirming the time-honored wisdom of the first amendment of the Constitution by rejecting Senate Joint Resolution 18.

I yield the floor.

Mr. MCCONNELL. Mr. President, I thank the distinguished junior Senator from Wyoming for his very articulate, knowledgeable speech in support of the first amendment. He has made an important contribution to this debate, and I am very much appreciative, as are my colleagues who feel this is a step in the wrong direction. I very much appreciate his contribution.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Nebraska.

Mr. HAGEL. Mr. President, I rise today in opposition to the constitutional amendment offered by my distinguished colleague from South Carolina. Allow me to say how much I respect my friend Senator HOLLINGS and the years of service he has given to this great body and to America. During this time he has seen more than his share of scandals and has surely grown tired of and frustrated with what seems to be almost daily revelations of political wrongdoing. My argument is not with the Senator's motives or his quest for a better campaign finance system. I think we all agree with that. My argument is with this particular solution.

In many ways it could not be more fitting for this body to begin the important debate over campaign finance reform than with this proposed constitutional amendment. As my colleague Senator ENZI said, by proposing a constitutional amendment, my distinguished colleague from South Carolina concedes what many who support restricting political speech fail to recognize: that denying an American citizen his or her constitutional right to contribute to a candidate of choice requires a fundamental rewriting of our country's most sacred document, our Constitution.

I hope that my colleagues who support this measure will take pause and recognize the significance of what they intend to do. In particular, I hope that my colleagues who support this measure will realize, as Senator ENZI noted, the irony of the fact that less than 2 weeks ago this body killed a constitutional amendment that would have ensured our citizens and future generations a balanced Federal budget. Now, some of my colleagues wish to pass a constitutional amendment that would restrict one of our most basic constitutional rights—freedom of speech.

The people know that we do not need to amend our Constitution, we need to amend our ways. We need to amend ourselves.

Mr. President, I, like all of my colleagues, am concerned about corruption in our political system. And I believe this Congress will find ways to improve upon our campaign finance system. But, like corruption in any organization or system, it is the people who are corrupt, not the system. Why do we blame the system and excuse the violators?

Where is the outrage with those who subvert the system and deliberately break the rules and laws already in place?

The fact is, we already have campaign finance laws. We have a Federal Election Commission to enforce those laws. We do not need to continually add more layers of laws, regulations, and bureaucracy and pass those off to the American people as solutions to the problem. We need to deal severely with those who break the law and violate the trust and confidence the people have placed in them. We need to make certain those who seek public office and their campaign teams follow the current law and we need full and complete disclosure of all campaign receipts and expenditures for and against candidates, by candidates' campaigns, and by all political bodies.

I do not believe we need to pass a constitutional amendment restricting the rights of our citizens. We need to focus on individual violations of current law. We need to focus on individual conduct and behavior, individual responsibility and accountability. I have often said to my colleagues, if each of us in public office conducted our campaigns—every aspect of our campaigns—in a manner that our constituents could be proud of, then we would not be engaged in this debate about campaign finance reform.

I listened with interest to the political posturing and spins of the White House over the weekend and was amused but, more honestly, dismayed by what seemed to be an attitude of the end justifying the means. As the Wall Street Journal rightly noted in an editorial yesterday:

> Public life . . . is about mainly one thing—the law—the rules that all consent to abide by and enforce so that life can be civil.

The role of a public servant, Mr. President, is to protect the laws and make sure they are being followed for the good of society. Our role is not to bend, mold, stretch or interpret the law to our own benefit or arrogantly disregard it in order to achieve a goal of our own making that we may find more noble than others. That is not what we are about.

If it seems that we have heard this all before it's because we have. Senator HOLLINGS knows that. That is why Senator HOLLINGS has taken the floor, trying to resolve this issue. For decades, we have debated important social issues such as crime and welfare, and that violations of our laws were really not the responsibility of individuals—it was the system that we needed to fix. Individual accountability really was not very important. Life was unfair. ''If we truly want to find a solution to all of our problems,'' many argued ''then we should glide over individual responsibility and focus on how we can change the system.'' More laws, more rules, more regulation.

Where is the outrage with men and women who have gained the public trust but violated it by not being held to the highest ethical and moral standards? What we are too often lacking is

leadership and doing the right thing. We have the laws, we have the regulations, we have the enforcement mechanism. But we do not always have leaders who do the right thing.

Mr. President, have we so lowered our standards and expectations in politics and society that the only way we can think to curtail individual wrongdoing is by amending the constitution? I refuse to accept that. I think we are better than that. This country, this society, our people are better than that.

Where is the outrage over individuals who break the law and refuse to take responsibility for their actions? Where are the voices demanding personal responsibility and accountability? I believe that for too long we have been creating a society less dependent on the voluntary rule of good behavior by the citizen than on the oppressive mandate of Government.

We must not be swayed by the emotion of the moment, or the pundits and politicians who would rather lead us down a dangerous path of restricting everyone's rights than have the courage to just do the right thing. The proposed constitutional amendment before us today would be an enormous step in the wrong direction for a society that has already become too dependent on regulation and procedure, and too little influenced by the behavior of its individual citizens.

The goal of meaningful campaign finance reform should be to involve more people in the political process—not to curtail their constitutional rights.

More than two centuries ago, the Framers of our Constitution set out to build a nation dedicated to government by consent of the governed. That Constitution draws its power from only one source: ''We the people.''

For two centuries, we the people have shaped this Nation and made it great.

For two centuries, we the people have chosen our leaders from among ourselves and have held them to the highest standards.

For two centuries, we the people have taken responsibility for the Federal Government of the United States of America.

I sought the privilege to serve in the U.S. Senate with some of my distinguished colleagues like Senator HOLLINGS, because I want to take power and authority away from the Government and return it to the people. I cannot support any proposal that seeks to limit the ability of the people to speak—and takes the power to shape our public debate away from the public and gives it to the Government. That is what this debate is about.

In Buckley versus Valeo, the Supreme Court ruled that the debate about campaign finances is about the fundamental role of the people in our democratic society. The Court wrote:

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

Mr. President, the system has not failed us. Our problems stem from a failure of leadership. I am outraged, not by the system, but by the deplorable conduct of those few men and women who abuse it. That is what outrages the American people.

Before we reform the Constitution, we should first look at how we might reform ourselves.

I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the distinguished Senator from Nebraska for his very important contribution to this debate. He is, indeed, correct: What we have before us is an effort to amend the first amendment for the first time in the history of this country to give to the Government the power to control the speech of individuals, groups, candidates and parties. In short, a complete takeover of political discourse in this country by the Government.

I thank the Senator from Nebraska for his important contribution to this debate. This amendment needs to be defeated, and defeated soundly, in the name of protecting the first amendment. I am sure the Senator from Nebraska is as pleased as I am that even the reform group, Common Cause, is against this. Even the Washington Post is against this. Even the New York Times is against this. I mean, even the reformers think this is a bad idea. So this should be rejected and rejected firmly.

The good thing about this debate is it finally focuses the campaign finance debate where it needs to be focused. This is all about political speech. I thank the Senator from Nebraska for his important contribution.

Mr. HOLLINGS addressed the Chair.

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

Mr. HOLLINGS. Mr. President, I thank the distinguished Chair for his friendship, even though we don't agree on a particular point, and particularly my friend from Nebraska. There is no question that if he and I could handle this particular problem—like he says, we would have to amend our ways and he and I can amend our ways immediately—we wouldn't have the problem that confronts us.

The Senator from Nebraska did have a comment that was encouraging to me. He said let's not be swayed by the emotion of the moment. I think that is the only way we are going to get something done, is get an emotion of the moment, a fit of conscience, like you saw on the floor of the U.S. Senate yesterday afternoon. We had the emotion of the moment when we realized that it was a total fraud and farce to just investigate illegal activities. The Justice Department is there and fully aware and fully performing the investigation of illegal activities. Ours in the legislative branch is to investigate the improper activities and see what laws we can do to rectify that situation, particularly soft money.

Some who have been on the floor today are the leading opponents of soft money, and that brings me right to the opening statement of the distinguished occupant of the Chair. He said the constitutional amendment is not the way to begin the debate on campaign finance reform. I agree. That is not the way to begin the debate on campaign finance reform. But the distinguished Senator should understand that we began this debate in 1966. The Congress adopted public financing for Presidential elections.

Then, in 1967, we repealed the public financing for Presidential elections.

In 1971, we had the passage of the Federal Election Campaign Act, and by 1974, we passed, which is the major act of today, the amendments to the Federal Election Campaign Act.

In 1976, again we had the amendment of the Federal Election Campaign Act.

In 1985, we had the Boren-Goldwater amendment that changed the contribution limits and eliminated the PAC bundling. But, Mr. President, that was tabled back at that particular time.

In 1986, we had the Boren-Goldwater amendment adopted.

In 1988, we had nine votes on the motion to instruct the Sergeant at Arms to request attendance while trying to get a vote on S. 2. In fact, I think it was at that time we even had to arrest Senators. We are not just beginning the debate on campaign finance reform. We had to arrest Senators and everybody else to try to get a vote. But in 1988, we had a Hollings constitutional amendment to limit campaign expenditures. We had to finally file cloture, and that failed by a vote of 53 to 37.

In 1989, we had S. 139, comprehensive reform, which passed the Senate but never made it out of the conference.

In 1991, we had S. 3. We did pass comprehensive reform of campaign financing, and President Bush vetoed it.

In 1993, we had the Hollings sense of the Senate that Congress should adopt a constitutional amendment limiting campaign expenditures.

In 1993, we had a majority of the Senate vote for it—not the Washington Post, not the New York Times, not the Common Cause crowd or the ACLU group, but the U.S. Senators, the representatives of the people who have been in the game and know it best. The majority said that we ought to have a constitutional amendment limiting campaign expenditures.

In 1993, we had S. 3, comprehensive reform, pass the Senate, but it never made it out of the conference.

I say to our distinguished Presiding Officer, in 1995, again, we had the Hollings constitutional amendment to

limit campaign expenditures offered to the balanced budget amendment, but that was tabled by a majority of the Senate on a vote of 52 to 45, and they had a real chance to do it.

Then, in 1995, we passed the sense-of-the-Senate amendment to address campaign finance reform during the 104th Congress, sort of urging us along. We finally are going to get to it. And, in 1996, cloture on the McCain-Feingold campaign finance reform failed by a vote of 54 to 46.

Mr. President, you are right, a constitutional amendment is not the way to start, but after 30 years of everything that we could get out of Common Cause and the Washington Post and all of those disparate groups like the ACLU, it is time, I hope, that, as the Senator said, that we get swayed by the emotion of the moment, that we get a sort of fit of conscience so that we can really act here and realize that if we don't, we really are in the hands of the Philistines with this Supreme Court.

Read this one. Colorado Republican Federal Campaign Committee versus the Federal Election Commission:

> Before the Colorado Republican Party selected its 1986 senatorial candidate, its Federal Campaign Committee (Colorado Party), the petitioner here, bought radio advertisements attacking the Democratic Party's likely candidate.

That is not the candidate that is likely. They are ahead of the curve.

> The Federal Election Commission brought suit charging that the Colorado party had violated the party expenditure provision of the Federal Election Campaign Act of 1971 which imposes dollar limits upon political party expenditures in connection with the general election campaign of a congressional candidate.
>
> The Colorado party defended, in part, by claiming that the expenditure limitations violated the first amendment as applied to its advertisements, and filed a counterclaim seeking to raise a facial challenge to the Provision as a whole.
>
> The district court interpreted the ''in connection with'' language narrowly and held that the Provision did not cover the expenditure at issue. It therefore entered summary judgment for the Colorado party, dismissing the counterclaim as moot.
>
> In ordering judgement for the FEC, the Court of Appeals adopted a somewhat broader interpretation of the Provision which it said both covered this expenditure and satisfied the Constitution.

So the judgment was vacated and the case was remanded. But Judge Breyer, joined by Justices O'Connor and Souter, concluded that the first amendment prohibits the application of the party expenditure provision, not the kind of expenditure at issue here, an expenditure that the political party has made independently without coordination of any candidate.

That has thrown open the door. That is the soft money. That is the headlines. That is the debate. That is the grinding the Government to a halt. They talk about closing down the Government in Washington. Well, we very actively closed it down with that Colorado decision, because you can see the headlines. ''The Poor Party Had to Rent the Lincoln Bedroom to Get Money.'' Anything they could do to get money, for Heaven's sake.

If you can believe the distinguished Senator from Texas coming on the floor, and if you are convinced that the Republicans are the small givers and the Democrats are the big givers, that the Republican Party is the party of the poor and the Democratic Party is the party of the rich, you will believe that the world is flat. This is just flat nonsense.

I mean, come on. They come in here with all this erudition and quote something about a gentleman over on the House side stating that there are two important values: The freedom of speech and our desire for a healthy campaign and a healthy democracy. And you cannot have both. And the free speech must die in order to have a healthy democracy. Nobody believes that, including the gentleman on the House side. I can tell you that here and now.

The Senator from Texas says, ''Do you believe in free speech or not? That is the question.'' We all believe in free speech. And we go about this with trepidation. Only after 30 years and all the initiatives and arresting the Members and cloture votes after cloture votes, and, yes, coming back to the people in a sense of that is what we need do, that is what we need do. And then when we start to do it, we come on the floor of the U.S. Senate and talk about Patrick Henry and freedom of speech and everything else.

This has to do with whether or not you believe in limits on campaign spending. Every one of you believes in limits of the free speech of political contributions. That is the Buckley versus Valeo decision. None of these speakers coming up here opposing this particular initiative have come forward and said, ''Oh, wait a minute. Let's take the limits off on contributions.'' They would not have the unmitigated gall to say that because they know that the evil here is too much money.

If you are going to take the limits off on the contributions and everything else, we are gone as a republic, you are not going to decide anything in the marketplace of ideas. It is all going to be in the financial marketplace. The very idea that we had, the intent of the national Congress, in 1974 was that you cannot buy the office. Under the Buckley versus Valeo decision, now coupled with this Colorado soft money nonsense, you must buy the office.

What did the Senator from Kentucky say, as to withdrawing from running again, on the day before yesterday? That he resented the idea of having to get up all that kind of money. What did the Senator from Ohio say? The same thing. We who have been in it and everything else—I resent it, you resent it.

It is time now that we act. And do not give us this Patrick Henry. The Senator from Utah was quoting Patrick Henry. And the Senator from Texas followed him, and he said about free speech, ''You bet your boots, Patrick Henry had free speech in the campaign.'' There was not any radio to buy. There was not any TV to buy. There was not any political consultant to buy. There was not any money to get out the vote to buy.

You can go on down the list of all the things. That is when the Constitution had free speech. But as J. Skelly Wright stated—and I want to get that right—J. Skelly Wright, the eminent jurist, he said here, Judge Wright in the Yale Law Journal—and I quote:

> ''Nothing in the first amendment commits us to the dogma that speech is money.''

We are not talking about what is free. We are talking about what is expensive, what is paid for. They know it. You know it. I know it. You have all the free speech you want.

When they talk about the newspapers, you can take the present law. They raise these straw men again and again and again. The Senator from Utah, he got up and said that the Congress could come back and put such low limits on candidates that only the incumbents would prevail, that we incumbents would come in here and Congress might decide not to let anyone oppose them by putting just a limit of $100. Now where have you heard such a thing?

None of this is in the Senator from South Carolina's constitutional amendment. The Senator from North Dakota, the Senator from Pennsylvania—it is bipartisan. I could go on down the list of none of that nonsense of the straw men that could happen. I am going to give one example and then yield to my distinguished colleague.

I know what can happen under the present law because I had it happen to me. The Senator from Texas ran that campaign against me in 1992. And we will get to some issues there in a minute. Since he acknowledged he had that experience, I want to tell you about his experience and what he charged falsely.

But getting right to the point, right before we were going to vote, the week before the election day—they are very clever. They had, first, the Wall Street Journal come out with three articles. The Wall Street Journal has never mentioned me before or since. They could care less about HOLLINGS from South Carolina. But they had three spitball articles in there about the right to work and how I was against business.

They even had coordinated it with the London Economist with ''Quits for Fritz.'' Robert Novak, he came on Saturday night in ''Capitol Gang.'' And he said it is also, ''Quits for Fritz,'' ''The white-headed Senator from South Carolina will bite the dust.'' Well, I am here.

But if you want to use their logic, I would sue Dow Jones. I would sue the Wall Street Journal, that they own, for coming in and making a contribution to my opponent under the present law. Now everybody knows that is out of the question. The press is going to have freedom of the press, and we all defend it.

But under the silly roundabout analysis they give in erecting these straw men on the floor—and I think even the distinguished Senator from Wyoming said that while they did not think newspapers were covered, newspapers could write, but you would not have the money to rebut it. You see the dilemma of the Senator from South Carolina. That is exactly the way it was. I did not have the money to rebut it. I had to let it go the last weekend, going right into that election. There was not any way to buy time to rebut it. There was not any way to answer it at all.

We have that under the present law. But if you limit, as we intended back in 1974, spending as well as expenditures, then all this bundling, soft money and everything else, comes under control because you have to disclose, you have a limited amount. We will still exercise free speech, get out and hustle, like I used to do in the early days of my political career.

I ran for the legislature on $100. I went all over the county and I shook hands and saw everybody. I lucked out. I was elected. I was almost elected by free speech. So I enjoy free speech. When it is so expensive that all you can to is collect money to get on TV to collect money to get on TV to collect money to get on TV, all as expressed by Justice Byron White in the dissenting opinion of Buckley versus Valeo, ''put the Congress back on a treadmill.'' That is his expression, and so aptly expressed. You can see exactly what we have.

Mr. President, I yield the floor to my distinguished colleague. I appreciate his leadership on this floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I rise to support the initiative offered today by the Senator from South Carolina. I do not very often come to the floor supporting constitutional amendments. I think we ought to change the Constitution very rarely.

I think the Supreme Court has made an error here in the Buckley versus Valeo decision. It was a decision by one vote in the Supreme Court, and the decision stands logic on its head. The Supreme Court said it is perfectly constitutional to limit campaign contributions but it is not constitutional to limit campaign spending. Limiting campaign spending, they say, is an abridgement of free speech. I have no idea how the Supreme Court can conceive a logic like that that says it is fine to limit campaign contributions, but you cannot limit spending. We ought to be able to have reasonable spending limits in campaigns.

The Senator from South Carolina brings an initiative to the floor that is the first initiative, in my judgment, in this Congress that says let's reform our campaign finance system in this country. If you need evidence that that needs doing, pick up any paper and go to any page in the last 6 weeks. If you still need evidence, it means you cannot read. All around us there is evidence that we must reform this campaign finance system.

Will Rogers once said something that is probably appropriate to quote in this Chamber, a Chamber that used to have spittoons between every desk, he said, ''When there is no place left to spit, you either have to swallow your tobacco juice or change with the times.'' We either have people willing to vote for this and change with the times, understanding this is necessary and it is necessary now, or I hope they will sit around here and swallow their tobacco juice, because if you still believe campaign finance reform is not necessary, if you still believe, as some do, that there is not enough spending in campaigns and we ought to spend more, and there are people here who believe that, then you are sadly off track with what the American people know about American politics.

I want to refer to a chart. The chart shows spending since 1992. Wages have gone up 13 percent since 1992. Spending on education has increased 17 percent since 1992. So in 4 years, 1992 to 1996, wages in America went up 13 percent, spending on education went up 17 percent, and spending on politics in our country went up 73 percent, 73 percent.

There are people still in this Congress who say and have said repeatedly there is not enough spending in American politics. I have no idea what part of the world you would look in order to find their head. How on Earth can you decide with the kind of political inflation we have seen, where the spending on politics in America outstrips by multiples the spending on other things, how on Earth can you conclude there is not enough spending in politics? The fact is there is too much spending in politics.

Now, we could change that by ourselves. We do not need changes to the Constitution. In 1992, the election that Senator HOLLINGS was speaking of, I was running for the Senate in 1992. I said to my opponent, let us provide in North Dakota the most unusual campaign in America. I was already an incumbent, a Member of the House of Representatives, so I said I am better known than you are, but let me make you a deal. I said I will propose this. Let us decide between the two of us not to do any advertising—no television, no newspapers, no radio, no advertising at all, neither of us. We pledge to do that, and instead pool our money, and from September 1, Labor Day, to the election day in November, let us, once a week, buy prime time television statewide in North Dakota, pool our money, pay half the costs, each of us. We come to this, 1 hour, each week, prime time, with no notes, no handlers, just us, and no moderator, and we spend an hour a week on prime time television, the two of us, telling North Dakotans why we are running for public office, what we believe in, what our passion is, what we believe is necessary for the future of this country. At the end of those 8 weeks you will be as well-known as I am, because I am an incumbent, I am already well-known, you will be as well-known as I am. Prime time, an hour a week, 8 weeks, we could simulcast throughout the State, and at the end of the 8 weeks, North Dakota would have the most unique campaign in the country. No slash and burn 30-second ads, none. There would only have been 8 hours of debate between two people who desired to hold public office and who told the people why they aspire to be able to be given this public trust, why they wanted to hold public office, what their dreams were for the future of this country, what their vision was in public policy changes for America's future.

It would have been the most unique campaign in the country. I regret my opponent said no. I do not know why he said no. He said no. It was a mistake on his part. I am here, so I can say it was a mistake on his part. I think it would have been a better campaign for him and for me had he accepted it, and certainly a better campaign for North Dakotans. But he chose to run the kind of campaign that I had to respond to with 30-second ads here and 30-second ads there, and those are not very informative.

Despite the fact that we have these techniques in the 30-second ads, I might say to my friend, the Senator from South Carolina, I introduced a bill dealing with that in the Congress, the 30-second ads. Do you know that in political spending, a substantial amount of the money in all campaigns goes to television. The law requires that the television stations provide the lowest rate that they provide for their commercial advertisers, the lowest rate for political advertising. So I suggested that we require that the law say that the lowest rate for political advertising will only apply to commercials that are at least 1 minute in length, and only commercials in which the candidate appears on the commercial—75 percent of the commercial. Get rid of the slash and burn 30-second ads, no more of the anonymous voices with slash and burn negatives. I think that is the right incentive, but that is a different subject for a different date.

My point is, there is no one I think who can credibly argue that we are not spending enough in politics. Clearly, political spending is mushrooming in this country. What shall we or could we do about it? The Senator from South Carolina offers a solution. His solution is one that says let us provide that with the right approach we could reasonably limit campaign expenditures. The Supreme Court has said that

is unconstitutional. The Senator from South Carolina says, well, change the Constitution. We should never approach that easily or quickly, but I am with him. Frankly, I guess I would like to see us go to the Supreme Court a second time, and say will you not correct the error you made the first time? I think there might be a chance of getting that done because it was a decision by one vote.

In any event, I think that one of the solutions for campaign finance reform is to limit campaign spending. Is that an inhibition of free speech? Is it an inhibition of free speech to tell somebody who has $100 million, ''You can't spend $30 million buying a seat someplace''? Is that what the Framers of the Constitution decided democracy was about—to make some money, ante up to the trough, and plunk down $30 million and buy a seat? I don't think so. I don't think that's what the method of selecting people who serve in representative government was envisioned to be by the Framers of our Constitution.

This is the first effort to say to my colleagues: Do you believe in campaign finance reform, or don't you? Campaign finance reform. Boy, if we need more discussion about that, then this must be an empty well; this must be a pit without a bottom.

I want to describe what we have had on campaign finance reform in a decade. We have had 6,700 pages of hearings, 3,300 floor speeches, 2,700 pages of Congressional Research Service reports, 113 Senate votes, 522 witnesses, 49 days of testimony, 29 different sets of hearings by 8 different congressional committees, 17 filibusters, 8 cloture votes on one bill alone, and one Senator arrested and dragged to the floor of the Senate. I wasn't here at that point, but I assume Senator HOLLINGS was and could describe in remarkable detail whoever was dragged to the floor. And there were 15 reports issued by 6 different congressional committees.

Now, given that history, can we find some Senators who say we are not ready and it is not time for campaign finance reform? The honest answer, by some, is: Let's not have any reform. Some would say: Let's decide there ought to be more money spent. Let's make campaigning a commercial product. Let's have campaigns compete with Rolaids, dog food, gasoline, and automobiles, in terms of consumer preference. Whoever has the most money can advertise the most.

But the Senator from South Carolina has raised, for most of this afternoon, the right questions. We can spend forever now, talking about what happened in the past. We will and we should. There isn't anything about campaign finance abuses that ought not be investigated if there are reasonable and credible claims of abuses. The FBI is investigating some questions. The Justice Department is investigating some questions. Yesterday, we decided—and I voted for it, as did the Senator from South Carolina—that a committee ought to investigate some of these questions.

There are some serious questions about foreign countries intending to influence American elections that ought to be investigated, and they will be. The American people deserve to know that is the case. But the American people deserve more than just a look back. The American people deserve a Congress that is going to look ahead and say, how do we respond to this question of galloping inflation in campaign finance spending? The galloping inflation of a campaign system that seems almost out of control—spending more and more and more money in State after State, in district after district. There are a hundred reasons to prevent something, and it is easy to do.

The Senator from South Carolina had the job this afternoon of coming and supporting an affirmative proposition, the first proposition on the floor of the Senate to respond to campaign finance reform. I think it was Mark Twain who was asked once to be a participant in a debate. He said, ''Of course, I will be happy to debate, provided I get to take the negative side.'' He was told, ''But you have not asked what the subject was.'' And he said, ''The subject doesn't matter. You don't need any preparation to be on the negative side.''

That is pretty much true with any debate. The easiest proposition in the world is to be on the negative side. Senator HOLLINGS brings to the floor a proposition that is very simple. This proposition is that what is wrong with campaigns in American politics today is too much money is spent. There is too much money around. This is not a democracy that was on the auction block, for sale.

The framers of our Constitution did not envision that representative government was part of a bidding process. We have tried, in a number of different ways, to propose that we have reasonable limits that competitors in this political system would agree to, and we have discovered that the Supreme Court says those limits are unconstitutional. As much as I disagree with the Supreme Court, their decision stands. The Senator from South Carolina now says, let us alter that by making the change he proposes. Does it infringe on free speech? I don't think so. Would it hurt our political system? No, it would help our political system. Would it restore the confidence of the American people in this system? I think so. Would it do the right thing in trying to propose some sensible spending limits that are enforceable? Sure.

Now, we can turn this down, and there may be the votes to do that. But the question everyone ought to ask for those who turn this down is, what next? If you decide this is not the way, then what is the way? Or do you like things just as they are? Do you find recreational reading about campaigns, about the political system in our country, up to its neck in money, do you find that interesting and fun to read about? Or do you really believe that there are ways for us to make some sense out of campaign finance reform in a way that would improve this system?

We had campaign finance reform over 20 years ago, in the 1970's, and it worked for awhile. I think there are people on all sides of the political spectrum who have stretched that and distorted it and discolored it in dozens of ways and found loopholes and hired the best minds to figure out how you jump the fence and get under the fence and through the fence, and the 1970's reforms don't work anymore. So the question will be, should we reform this system now? Or should we just let this roll along and decide it is just fine?

The American people know the answer to that. The American people understand that things are not just fine. The American people support campaign finance reform. This is the first bill and the first opportunity Members of the Senate will have to say: I want to stand up for campaign finance reform.

I ask those who say ''no'' to this, then what? Do you believe the current system works? If you do, you can fit in a mighty small phone booth with all the rest of the American people who believe as you do. If you believe this system is broken and needs to be repaired, if you believe this ought to be fixed, that we ought to stand up for our political system and for its future health, then I think this is a reasonable approach to decide that spending limits make sense. I intend to vote for it. I was pleased to cosponsor the initiative offered by the Senator from South Carolina.

I yield the floor.

Mr. HOLLINGS. Mr. President, I understand that we are about to close debate for this afternoon. Let me thank the distinguished Senator from North Dakota, because he put the issue involved in a very calm and succinct fashion. What we have done here was done with tremendous caution. We haven't come and said, ''Here is the solution.'' We have come and said, ''Here is the authority to solve it.'' Now, they bring in these red herrings and everything about the freedom of speech. We are not disturbing the freedom of speech at all. We would not disturb the freedom of speech, except for Buckley versus Valeo, which did put a hole in that first amendment, as they use that expression.

They say we are limiting the freedom of speech for the political contributor. He can only give so much. If that is what it is, if money is the expression, then that group is limited. But the real evil in causing our dilemma here over the past 30 years, particularly with this Colorado decision now that puts a premium on buying the office by the national parties, if we don't act now to at least have the authority, we don't say in this amendment that the distinguished Senator from Kentucky is

right. We don't say that the distinguished Senator from Kentucky is wrong. He may later on, with the authority, prevail. They might increase spending. Like I say, we are not spending more on yogurt and Crackerjacks, and whatever else they had around here. I have forgotten the things they brought up. I would not have dared to stand up as a candidate and say I spent $86,000 for food. I could not hope to get elected in South Carolina buying $86,000 worth of lunches. That, perhaps, points to the dilemma.

The public that I represent and have worked with over the years really is asking and begging. That is why they included the States.

Mr. President, we know that, as in warfare, he who controls the air controls the battlefield. In politics, he who controls the airwaves controls the campaign. That is where all the money is. That is what we are trying to limit. But I do not say that by voting for this that you limit. I only say that by voting for this you give constitutional authority because you see the extremes of the Supreme Court—it is the ''Extreme Court of the United States''—when they come with the Buckley versus Valeo distortion. It is the ''Extreme Court of the United States'' that comes with Colorado Republican Federal Campaign Committee against the Federal Election Commission.

So, right to the point, we are saying that we can amend this Constitution, that the last five of six amendments dealt with elections, that certainly the weight of money as qualifying a vote was constitutionally outlawed in the 24th amendment. We ought to outlaw extreme and expensive expenditures in this. That would be the 28th amendment, I think. They approved these particular amendments in 18.1 months, which was the average. We know we can get this approved next year in 1998, and we will be on the road to really getting campaign finance reform.

This is the acid test. Do you believe in limiting, or do you not believe in limiting? We are talking about expenditure of paid speech—not free speech. It does not affect free speech whatever. You don't affect it under the Constitution. We wouldn't dare try to affect it under the Constitution. And, of course, after the 30 years and all of the debates in three Congresses having given us a majority here in the U.S. Senate saying we believe in a constitutional amendment and let's see if we can at least get that majority, they are really coming now and are so opposed to McCain-Feingold and are so opposed to any campaign finance reform as to vote this down. Then we will know exactly where they stand.

I thank my distinguished colleague from Kentucky. I appreciate the debate this afternoon.

I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, March 11, the Federal debt stood at $5,357,359,481,153.10.

One year ago, March 11, 1996, the Federal debt stood at $5,017,404,000,000.

Five years ago, March 11, 1992, the Federal debt stood at $3,848,675,000,000.

Ten years ago, March 11, 1987, the Federal debt stood at $2,249,369,000,000.

Fifteen years ago, March 11, 1982, the Federal debt stood at $1,048,663,000,000 which reflects a debt increase of more than $4 trillion ($4,308,696,481,153.10) during the past 15 years.

NOMINATION OF FEDERICO PEÑA

Mr. KYL. Mr. President, today, I voted in favor of Federico Peña to be the new Secretary of Energy for the Clinton administration in the sincere hope that he will be able to provide the Department of Energy with the leadership and direction it needs to provide the proper stewardship of our national energy and security needs in the 21st century.

I have addressed the Energy and Natural Resources Committee with my grave concerns about the current direction of the Department of Energy, especially with respect to the maintenance and stewardship of our nuclear weapons complex. I wish to use this forum, and the occasion of the Senate vote on Federico Peña, to restate my concerns and to reiterate my hope that the current trend at the Department of Energy will be reversed.

Of particular concern has been former Secretary Hazel O'Leary's technically insupportable insistence that the United States can both maintain a credible nuclear deterrent and permanently forego nuclear testing. What is more, her lack of familiarity with the critical work of the Nation's nuclear weapons laboratories appears to have emboldened her to exert immense pressure on their directors to abandon the labs' longstanding view that the nuclear stockpile cannot be certified without periodic underground testing.

Indeed, the nuclear weapons complex that the next Secretary of Energy will inherit from former Secretary Hazel O'Leary is a shadow of its former self, thanks in no small measure to a Clinton administration policy which the distinguished chairman of the House National Security Committee, Representatives FLOYD SPENCE, has called erosion by design. In releasing a study of this reckless policy on October 30, 1996, Representative SPENCE observed that:

''The past four years have witnessed the dramatic decline of the U.S. nuclear weapons complex and the uniquely skilled workforce that is responsible for maintaining our nuclear deterrent. The Administration's laissez-faire approach to stewardship of the nuclear stockpile, within the broader context of its support for a Comprehensive Test Ban Treaty, is clearly threatening the Nation's long-term ability to maintain a safe and reliable nuclear stockpile. * * * In my mind, it's no longer a question of the Administration's ''benign neglect' of our Nation's nuclear forces, but instead, a compelling case can be made that is a matter of 'erosion by design.''

Mr. President, I share the concerns expressed in Representative SPENCE's study about the implications of the Clinton-O'Leary program for denuclearizing the United States. In this regard, two portions of the Spence report deserve special attention.

Stockpile stewardship:

The Clinton Administration's Stockpile Stewardship and Management Program [SSMP] entails significant technological risks and uncertainties. Certification that U.S. nuclear weapons are safe and reliable—in the context of a Comprehensive Test Ban Treaty—depends on developing highly advanced scientific diagnostic tools that do not yet exist and may not work as advertised. Funding shortfalls, legal challenges and other problems are almost certain to continue to impede progress in achieving the program's ambitious goals, and raise serious doubts about the ability of the program to serve as an effective substitute for nuclear testing. The Administration's commitment to implementing the SSMP and, more broadly, to maintaining the U.S. nuclear stockpile is called into question by DOE's failure to adequately fund the SSMP and to conduct important experiments.

Dismantling the DOE weapons complex:

Unprecedented reductions and disruptive reorganizations in the nuclear weapons scientific and industrial base have compromised the ability to maintain a safe and reliable nuclear stockpile. The cessation of nuclear-related production and manufacturing activities has resulted in the loss of thousands of jobs and critical capabilities * * *. DOE still lacks concrete plans for resuming the production of tritium * * *. Unlike Russia or China, the United States no longer retains the capacity for large-scale plutonium ''pit'' production and DOE's plans to reconstitute such a capacity may be inadequate.

INFORMATION AND PHYSICAL SECURITY PROBLEMS

Yet another alarming legacy of former Secretary O'Leary's tenure as Secretary of Energy could be the repercussions of her determination to declassify some of the Nation's most closely held information. As a result, efforts by unfriendly nations—and perhaps subnational groups—bent on acquiring nuclear weapons capabilities have been afforded undesirable insights into designs, developmental experiences and vulnerabilities of U.S. nuclear devices.

Of particular concern is the fact that data concerning the precise quantities

and whereabouts of U.S. weapons grade material have been made public, potentially greatly increasing the risk of terrorist operations aimed at stealing or exposing Americans to attack with such materials. Incredibly, Clinton administration budgets have significantly reduced the funding available for securing and protecting such sites.

In fact, the 1997 Energy Department annual report on the Status of Safeguards and Security concluded that there is a $157 million shortfall in these accounts. Ironically, that almost exactly equals the amount contributed by the Department of Energy to the so-called cooperative treaty reduction, or Nunn-Lugar, program that is being spent ostensibly to improve the safety and security of former Soviet nuclear weapons and materials.

THE CUBAN NUCLEAR DANGER

Last but not least in this illustrative listing of the challenges facing the next Secretary of Energy is another nuclear issue confronting this Nation—the prospect that one or both of the two defective nuclear reactors being built by Fidel Castro in Juragua, Cuba, will be brought online and then fail catastrophically. Should that happen, millions of Americans living downwind could be exposed to lethal levels of radioactive fallout.

On September 11, 1995, Secretary O'Leary confirmed this danger in a letter to the distinguished chairman of the Foreign Relations Committee, Senator HELMS. She wrote:

> If construction [of these reactors] were resumed and the reactors completed, their poor construction and lack of regulatory oversight, and uncertainties about the qualification and experience of its operators would pose serious safety risks. Written answers accompanying the O'Leary letter in response to questions posed by Senator HELMS about the Cuban nuclear program cited the following concerns: ''the quality of civil construction, the condition of critical reactor components, the regulatory structure and nuclear operating base, the plant staff training programs and industrial infrastructure in Cuba required to support operation and maintenance of nuclear power plants.''

The O'Leary Energy Department even went so far as to state:

> If a poorly designed, defectively constructed nuclear reactor began operation in Cuba, there would be an unacceptably high possibility that a large accidental release of radioactive material would occur. Dependent on the meteorological conditions at the time of a major accident, people on the U.S. mainland could be exposed to significant airborne (radioactive) contamination.

In response to questions I posed to Secretary Peña during his confirmation hearing before this committee, I have been advised that he subscribes to the positions taken in the September 1995 O'Leary letter to Senator HELMS. The trouble is that Mrs. O'Leary took no perceptible steps to address the menace posed by Castro's nuclear project.

This may have been due to the Department's view, as evidenced in some of the answers to Senator HELMS' questions, that the Soviet VVER–440 (Model 318) design might prove to be safe, after all—notwithstanding the fact that one has never been constructed or operated before. Alternatively, Mrs. O'Leary may have been satisfied, as suggested by other answers, that the levels of radiation from a Cuban meltdown would only contaminate the U.S. food supply—not directly harm the American people. Yet another explanation could be the O'Leary team's evident willingness to accept Russian claims that the Juragua reactors are designed to withstand seismic shocks up to 7 on the Richter scale. The response to Senator HELMS that Mr. Peña has endorsed did not take note of the fact that there was a 7.0 magnitude quake in the nearby Caribbean Plate in 1995.

Mr. President, I am concerned that Fidel Castro's nuclear ambitions could pose a significant threat to the United States. Others who have warned of this danger include: the General Accounting Office, the House International Relations Subcommittee on the Western Hemisphere, NBC News and several Cuban defectors who had first-hand experience with the dismal quality control and safety aspects of the Juragua project. It is astounding—and unacceptable—that preventing such a danger from materializing is not a top priority for the leadership of the Department of Energy and the executive branch more generally.

CONCLUSION

I would conclude by recommending to Secretary Peña that he carefully study, and try to emulate, the leadership of the first Secretary of Energy, James Schlesinger. Dr. Schlesinger brought to his position extraordinary experience and first-hand knowledge of the national security dimensions of the job. As a former chairman of the Atomic Energy Commission, Director of Central Intelligence and Secretary of Defense and by dint of his work in the private sector at the RAND and Mitre Corp., he was exceptionally well equipped to address the nuclear weapons-related issues of the day.

It was largely to Dr. Schlesinger's credit that the antinuclear agenda of an earlier Democratic administration did not result in an ill-advised Comprehensive Test Ban. Secretary Schlesinger saw to it that the best professional advice—not the politically correct or coerced assertions—of those charged with certifying the Nation's nuclear arsenal were presented faithfully to the President and the Congress. It was clear that the considered judgment of the directors of the nuclear weapons laboratories and other responsible experts was that a small number of low-yield tests would be required each year to avoid reaching the point where confident weapon certification was no longer possible.

As a result, the case was convincingly made that such tests were the essential last step in the scientific process—the experimental validation of the hypothesis that our weapons would work as designed. It was documented that many of the problems that appeared sooner or later in one-third of all designs deployed would never have been discovered if testing has not continued after the weapons were deployed. And it was established that without periodic testing, it would be impossible over time to retain the skilled design physicists and engineers responsible for daily judgments about the Nation's nuclear weapons. In the face of these compelling arguments, President Carter ultimately abandoned the idea of a zero-yield Comprehensive Test Ban.

We are now confronted with another President committed to a zero-yield CTB. Indeed, the Senate will shortly be asked to consider such a treaty negotiated by the Clinton administration. I believe it is imperative, as the debate on the CTBT gets underway, that the next Secretary of Energy provide his subordinates in the Department and its laboratories with the same opportunity for honest, unpoliticized analysis and testimony as was afforded by Dr. Schlesinger nearly 20 years ago.

I am hopeful that Secretary Peña will take these comments as they are meant—as an illustrative list of issues which must have his attention. I also hope he will understand the importance of these national security matters to Members of Congress and that Federico Peña will ensure that an environment is recreated in the Department of Energy in which national security responsibilities and rigorous scientific practice are given primacy over dubious arms control agendas and wishful thinking.

If the vote today were on the Clinton energy policy, it would be a resounding ''no.'' Mr Peña is not an architect of the policy—yet. It is my hope that when Mr. Peña next appears before us he will demonstrate a willingness to lead and not be an apologist for a continued failed policy.

PARTIAL BIRTH ABORTION

Mr. ABRAHAM. Mr. President, I rise to address recent revelations concerning partial birth abortion. I also rise to draw my colleagues' attention to the letter sent to President Clinton by a group of American Roman Catholic leaders and read this past Sunday by Cardinal Adam Maida at the Blessed Sacrament Cathedral in Detroit. That letter urged the President to ensure respect for all human rights—including those of the unborn—and called our attention to the misinformation distributed by some of those defending partial birth abortion.

Mr. President, the abortion issue has been a difficult and divisive one for this country. But the unfortunate procedure of partial birth abortion need not be. The vast majority of Americans, even those who do not share my

own strongly pro-life convictions, oppose partial birth abortion. This overwhelming opposition helped produce legislation during the last Congress that would have banned that morally troubling procedure. Unfortunately, that legislation was vetoed by President Clinton. Now it turns out that that veto was based in part on inaccurate information.

Mr. President, those who sought to defend partial birth abortion did so on the grounds that it was rare, undertaken only in cases of severe fetal deformity and strictly a late-term procedure. These arguments served to make the procedure seem less morally troubling to some in the pro-choice camp. But it turns out that these supposedly mitigating factors do not exist. Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, is quoted in the February 26 New York Times as saying that he ''lied through [his] teeth'' in making each of these claims.

It turns out, Mr. President, that literally thousands of partial birth abortions are performed in this country every year. It also turns out that the vast majority of these regrettable procedures are undertaken voluntarily—aborting perfectly healthy unborn children. And it turns out that partial birth abortions are being carried out on mothers in their second trimester of pregnancy.

I know that abortion is an issue that raises troubling issues for many people. I know that I cannot help but take a strong pro-life position, because of my faith and because of my own personal experiences. My experience, having witnessed the births of my three children and having just had a nephew born 12 weeks premature, tells me that the loss of an unborn life is a great tragedy. My nephew was born during a time in his mother's pregnancy when many unborn children are still subject to partial birth abortion.

I know that not everyone shares the pro-life position. But in my view it is clear that any reservations about restricting abortion need not and should not apply to partial birth abortion. The fact that the defenders of this procedure felt it necessary to mislead the public, Members of this body and the President, shows how little support their position really commands. Regardless of where one stands in the broader abortion debate, then, all of us should be able to see partial birth abortion for what it is: an unjustifiable and wholly unnecessary tragedy.

Mr. President, it is my sincere hope that we will return as quickly as possible to the issue of partial birth abortion. It is also my hope that my colleagues will keep in mind this incident as they consider the factors supposedly mitigating this unfortunate procedure, and vote to end it once and for all.

Mr. President, I ask unanimous consent that an article from the Detroit News appear in the RECORD at this point.

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

[From the Detroit News, Mar. 10, 1997]

IN DETROIT: MAIDA, OTHER CARDINALS URGE BAN ON PARTIAL-BIRTH ABORTIONS

(By Oralandar Brand-Williams)

Cardinal Adam Maida urged President Clinton to reconsider a ban on partial-birth abortions during a public reading Sunday of a letter sent to the president by a group of U.S. Roman Catholic leaders.

''The public learned that partial-birth abortions are performed not a few hundred times a year, but thousands of times each year,'' Maida said during mass at Blessed Sacrament Cathedral in Detroit.

Last April, Clinton vetoed a bill that would have banned the controversial procedure in which a fetus is partially extracted, feet-first, from the birth canal. The brain is then suctioned out.

Critics call the procedure infanticide.

Congress failed to override Clinton's veto.

The letter to Clinton was also read Sunday by the six other American cardinals who also lead archidioceses in the United States and the head of the U.S. Conference of Catholic Bishops. All signed the letter with Maida, which Clinton received Friday.

''Mr. President, you are in a unique position to ensure respect for all human rights, including the right to me which is denied to infants who are brutally killed in partial-birth abortion,'' urged the letter.

The letter asks Clinton to acknowledge that he was misled about partial-birth abortion, and urges him to ask Congress to pass a bill banning them. The letter also seeks a pledge that Clinton will sign it into law.

Two weeks ago, Ron Fizsimmons, executive director of the National Coalition of Abortion Providers, said he intentionally misled the public in previous remarks about the procedure. Fitzsimmons said he feared that if the truth were known about the frequency of partial-birth abortions, it would damage the cause of abortion rights.

Blessed Sacrament parishioner Canary Erving of Highland Park said she supports Madia's efforts to get a ban on partial-birth abortions.

''It's important that we keep our children,'' Erving said. ''If you have to have it and give it away, it's better than destroying the life.''

DR. ERNEST S. GRIFFITH

Mr. WARNER. Mr. President, I rise today to pay tribute to the father of the Congressional Research Service, Dr. Ernest S. Griffith, who recently passed away at the age of 100.

Dr. Griffith came to the Legislative Reference Service—now the Congressional Research Service—in 1940, at a time when the U.S. political landscape was dominated largely by the executive branch. Legislation was enacted based on information provided by the President, with little opportunity for independent research and analysis by the Congress. Indeed, with an average of only two or three personal assistants per Member and a mere handful of committee staff, Members of Congress had nowhere to turn for accurate, reliable research and analysis. Nowhere, that is, until Ernest Griffith assumed the reins of the Legislative Reference Service.

Fueled by his belief that ''the Congress of the United States is the world's best hope of representative government,'' Dr. Griffith dedicated himself to transforming the fledgling LRS into a vital source of objective, nonpartisan information and analysis for Members of Congress and their staffs. He recruited experts in disciplines ranging from tax policy to transportation, and greatly expanded the services offered by the LRS. He also appointed senior specialists who, under the terms of the Legislative Reorganization Act of 1946, could be called upon by congressional committees at a moment's notice to work on important legislative initiatives. These senior specialists laid the foundation for our modern legislative information infrastructure, and, in so doing, with others enabled the legislative branch to re-assert itself as the Nation's first branch of Government.

When asked to describe his greatest achievement as the Director of the LRS, Dr. Griffith once responded: ''I think I am proudest of the fact that we have operated independently of the executive branch in a technical age.'' Mr. President, I too am proud of Dr. Griffith's achievement in this area. It is something of which we should all be proud.

Dr. Griffith left the LRS in 1958 to become the founding dean of the American University School of International Service. A Rhodes scholar, he received his undergraduate education at Hamilton College and his Ph.D. from Oxford University. He taught economics at Princeton and government at Harvard, and was the undergraduate dean at Syracuse University before moving to Washington in 1935.

Among his many academic distinctions, Dr. Griffith was a Fulbright visiting professor at Oxford. He also lectured at New York, Birmingham, and Manchester Universities, Swarthmore College, the University of Oslo, and the University College of Swansea. He was visiting professor at the International Christian University and Rykko University in Japan, and lectured on American Government in Turkey and Brazil. He was professor of American Government at Alice Lloyd College in Kentucky in his middle eighties.

In his spare time, Dr. Griffith taught Sunday school and served as a delegate to the Third World Council of Churches. He founded the Pioneers, a forerunner of the Cub Scouts, and chaired the Council of Social Agencies, a predecessor of the United Way. He chaired the policy board of an inter-university training center for Peace Corps volunteers, was vice president of the American Political Science Association and president of the National Academy of Economics and Political Science. He climbed mountains into his nineties.

Mr. President, it is with great sadness that we bid farewell to Ernest Griffith, who was memorialized last Saturday at the Metropolitan Memorial United Methodist Church here in Washington. He was a pioneering public servant, a brilliant student of

American Government, and a true friend to the community around him. He will be sorely missed—not only by his children, grandchildren, and great-grandchildren, but also by us.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 5. Joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative.

The message also announced that the Speaker appoints the following Members of the House to the Joint Economic Committee: Mr. STARK, Mr. HAMILTON, Mr. HINCHEY, and Mrs. MALONEY.

The message also announced that the House has passed to the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 63. An act to designate the reservoir created by Trinity Dam in the Central Valley project, California, as ''Trinity Lake.''

H.R. 649. An act to amend sections of the Department of Energy Organization Act that are obsolete or inconsistent with other statutes and to repeal a related section of the Federal Energy Administration Act of 1974.

H.R. 651. An act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 652. An act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 709. An act to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes.

H.R. 750. An act to support the autonomous governance of Hong Kong after its revision to the People's Republic of China.

H.R. 914. An act to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures.

H.J. Res. 32. Joint resolution to consent certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 16. Concurrent resolution concerning the urgent need to improve the living standards of those South Asians living in the Ganges and the Brahmaputra River Basin.

ENROLLED JOINT RESOLUTION SIGNED

At 6:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S.J. Res. 5. Joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative.

Under the authority of the order of the Senate of January 7, 1997, the enrolled joint resolution was signed subsequently, during the adjournment of the Senate, by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bill, previously received from the House of Representatives for the concurrence of the Senate, was read the first and second times by unanimous consent and referred ad indicated:

H.R. 497. An Act to repeal the Federal charter of Group Hospitalization and Medical Services, Inc., and for other purposes; to the Committee on Government Affairs.

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 63. An Act to designate the reservoir created by Trinity Dam in the Central Valley project, California, as ''Trinity Lake''; to the Committee on Energy and Natural Resources.

H.R. 649. An Act to amend sections of the Department of Energy Organization Act that are obsolete or inconsistent with other statutes and to repeal a related section of the Federal Energy Administration Act of 1974; to the Committee on Energy and Natural Resources; to the Committee on Energy and Natural Resources.

H.R. 651. An Act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 652. An Act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 709. An Act to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 750. An Act to support the autonomous governance of Hong Kong after its reversion to the People's Republic of China; to the Committee on Foreign Relations.

H.R. 914. An Act to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures; to the Committee on Labor and Human Resources.

The following Joint Resolution was read the first and second times by unanimous consent and referred as indicated:

H.J. Res. 32. Joint resolution to consent certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Energy and Natural Resources.

The following resolution was read and referred as indicated:

H. Con. Res. 16. Concurrent resolution concerning the urgent need to improve the living standards of those South Asians living in the Ganges and the Brahmaputra River Basin; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1387. A communication from the Acting Secretary of Energy, transmitting a draft of proposed legislation entitled ''The Energy and Conservation Act Amendments of 1997''; to the Committee on Energy and Natural Resources.

EC–1388. A communication from the Administrator of the Federal Highway Administration, transmitting, pursuant to law, a status report relative to the Intermodal Surface Transportation Efficiency Act; to the Committee on Environment and Public Works.

EC–1389. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a notice concerning the National Guard; to the Committee on Armed Services.

EC–1390. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison; to the Committee on Armed Services.

EC–1391. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC–1392. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–01; to the Committee on Appropriations.

EC–1393. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule relative to single-employer plans, received on March 11, 1997; to the Committee on Labor and Human Resources.

EC–1394. A communication from the Assistant Secretary of Employment Standards, Department of Labor, transmitting, pursuant to law, the report of a rule relative to migrant and season agricultural worker, (RIN1215–AA93) received on March 11, 1997; to the Committee on Labor and Human Resources.

EC–1395. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of 53 rules including 1 rule relative to food labeling, received on March 11, 1997; to the Committee on Labor and Human Resources.

EC–1396. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule relative to reduction in force, (RIN3206–AH64) received on March 11, 1997; to the Committee on Governmental Affairs.

EC–1397. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of Governmentwide Policy, General Services Administration, transmitting, pursuant to law, the report of fifteen rules including one rule relative to federal acquisition, received on March 11, 1997; to the Committee on Governmental Affairs.

EC–1398. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of certification and relative justifications; to the Committee on Foreign Affairs.

EC–1399. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–21, received on March 10, 1997; to the Committee on Finance.

EC–1400. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 97–15, received on March 11, 1997; to the Committee on Finance.

EC–1401. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated March 1, 1997, referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Banking, Housing, and Urban Affairs, to the Committee on Energy and Natural Resources, to the Committee on Finance, to the Committee on Foreign Relations, to the Committee on Governmental Affairs and to the Committee on the Judiciary.

EC–1402. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule received on March 11, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1403. A communication from the Office of the Under Secretary of Commerce for Oceans and Atmosphere, transmitting, pursuant to law, a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska'' received on March 11, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1404. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, two rules including a rule entitled ''Summer Flounder Fishery'' (RIN0648–XX76AI65) received on March 11, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1405. A communication from the Chairman of the National Endowment For the Humanities, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1406. A communication from the Archivist of the United States, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1407. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–41. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Governmental Affairs.

SENATE RESOLUTION NO. 18

Whereas, in spite of the constitutional recognition of the authority of states, Congress, using its authority to regulate commerce among the states, has repeatedly preempted state laws. Congressional actions affecting state laws involve many issues, including health, transportation, communications, banking, environment, and civil justice. These actions have reduced the states' ability to respond to local needs; and

Whereas, more than half of all federal laws preempting states have been enacted by Congress since 1969. This trend has intensified an erosion of state power that leaves an essential part of our constitutional structure—federalism—standing precariously; and

Whereas, the United States Constitution anticipates that our American federalism will allow differences among state laws. This structure expects people to seek change through their own state legislative bodies without federal legislators from other states imposing national laws; and

Whereas, the relationship between the states and the federal government established in the ''Supreme Law of the Land'' is predicated on the states having genuine authority and powers not usurped at the federal level; and

Whereas, less federal preemption means states can act as laboratories for democracy and act on novel social and economic policies without risk to the entire nation; and

Whereas, during the 104th Congress, our federal lawmakers considered legislation to provide specific mechanisms to help protect the authority of the states. This legislation, known as ''The Tenth Amendment Enforcement Act of 1996,'' would have set in place mechanisms for all three branches of the federal government to follow. For example, the legislative branch would be required to include a statement of constitutional authority and an expression of intent. The executive branch agencies would be curbed from exceeding their authority. The judicial branch would defer to state laws where Congress is not clear in its intent to preempt; and

Whereas, legislation like the Tenth Amendment Enforcement Act of 1996 addresses fundamental issues of federalism and is timely and needed. Now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to enact legislation to provide for the enforcement of the Tenth Amendment to the United States Constitution; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Adopted by the Senate, February 26, 1997.

POM–42. A Joint Resolution adopted by the Legislature of the State of Wyoming; to the Committee on the Judiciary.

JOINT RESOLUTION NO. 2

Whereas, the annual federal budget has not been balanced since 1969, and the federal public debt is now more than five trillion dollars or twenty thousand dollars for every man, woman, and child in America; and

Whereas, continued deficit spending demonstrates an unwillingness or inability of both the federal executive and legislative branches to spend no more than available revenues; and

Whereas, fiscal irresponsibility at the federal level is lowering our standard of living, destroying jobs, and endangering economic opportunity now and for the next generation; and

Whereas, the federal government's unlimited ability to borrow raises questions about fundamental principles and responsibilities of government, with potentially profound consequences for the nation and its People, making it an appropriate subject for limitation by the Constitution of the United States; and

Whereas, the Constitution of the United States vests the ultimate responsibility to approve or disapprove constitutional amendments with the People, as repesented by their elected State Legislatures; and opposition by a small minority repeatedly has thwarted the will of the People that a Balanced Budget Amendment to the Constitution should be submitted to the States for ratification; and

Whereas, the Legislature of the State of Wyoming prefers that a constitutional convention not be called to address this issue and the implementation of this resolution by Congress will effectively eliminate the necessity for such a convention: Now, therefore, be it

Resolved by the members of the Legislature of the State of Wyoming, That the Congress of the United States expeditiously pass, and propose to the Legislatures of the several States for ratification, an amendment to the Constitution of the United States requiring in the absence of a natinoal emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; be it further

Resolved, That the Secretary of State transmit copies of this resolution to the President of the United States Senate, the Speaker of the House of Representatives of the United States, each Member of the Wyoming Congressional Delegation, and the Secretary of State and the presiding officers of both Houses of the Legislatures of each of the other States in the Union.

POM–43. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 14

Whereas, the continuing practice of annual budget deficits has severely hampered our nation's economy. In the years since Congress and the President last provided a balanced federal budget in 1969, our country's debt has skyrocketed. As a result, we must direct badly needed tax dollars to paying interest on our debt instead of utilizing tax dollars to their fullest capability and, ultimately, reducing the tax burden facing our citizens and businesses; and

Whereas, there are a host of benefits to our country to be gained from a balanced budget constitutional amendment. With less demand on credit, interest rates would decline. This would enable individuals to attain worthwhile goals for themselves and their families. Money for homes, cars, and higher education would be more readily available. With the added potential for investment, businesses could expand to provide more and better jobs. Many of the budgetary questions that cloud our future would be answered as we channel funds to far more rewarding endeavors than paying interest on a continual escalation of debt; and

Whereas, the American people, who are accustomed to their state and local governments throughout almost the entire country having to balance their annual budgets, are in favor of similar responsibility in the federal government: Now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to pass and submit to the states for ratification a proposed amendment to the Constitution of the United States to require a balanced federal budget with Social Security and Medicare removed from consideration so long as the funds in those programs are guaranteed and are not used to offset, or otherwise be made to serve as collateral for, debt expenditure elsewhere in the federal budget; and be it further

Resolved, That we urge that the proposed balanced budget amendment provide for line item veto for cutting appropriations as measures to achieve a balanced budget; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation. Adopted by the Senate, February 27, 1997.

POM–44. A concurrent resolution adopted by the House of the Legislature of the State of South Dakota; to the Committee on Rules and Administration.

HOUSE CONCURRENT RESOLUTION NO. 1006

Whereas, the expenditures for election campaigns for Congress have been rising each election year; and

Whereas, the State of South Dakota just experienced an election campaign for the position of United States Senator where the candidates spent eight million dollars on campaign expenses and bombarded our citizens with campaign advertisements for a year prior to the election; and

Whereas, despite the huge cost of this election in South Dakota, it is a mere drop in the bucket when compared to similar elections in more heavily populated states; and

Whereas, the increasing cost of Congressional elections has led to a never-ending solicitation by candidates for contributions from businesses, political action committees, and individuals; and

Whereas, these high campaign expenditures and the corresponding need for campaign contributions has given the voters of the State of South Dakota and the nation the perception that campaign contributions buy influence in Congress; and

Whereas, these expenditures and contributions tarnish the image of representative government and fuel voter apathy; and

Whereas, the Congress must pass meaningful election finance campaign reform to help restore voter confidence in our federal election process: Now, therefore, be it

Resolved, by the House of Representatives of the Seventy-Second Legislature of the State of South Dakota, the Senate concurring therein, That the Congress of the United States pass election campaign finance reform which would call for campaign expenditure limits on each candidate for the United States House of Representatives and on each candidate for the United States Senate; and be it further

Resolved, That the Congress of the United States should also provide in such legislation for campaign limits on in-kind contributions for each candidate for the United States House of Representatives and for each candidate for the United States Senate; and be it further

Resolved, That copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the House of Representatives of the United States, and each Member of the South Dakota Congressional Delegation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DODD:

S. 426. A bill to amend the Higher Education Act of 1965 to adjust the needs analysis to protect more of a student's earnings; to the Committee on Labor and Human Resources.

By Mr. THOMAS (for himself and Mr. SHELBY):

S. 427. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for lobbying expenses in connection with State legislation; to the Committee on Finance.

By Mr. KOHL (for himself, Mrs. BOXER, Mr. DURBIN, and Mr. CHAFEE):

S. 428. A bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 429. A bill to amend the Internal Revenue Code of 1986 to allow certain cash rent farm landlords to deduct soil and water conservation expenditures; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 430. A bill to amend the Act of June 20, 1910, to protect the permanent trust funds of the State of New Mexico from erosion due to inflation and modify the basis on which distributions are made from those funds; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. GORTON, Mr. BURNS, Mr. CRAIG, Mr. KEMPTHORNE, and Mr. SMITH):

S. 431. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. ABRAHAM (for himself, Mr. LIEBERMAN, Mr. DEWINE, Mr. HUTCHINSON, and Mr. COATS):

S. 432. A bill to amend the Internal Revenue Code of 1986 to allow the designation of renewal communities, and for other purposes; to the Committee on Finance.

By Mr. BROWNBACK (for himself, Mr. KYL, Mr. ALLARD, Mr. COATS, Mr. ENZI, Mr. HAGEL, and Mr. SESSIONS):

S. 433. A bill to require Congress and the President to fulfill their Constitutional duty to take personal responsibility for Federal laws; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. BYRD):

S. 434. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD:

S. 426. A bill to amend the Higher Education Act of 1965 to adjust the needs analysis to protect more of a student's earnings; to the Committee on Labor and Human Resources.

THE BETTER FINANCIAL AID FOR WORKING STUDENTS ACT OF 1997

Mr. DODD. Mr. President, I rise here this morning to introduce a piece of legislation which I have entitled the Better Financial Aid for Working Students Act of 1997. At the appropriate time here, Mr. President, I will send the bill to the desk and ask that it be referred to the appropriate committee. But let me take a few minutes, if I can, to explain what I am trying to do with this proposal.

This legislation is designed, Mr. President, to assist America's working students to cope with the growing financial burdens of a college education. One hardly even needs to use the words ''growing financial burden.'' It is to state the obvious.

There is not a family in America that does not have children in school or going on to college or who have already been there that does not appreciate what a significant burden the cost of a higher education is in our country.

For the parents of college-aged children, of course, this is a trying time of year, not only for the parents, but for those who are anticipating going on to higher education. These parents and students are today anxiously awaiting the acceptance letters or rejection letters from our Nation's colleges and universities around the country.

However, for the vast majority of families, beyond waiting for an acceptance or rejection letter in March and April from institutions they have applied to, the biggest concern is not whether they are going to get into college or into a community college or into a university; the biggest question, the biggest challenge facing these families is: How are we going to pay for this? If they get in, how are we possibly going to finance this incredible burden that we see increasing all the time?

In fact, Mr. President, I think this week or maybe the past week one of our national magazines—I believe it was Time magazine—has a special issue out on the cost of higher education. It is their cover story. I commend them for it. I believe it was Time, I apologize if it was another periodical. But it is at an appropriate point with these acceptance and rejection letters coming to seniors in high school and others who have been out of school for some time but anxious to get back in.

So I am stating again the obvious. This is a time of some anxiety. But I would argue, the greatest anxiety is not ''whether or not I'm going to be able to go on to a higher educational opportunity,'' but rather, ''How am I possibly going to afford this? How are we going to afford this so our children or myself will be able to acquire the skills and educational levels that are going to be necessary for us to succeed or for my children to succeed in the future?''

That is why the letter they await, Mr. President, with the most anxiety, of course, is the financial aid letter. Working families understand as well as anyone that a college education has never been more important than it is today.

Thirty years ago, Mr. President, a high school diploma could get you a

good job, not the best job, but you would get a good job. You could raise a family. You could buy a home. You could have a good life, retire with a decent level of financial security.

I suspect that the Presiding Officer, his family, my family, certainly we saw that in case after case in our communities, whether it was Arkansas or Connecticut. Today, both of us understand that whether it is Arkansas or Connecticut, that is just not the case any longer.

Even though you need a high school diploma today, you have to have even more education if you are going to fit into the economy of the 21st century. Presently, the mean income of a high school graduate in the United States is $18,700 a year; that's the mean income. That would be barely enough to sustain a working family. In fact, if you have a family of four, $18,700 just doesn't do it today; I don't care where you live in the United States. But with a bachelor's degree, earnings nearly double, to $32,600 a year. So that additional 4 years can make a fantastic and huge difference in an individual's ability to provide for themselves and their families.

As you might anticipate, Mr. President, the higher the education, the greater the financial benefits. On average, a holder of a professional degree earns more than $74,500 a year. But making the college opportunity a reality for our children, and for those adults who are going on to higher education, is important beyond simply individual earnings. That is obviously a benefit. But beyond the dollars and cents, beyond the ability of individuals to earn a higher salary, there are benefits to the economy as a whole. According to a new Wall Street Journal survey, Mr. President, two-thirds of academic economists agree that the right Government policies in education would provide a needed shot in the arm to the American economy. The fact is, in today's global economy, higher education is vital if we are to maintain our international competitiveness and to keep our economy strong.

Since the passage of the GI bill, Mr. President—which millions of Americans are familiar with—there may be those who are retired today who remember, after coming out of World War II or the Korean conflict, what a difference the GI bill meant to them. There was a significant debate that many may recall about whether or not we could afford to pay for the GI bill.

I think in today's dollars, Mr. President, the GI bill—if we tried to adopt something like it today, in 1997—would amount to about $9,000 for every single student who took advantage of it. Obviously, the bulk of them took advantage of it in the late forties and fifties, the generation that came out of World War II and Korea. But can you imagine that, today, if you and I were to stand on the floor of the U.S. Senate and be advocates for something like $9,000 for every eligible person who wanted to go on to a higher education? There is no way in the world we could pass anything like that—not to mention finding the resources to pay for it.

So it was a remarkable accomplishment, with all the debt we had at the end of World War II and Korea that hadn't been paid off at that particular time. There was a collective understanding of the value to the country beyond the individual benefit of having a generation that could never, ever have thought about affording a higher education. We, as a country, at the national level, said, let's see if we can't come up and find some resources to help these people who could not afford to go on to school, so they have the resources to do it. I think it is fascinating to note the analysis of how that has worked out. There was an analysis not long ago, Mr. President, that said that, for every dollar spent on the GI bill, the Nation reaped a benefit of $7 in additional revenues—a 7-to-1 ratio. So as expensive as it was, our country as a whole benefited tremendously beyond the obvious individual benefits that those men—primarily men, but men and women—who were recipients of the GI bill received. The country as a whole was a tremendous beneficiary of that program.

At any rate, from this very first effort in higher education—on to policies today—the hallmark of the Federal Government's role in education is not to set aside the curricula in our higher education institutions, or be involved in the workings of these institutions; our role is to try and come up with creative ways to help students and families afford the financial burden of a higher education.

Today, Mr. President, student assistance is determined by a complicated analysis of family and student assets and earnings. I am destined to make my colleagues' eyes glaze over if I try to explain it on the Senate floor, but suffice it to say, it is a rather significant morass of various loans, grants, and other forms of assistance. However, what must remain crystal clear is that, for millions of Americans, college is not simply a time of tranquil learning and weekend parties or weekend gatherings on campuses. For many college students today, Mr. President—if not most—full and part-time work is a fundamental part of their college education.

This bill that I am introducing this morning would help protect these students and ensure that when considering students' financial needs, work is rewarding. Today, Mr. President, under current law, $1,750 of a student's earning from work is shielded when determining need for financial aid. Beyond that initial $1,750, students' earnings are assessed at a rate of 50 percent.

The proposal I have for us to consider would double that amount, from $1,750 to $3,500, which we would shield, so those students would not have to allocate 50 percent of every dollar over $1,750 to their higher education. It would establish a graduated assessment, from $3,500 to $5,000, which would be assessed at 35 percent, and anything over $5,000 in earnings would be assessed at the 50 percent that today is assessed at $1,750. I don't know exactly when, Mr. President, the $1,750 was set aside. It may have been when the number of students that were actually working to pay for their education was relatively small and that work may have been something that people did to acquire some independent financial means to take care of their daily needs.

But as I would say again, no matter where you live in the country, most of our students today are on loans and are out working. College isn't a 4-year deal where you go straight through anymore. You have to have some work experience. This would allow them—since many are paying their own rent, buying their own food, paying for their own transportation—by raising the $1,750 to $3,500, graduated up to $5,000, this would allow them to retain more of that income that they need for their legitimate expenses, before assessing it at a high level that would deprive them of that ability.

Again, this is not going to be a panacea for everything students need, but I think it is realistic. We are going to consider major reforms in the Higher Education Act. I anticipate and hope that this bill might be a part of that proposal. This legislation would ensure that the efforts of these families will be rewarded; work would be rewarded and encouraged. However, this effort should not stand alone, Mr. President. Clearly, there are other groups who may require changes, and other groups of legislation that may require changes. Specifically, I think we need to be sure that single students—particularly those with children—are not penalized because they are forced to work in order to pay for their education.

The bill I am introducing today is, I think, an important first step. In my view, it will guarantee that low-income students receive the financial aid they so urgently need. I look forward to working on this legislation with my colleagues on both sides of the aisle here. I put it out for people's consideration. They may have some ideas to moderate it one way or another.

Again, I think that given the common interest and common concern about higher education and how we can at least lighten the burdens of those out there trying to get that education and also holding down jobs, I encourage my colleagues' attention to this proposal.

With that, I send the bill to the desk and ask that it be referred to the appropriate committee.

The PRESIDING OFFICER. The bill will be referred to the appropriate committee.

By Mr. THOMAS (for himself and Mr. SHELBY):

S. 427. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for lobbying expenses in connection with State legislation; to the Committee on Finance.

LEGISLATION TO EXEMPT LOBBYING AT THE STATE LEVEL

● Mr. THOMAS. Mr. President, today I am introducing legislation, along with my colleague Senator SHELBY, that exempts expenses incurred to address legislation at the State level from the current law provision that denies this deduction. This change would give lobbying at the State level the same tax deductible treatment currently given to expenses incurred to lobby at the local level.

The provisions of this bill will allow businesses to once again deduct legitimate expenses they incur at the State level to respond to legislative proposals that can affect their livelihood and even their very existence. I ask my colleagues to join us in cosponsoring this important legislation.

As part of the Budget Reconciliation Act of 1993, Congress approved a proposal recommended by President Clinton to deny the deductibility of expenses incurred to influence legislation. As passed, the bill creates a ''lobbying tax'' by denying a business tax deduction for legitimate expenses incurred to influence legislation at both the State and Federal level. In addition, expenses incurred to influence the official actions of certain Executive branch officials are not deductible. Expenses incurred to influence the legislative actions of local governments, however, are exempt from the lobbying tax.

When the deductibility for lobbying expenses was partially repealed in 1993, the debate centered on lobbying at the Federal level. The fact that lobbying to influence legislative actions at the local level is exempt indicates that the 1993 change did not intend to cover all lobbying activities. Lobbying at the State level was not part of the debate, even though it was included in the final legislation that was approved by Congress.

At the State level, there is more active business participation at all levels of the legislative process. This is partly because State legislatures have smaller staffs and meet less frequently than Congress. In most States, the job of State legislator is part time. Additionally, many Governors appoint ''blue ribbon commissions'' and other advisory groups to recommend legislative solutions to problems peculiar to a specific State. These advisory groups depend on input from members of the business, professional, and agricultural community knowledgeable about particular issues. The recordkeeping requirements and tax penalties associated with the lobbying tax discourages and penalizes this participation.

The denial of a deduction for legitimate business expense incurred to lobby at the State level is an unwarranted intrusion of the Federal government on the activity of State governments. While many of the reasons to restore this deduction at the State level can also apply to lobbying at the Federal level, this additional intergovernmental argument emphasizes the need to extend the current exemption from the lobbying tax at the local level to lobbying at the State level.

Perhaps one of the best reasons for restoring the deductibility of State lobbying expenses is the paperwork burden that this law has placed on many businesses and organizations. This is especially true for the many State trade associations, most of whom are small operations and not equipped to comply with the pages and pages of confusing Federal regulations implementing this law. Compliance is both time consuming and complicated, and detracts from the legitimate and necessary work and services they perform for their members, who are primarily small businesses and who depend on these associations to look after their interests.

This bill is very simple. It restores the deductibility of business expenses incurred for activities to influence legislation at the State level, and gives them the same treatment that exists under current law for similar activities at the local level. It is good legislation, it deserves your support, and it should be enacted into law.●

By Mr. KOHL (for himself, Mrs. BOXER, Mr. DURBIN and Mr. CHAFFE):

S. 428. A bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns; to the Committee on the Judiciary.

THE CHILD SAFETY LOCK ACT OF 1997

● Mr. KOHL. Mr. President, today I introduce an important piece of legislation, The Child Safety Lock Act of 1997. Our measure will save thousands of children's lives by curtailing the senseless deaths that occur when improperly stored and unlocked handguns come within the reach of children. Let me tell you about the tragic death of 4 year-old Dylan Pierce of Eaton, WI, which illustrates why we need this law.

Last August, Dylan and his 8-year-old brother Cody stumbled upon an unlocked cabinet while their parents were at work. The cabinet contained a .357-magnum handgun and several rifles. Although the boys' parents told them not to play with the guns, the children were naturally curious. The boys loaded the handgun with ammunition that was kept separate from the guns and began playing with the loaded handgun. While Dylan was handling the gun, it fired, shooting him in the head. Dylan was instantly killed by the bullet. Now, the lives of this family are forever changed, forever damaged.

Unfortunately, statistics show that the Pierce family's tragedy represents part of an everincreasing trend in the United States. Currently, children in the United States are 12 times as likely to die because of a firearm than children in the other 25 largest industrialized countries. Even more startling, the Centers for Disease Control recently reported that nearly 1.2 million latch-key children alone have access to loaded firearms. These figures become even more disturbing when you account for the tragedies that could have been prevented by safety locks.

And while most gun owners properly store their firearms, the sad fact is that a substantial number do not, leaving their guns loaded and within the reach of children.

Mr. President, children's natural curiosity should not lead to their unnatural deaths. We need to ensure that young people who stumble upon handguns do not meet the same fate as Dylan Pierce or the many other children who have died or been injured in handgun accidents. This legislation is especially necessary as long as some adults continue to carelessly store their guns, and in places where children may reach them. Preventing these tragic accidents is the sole purpose of the Child Safety Lock Act.

Our legislation is simple, effective and straightforward. First, it requires that whenever a handgun is sold, a child safety device—or trigger lock—is also sold. These devices vary in form, but the most common resemble a padlock that wraps around the gun trigger and immobilizes it. Trigger locks are already used by thousands of responsible gun owners to protect their firearms from unauthorized use, and they can be purchased in virtually any gun store for less than ten dollars.

Second, the measure requires that a warning be enclosed with the purchase of every firearm. This warning serves as a wake up call to make gun owners aware of the risks associated with improper storage, and it also makes them aware of potential state civil and criminal penalties for failing to use child safety devices.

Mr. President, this bill is not a panacea, but it will help prevent the tragic accidents and deaths associated with unauthorized, unlocked firearms. And it will help ensure that American children do not die as a result of adult carelessness. President Clinton challenged us to enact child safety lock legislation in his State of the Union Address: Today we respond to his challenge.

Senators BOXER, DURBIN, and CHAFEE join me as cosponsors of this bipartisan bill. We ask our other colleagues to join as well.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 428

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 ''Child Safety Lock Act of 1997''.

SEC. 2. HANDGUN SAFETY.

(a) DEFINITION OF LOCKING DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'locking device' means—

''(A) a device that, if installed on a firearm and secured by means of a key or a mechanically-, electronically-, or electromechanically-operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically-, electronically-, or electromechanically-operated combination lock; or

''(B) a locking mechanism incorporated into the design of a firearm that prevents discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm.''.

(b) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

''(y) LOCKING DEVICES AND WARNINGS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), beginning 90 days after the date of enactment of the Child Safety Lock Act of 1997, it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun—

''(A) to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun; or

''(B) to any person, unless the handgun is accompanied by the following warning, which shall appear in conspicuous and legible type in capital letters, and which shall be printed on a label affixed to the gun and on a separate sheet of paper included within the packaging enclosing the handgun:

'' 'THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN. 'FAILURE TO PROPERLY LOCK AND STORE YOUR FIREARM MAY RESULT IN CIVIL OR CRIMINAL LIABILITY UNDER STATE LAW. IN ADDITION, FEDERAL LAW PROHIBITS THE POSSESSION OF A HANDGUN BY A MINOR IN MOST CIRCUMSTANCES.'

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the—

''(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

''(iii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off-duty); or

''(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off-duty).''.

(c) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO LOCKING DEVICES AND WARNINGS.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of subparagraph (A) or (B) of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

''(i) suspend or revoke any license issued to the licensee under this chapter; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.''.●

By Mr. GRASSLEY:

S. 429. A bill to amend the Internal Revenue Code of 1986 to allow certain cash rent farm landlords to deduct soil and water conservation expenditures; to the Committee on Finance.

TAX LEGISLATION

Mr. GRASSLEY. Mr. President, I introduce important tax legislation to improve our Nation's soil conservation and water quality. This measure will extend the conservation expense income tax deduction to farmers who improve soil and water conservation and need to rent that farmland to family members on a cash basis. This legislation builds upon an existing and successful income tax provision that applies to similar improvements on sharecrop rentals. I encourage my colleagues to cosponsor this legislation and thereby endorse an environmental tax policy that uniformly encourages conservation improvements on our Nation's farms.

Across all of our Nation's farmland, 4 out of 5 acres rely on private landowners and tenants to care for the natural resources. Even though all farmers should be encouraged to become good stewards of the land, current tax policy does not provide incentives to encourage all private landowners and tenants to make conservation improvements that are consistent with good environmental policy. On the one hand, farm landlords operating on a sharecrop basis are rewarded with an income tax deduction for soil and water conservation improvements. However, cash rent landlords who make the same conservation improvements are denied a similar income tax deduction. My legislation will eliminate this inequality.

Mr. President, 43 percent of our Nation's farmland is rented. Of that farmland, 35 percent is rented on a sharecrop basis, and 65 percent is rented on a cash basis. Sharecrop rentals are arrangements where landlords typically contribute the real estate and improvements, and tenants contribute the labor. Cash rentals are also arrangements where landlords usually contribute the real estate and improvements. However, the landlords also contribute labor since these agreements exist many times within a family farm environment.

To further compare, sharecrop landlords may deduct certain costs paid or incurred for the treatment or moving of earth for soil and water conservation, including the leveling, conditioning, grading, and terracing of farmland. Likewise, sharecrop landlords may also deduct costs incurred to build and maintain drainage ditches and earthen dams. Cash rentals, however, are not provided a tax deduction even though they practice similar conservation methods. In other words, though the substance of these rentals is similar, the tax treatment of conservation expenses is vastly different.

Mr. President, it may surprise you to know that many family farmers are cash rent landlords. The life cycle of a family farm is one where aging parents gradually pass the family farm to their sons or daughters. In many cases, because the children cannot initially afford to purchase the family farms from their parents, a parent-child business relationship often starts out as a rental. Sometimes it is a sharecrop rental, other times they agree to a cash rent relationship.

Unfortunately, our tax and environmental policy toward these two relationships remains irrational. If a landlord sharecrops with a stranger, then that landlord can deduct conservation expenditures. However, if a widowed farm wife cash rents farmland to her daughter and watches over the grandchildren while the daughter works the crops in the field, the grandmother cannot deduct conservation expenditures. Similarly, a retired father who cash rents to his son and provides labor assistance during harvest is likewise denied a conservation tax deduction.

I believe that our tax policy should encourage and reward sound soil conservation practices regardless of the situation of the farmers. At a minimum, our tax policy should reward family farmers who make long term soil conservation improvements to any of their farmland. In fact, these sound conservation practices have already aided many farmers in reducing our level of soil erosion. The USDA reported in its 1992 Natural Resources Inventory that soil erosion has decreased by 1 billion tons annually. The USDA attributes one half of that decrease to improved conservation efforts by farmers. Nonetheless, our Nation's tax policy requires that family farmers on a cash rent basis bear much of the expense of this successful environmental policy. My legislation fixes this problem. Surely, it will yield even further soil and water conservation of our nation's most valuable nonrenewable resource: farmland.

I encourage all of my colleagues to cosponsor this important legislation.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 430. A bill to amend the act of June 20, 1910, to protect trust funds of the State of New Mexico from erosion due to inflation and modify the basis on which distributions are made from those funds; to the Committee on Energy and Natural Resources.

THE NEW MEXICO STATEHOOD AND ENABLING ACT AMENDMENTS OF 1997

Mr. DOMENICI. Mr. President, I introduce legislation to amend the New Mexico Enabling Act of 1910. I am pleased to have as a cosponsor, my colleague from New Mexico, Senator BINGAMAN. I am also very pleased that identical legislation is being introduced today in the House by New Mexico's Representatives SKEEN and SCHIFF.

Mr. President, the Enabling Act of 1910 provided the people of the New Mexico with the authority to convene a State constitutional convention and to organize a State government. As was the case with almost every State west of the Mississippi River, New Mexico was also granted certain public domain lands to be held in trust for the purposes of supporting the State's public educational institutions.

The New Mexico State Land Commissioner's office has a proud history of producing sustained revenues from these State trust lands. These revenues have served the public schools of our State as they were intended, by providing for investments in a permanent fund. Mandates for managing the trust lands to sustain the permanent fund, as well as the control of and distributions from the fund are a part of our State constitution. In order to amend the constitutional mandates related to the State trust lands and the permanent fund, the Enabling Act requires that Congress give its consent to the amendments. Today, we begin the process of allowing New Mexico greater flexibility for investment, and protection of the permanent fund from the effects of inflation.

In New Mexico, the State Investment Council is charged with managing our State's permanent fund. The council is currently constrained by constitutional mandate, and the Enabling Act, from making certain types of investments that would have provided millions of additional dollars for our State's educational institutions over the past 20 years. Additionally, they are currently required to distribute, on an annual basis, the dividends and income from the permanent fund, regardless of the impacts of inflation on the value of its assets. This requirement has also cost the beneficiaries through periodic market value erosion of the fund's assets.

Mr. President, the voters of New Mexico have spoken. On November 5, 1996, 67 percent approved amendments to our State constitution that will improve the situation. These amendments give the State Investment Council the necessary flexibility to prudently invest the assets of the permanent fund. Additionally, they restrict the distribution of revenues to a fixed percentage of a rolling 5-year average market value of those assets.

This proposal has broad bipartisan support in our State legislature, and from our Governor, Gary Johnson. At this point, I ask unanimous consent to submit for the record a letter of support signed by Governor Johnson, and the bipartisan leadership of the New Mexico House of Representatives and Senate.

Mr President, the bill I am introducing today does two things. First, it amends the enabling act of 1910, so that it will be consistent with the investment flexibility and permanent fund protection clauses of the amendments to our State constitution, already approved by the voters of New Mexico. Second, it provides the legal requirement of congressional consent to the amendments, so that they can be implemented by our State government. Combined with the State constitutional amendments approved this past November, this bill will provide our State Investment Council with the authority to greatly improve their investment strategies, bringing them to par with the vast majority of other public and private endowed fund management authorities.

In closing, Mr. President, I urge my colleagues to support this important legislation for the State of New Mexico, and I ask unanimous consent that the text of the bill be printed for the RECORD.

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

S. 430

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

SECTION 1. PERMANENT TRUST FUNDS OF THE STATE OF NEW MEXICO.

(a) SHORT TITLE.—This Act may be cited as the ''New Mexico Statehood and Enabling Act Amendments of 1997''.

(b) INVESTMENT OF AND DISTRIBUTIONS FROM PERMANENT TRUST FUNDS.—The Act of June 20, 1910 (36 Stat. 557, chapter 310), is amended—

(1) in the proviso in the second paragraph of section 7, by striking ''the income therefrom only to be used'' and inserting ''distributions from which shall be made in accordance with the first paragraph of section 10 and shall be used'';

(2) in section 9, by striking ''the interest of which only shall be expended'' and inserting ''distributions from which shall be made in accordance with the first paragraph of section 10 and shall be expended''; and

(3) in the first paragraph of section 10, by adding at the end the following: ''The trust funds, including all interest, dividends, other income, and appreciation in the market value of assets of the funds shall be prudently invested on a total rate of return basis. Distributions from the trust funds shall be made as provided in Article 12, Section 7 of the Constitution of the State of New Mexico.''.

(c) CONSENT OF CONGRESS.—Congress consents to the amendments to the Constitution of the State of New Mexico proposed by Senate Joint Resolution 2 of the 42nd Legislature of the State of New Mexico, Second Session, 1996, entitled ''A Joint Resolution proposing amendments to Article 8, Section 10 and Article 12, Sections 2, 4 and 7 of the Constitution of New Mexico to protect the State's permanent funds against inflation by limiting distributions to a percentage of each fund's market value and by modifying certain investment restrictions to allow optimal diversification of investments'', approved by the voters of the State of New Mexico on November 5, 1996.

OFFICE OF THE GOVERNOR,
STATE CAPITOL,
Santa Fe, NM, February 24, 1997.

U.S. Senator PETE V. DOMENICI,
Federal Place,
Santa Fe, NM.

DEAR SENATOR DOMENICI: We hereby respectfully request the U.S. Congress amend the Enabling Act for New Mexico. This Amendment is necessary to protect the fund from inflation and to reduce risk by diversifying investments and establishing a distribution formula similar to that used by most other endowments. The Legislature and 67% of the voters from New Mexico voted in favor of amending Article 12, Sections 2, 4 and 7 of the New Mexico Constitution to accomplish these objectives. Since these funds are derived from Federal land granted to the State under the Enabling Act of 1910, it is necessary to obtain the consent of the U.S. Congress before the Amendment can be implemented. The Amendment can be implemented without any cost to the Federal Government.

The Amendment changes the method of making distributions to the institutional beneficiaries (primarily public schools, universities and other public institutions) to one based on a fixed percentage (4.7%) of the five-year average market value of the funds, instead of one based solely on interest and dividend income. This method of making distributions should ensure that the fund will grow with inflation, therefore protecting the fund for future generations.

Anything you can do to expedite the process of amending the Enabling Act so that we can invest the State's Permanent Funds more professionally and implement the new distribution formula will be sincerely appreciated.

Thank you for your help and support of this request.

Very truly yours,
GARY E. JOHNSON,
Governor.
RAYMOND G. SANCHEZ,
Speaker of the House of Representatives.
KIP W. NICELY,
Minority Leader of the House of Representatives.
MANNY M. ARAGON,
Pro Tempore, of the Senate.
RAYMOND KYSAR,
Minority Leader of the Senate.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. GORTON, Mr. BURNS, Mr. CRAIG, Mr. KEMPTHORNE, and Mr. SMITH of Oregon):

S. 431. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

THE NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT OF 1997

Mr. MURKOWSKI. Mr. President, today I am pleased to be joined by my colleagues, Senators STEVENS, GORTON, BURNS, CRAIG, KEMPTHORNE, and Senator SMITH of Oregon, in introducing the Ninth Circuit Court of Appeals Reorganization Act of 1997.

Our legislation will create a new twelfth circuit comprised of Alaska, Washington, Oregon, Idaho, and Montana. This legislation will ease the current burdens of the ninth circuit, as well as effectively create a new northwest circuit that is historically, economically, culturally, and philosophically united.

Mr. President, one look at the contours of the ninth circuit reveals the need for this reorganization. Stretching from the Arctic Circle to the Mexican border, past the tropics of Hawaii and across the international dateline to Guam and the Marianna Islands, by any means of measurement, the ninth circuit is the largest of all U.S. circuit courts of appeal.

There is also no denying the ninth circuit's mammoth caseload. It serves a population of more than 45 million people, well over one-third more than the next largest circuit.

Last year, the ninth circuit had an astounding 7,146 new filings.

By 2010, the Census Bureau estimates that the ninth circuit's population will be more than 63 million—a 40-percent increase in just 13 years, which inevitably will create an even more daunting caseload.

We believe that this legislation is long overdue. Because of its size, the entire appellate process in the ninth circuit is the second slowest in the Nation. As former Chief Judge Wallace of the ninth circuit stated: ''It takes about 4 months longer to complete an appeal in our court as compared to the national median time.'' Mr. President, what this means is that while the national median time for filing a notice of appeal to final disposition is 315 days, the ninth circuit median time is 1 year and 2 months.

Furthermore, the massive size of the ninth circuit often results in a decrease in the ability to keep abreast of legal developments within its own jurisdiction. This unwieldy caseload creates an inconsistency in constitutional interpretation. In fact, ninth circuit cases have an extraordinarily high reversal rate by the Supreme Court. During the Supreme Court's 1994–95 session, the Supreme Court overturned 82 percent of the ninth circuit cases heard by the Court. This lack of constitutional consistency discourages settlements and leads to unnecessary litigation.

Mr. President, the legislation I am introducing is not novel. Since the day the circuit was founded, over a century ago, there were discussions of a split. Nearly a quarter century ago, in 1973, the Congressional Commission on the Revision of the Federal Court of Appellate System recommended that the ninth circuit be divided.

Additionally, the American Bar Association has adopted a resolution expressing the benefits of dividing the ninth district.

Since 1983, Senator GORTON and many others in this Chamber have initiated legislation to split the circuit.

There have been Senate hearings. In December 1995, Senator HATCH stated in a committee report that:

> The legislative history, in conjunction with available statistics and research concerning the Ninth Circuit, provides an ample record for an informed decision at this point as to whether to divide the Ninth Circuit . . . Upon careful consideration the time has indeed come.

Furthermore, splitting a circuit to respond to caseload and population growth is by no means unprecedented. Congress divided the original eighth circuit to create the tenth circuit in 1929, and divided the former fifth circuit to create the 11th circuit in 1980.

The legislation that I and my colleagues introduce today is the sensible reorganization of the ninth circuit. The new ninth circuit would embrace California, Nevada, Arizona, Hawaii, and the U.S. territories. And the new 12th circuit would be comprised solely of States in the Northwest region. Most importantly, this split would respect the economic, historical, cultural, and legal ties which exist between the States involved.

Mr. President, no one court can effectively exercise its power in an area that extends from the Arctic Circle to the tropics. The legislation introduction today will create a regional commonality which will lead to greater consistency and dependency in legal decisions.

Mr. President, we have waited long enough. The 45 million residents of the ninth circuit are the persons that suffer. Many wait years before cases are heard and decided, prompting many to forego the entire appellate process. In brief, the ninth circuit has become a circuit where justice is not swift and not always served.

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. 431

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 ''Ninth Circuit Court of Appeals Reorganization Act of 1997''.

SEC. 2. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking ''thirteen'' and inserting ''fourteen'';

(2) in the table, by striking the item relating to the ninth circuit and inserting the following new item:

''Ninth ..... Arizona, California, Hawaii, Nevada, Guam, Northern Mariana Islands.'';

and

(3) between the last 2 items of the table, by inserting the following new item:

''Twelfth ..... Alaska, Idaho, Montana, Oregon, Washington.''.

SEC. 3. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following new item:

''Ninth ..... 19'';

and

(2) by inserting between the last 2 items at the end thereof the following new item:

''Twelfth ..... 7''.

SEC. 4. PLACES OF CIRCUIT COURT.

The table in section 48 of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following new item:

''Ninth ..... San Francisco, Los Angeles.'';

and

(2) by inserting between the last 2 items at the end thereof the following new item:

''Twelfth ..... Portland, Seattle.''.

SEC. 5. ASSIGNMENT OF CIRCUIT JUDGES.

Each circuit judge in regular active service of the former ninth circuit whose official station on the day before the effective date of this Act—

(1) is in Arizona, California, Hawaii, Nevada, Guam, or the Northern Mariana Islands is assigned as a circuit judge of the new ninth circuit; and

(2) is in Alaska, Idaho, Montana, Oregon, or Washington is assigned as a circuit judge of the twelfth circuit.

SEC. 6. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 7. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 5 of this Act; or

(2) who elects to be assigned under section 6 of this Act;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 8. APPLICATION TO CASES.

The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

SEC. 9. DEFINITIONS.

For purposes of this Act, the term—

(1) ''former ninth circuit'' means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act;

(2) ''new ninth circuit'' means the ninth judicial circuit of the United States established by the amendment made by section 2(2) of this Act; and

(3) ''twelfth circuit'' means the twelfth judicial circuit of the United States established by the amendment made by section 2(3) of this Act.

SEC. 10. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act. Such court shall cease to exist for administrative purposes on July 1, 1999.

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 1997.

By Mr. ABRAHAM (for himself, Mr. LIEBERMAN, Mr. DEWINE, Mr. HUTCHINSON, and Mr. COATS):

S. 432. A bill to amend the Internal Revenue Code of 1986 to allow the designation of renewal communities, and for other purposes; to the Committee on Finance.

THE AMERICAN COMMUNITY RENEWAL ACT OF 1997

● Mr. ABRAHAM. Mr. President, today, I am proud to join colleagues on both sides of the Capitol and both sides of the aisle in introducing the American Community Renewal Act of 1997. This legislation addresses the social and economic pathologies currently besetting this country. It helps bring back economic growth and the sense of community we need to maintain safe streets, strong families, and vibrant neighborhoods. And it does so be bridging the gap between tax policies designed to stimulate economic growth and social policies designed to strengthen our moral fabric.

This bipartisan, bicameral bill has the support of members from diverse States and diverse political perspectives. Here in the Senate, I am joined by Senators LIEBERMAN, DEWINE, HUTCHINSON of Arkansas, and COATS. Meanwhile, Congressmen WATTS, FLAKE, and TALENT are introducing a similar bill in the House of Representatives.

Mr. President, the tragedy of broken homes, drugs, violence, and welfare dependency is so prevalent that some Americans accept it as normal. But broken families are not normal, and neither is the hopelessness that lies at the root of community decay. We can and must work to renew our distressed communities, both for the sake of the people living there and for all Americans.

We spent $5.4 trillion on the War on Poverty, yet today's poverty rate is essentially the same as it was in 1966. The problem was not our good intentions. Nor was it that community decay is an unbeatable adversary. Rather, the problem with the war on poverty was that it looked toward Washington rather than to the communities themselves.

Mr. President, the Washington knows best approach is a recipe for disaster. Washington can neither end poverty nor give people the habits of hard work, civility, and personal responsibility necessary for community renewal. But Washington can do something. It can remove barriers and free entrepreneurs and community leaders to reconstruct the fundamental institutions, beliefs, and practices upon which any health community must rely.

Which leaders are we talking about? People like Indianapolis Mayor Steve Goldsmith, who is working with local groups like the Indianapolis Housing Project and Westside Cooperative Organization. Together they are cutting redtape and encouraging community development. They are revitalizing neighborhoods that previously had been written off.

In Detroit, Mayor Archer's clean sweep program last year brought together over 20,000 volunteers in and around that city, along with dozens of local community organizations. Their efforts resulted in the removal of over 300,000 bags of trash from our city. Community pride was harnessed, and developed, in this worthwhile endeavor.

These are the kinds of cooperative efforts that can revitalize our distressed communities. Such efforts lie behind the American Community Renewal Act of 1997. By replacing barriers with incentives, this legislation aims to increase private investment, strengthen family ties, and effectively fight drugs abuse by reintegrating faith-based institutions into the public life of our distressed areas. Building on the pioneering legislation sponsored by then-Congressman Jack Kemp in the 1970's, it will create 100 community renewal zones with targeted, pro-growth tax and regulatory relief, housing assistance and provisions encouraging savings, education and investment.

A community must meet several criteria to qualify. First, its residents must have incomes well below the average while at least a fifth fall below the poverty line. Other measures such as unemployment levels and eligibility for certain Federal assistance programs are also considered.

Second, the community must bring to the table its own package of incentives including lower taxes, increased local services, a crime reduction strategy, and fewer economic regulations. Mr. President, part of rejecting the Washington knows best philosophy is acknowledging that not all barriers to economic and social growth come from the Federal Government.

This legislation calls on local governments to do their part. In return for these concessions, Mr. President, the community will receive a number of powerful benefits designed to encourage new businesses, job creation, and economic growth.

First, we eliminate the capital gains tax for the sale of any renewal property or business held for at lest 5 years, we increase the expensing allowance for small businesses for those who locate in the zone, and we target low-income workers with a 20-percent wage credit if they are hired by a renewal community business.

Next, we target additional capital at renewal communities by allowing banks to receive Community Reinvestment Act credit for investments in, or loans to, community groups within the zone. The idea is that these groups would then provide loans to local small businesses and residents.

Finally, we target environmental blight by providing tax incentives for cleaning up of old commercial and industrial properties located within the renewal communities. There are tens of thousands of these so-called brownfields across the country, Mr. President, and in many communities they represent the No. 1 obstacle to redevelopment and economic growth. Providing these tax breaks eliminates a barrier to investment in our renewal communities as it helps preserve undeveloped lands inside and outside these communities. For every brownfield that gets cleaned and reused, a greenfield is preserved.

Important as they are, however, investment and job creation incentives are not enough. That is why the Community Renewal Act also targets families and organizations. For families living within renewal communities, the bill provides new opportunities for saving, owning a home, and sending their children to the school of their choice.

The bill provides renewal zone residents with family development accounts. These super-IRA's will encourage low-income families to save part of their income by making the deposits—up to $2,000 per year—deductible and the withdrawals tax free if used for purposes like buying a house or meeting educational expenses.

The bill also provides for the sale of unoccupied or substandard local HUD homes and housing projects to community development corporations. This provision increases housing opportunities for low-income families, helping them stay together, invest in their homes, and care for their neighborhoods by making them stakeholders in renewal communities.

Finally, there is an opportunity scholarship program. This means-tested program allows low-income parents to send their children to the school they think best.

Our bill also targets community organizations for assistance. As has been noted previously, for every social problem we face, there is an organization out there that is addressing that problem. This legislation's goal is to stimulate and encourage those organizations in their work.

In San Antonio, Pastor Freddie Garcia runs Victory Fellowship. This faith based drug rehabilitation program has saved thousands of addicts in some of the city's toughest neighborhoods. Victory Fellowship offers addicts a safe haven, a chance to recover, job training, and a chance for addicts to provide for themselves and their families and 13,000 people have been helped there, with a success rate of over 80 percent. But, because Victory Fellowship is faith based, it has not received any Federal help. Also because it is faith based, no one receiving Federal assistance is allowed to go there.

Mr. President, the American Community Renewal Act would allow local, faith based substance abuse treatment centers like Pastor Garica's to receive Federal assistance. It does so without endangering the independence of the Victory Fellowship and other centers doing similar work, and it does so without forcing religious doctrine upon those who seek assistance.

And, finally, this legislation stimulates charitable giving in all American communities by creating a new charity tax credit for private donations to qualified charities. Mr. President, back in 1986, Congress eliminated the charitable deduction for families who do not itemize. This change in the Tax Code hurt the ability of charities to attract private support. To correct this problem, this new credit would be available to all families, even those who do not itemize. To keep the cost reasonable, we have capped qualified donations for taxpayers who must also personally volunteer at the recipient charity. Nevertheless, we believe this provision will provide taxpayers with a powerful incentive to add their hard-earned money to the war on poverty and drugs.

Mr. President, the American Community Renewal Act places its faith in individuals, organizations, and communities all across America to address our social and economic ills. It does so by bridging the gap between economic and social policy, and the gap between traditionally Republican and Democratic solutions. I am glad to have joined hands with my colleagues to move this initiative forward, and I look forward to seeing this legislation enacted into law this Congress.

Mr. president, I ask unanimous consent that a detailed summary of the American Community Renewal Act be printed in the RECORD.

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

THE AMERICAN COMMUNITY RENEWAL ACT OF 1997—OUTLINE

This legislation focuses on three broad themes: moral and family renewal, personal economic empowerment, and fostering private charity. Our bill allows for up to 100 ''Renewal Communities'' to be established on a competitive basis in both urban and rural areas. To be designated a Renewal Community, state and local governments would have to work together with neighborhood groups to relax zoning, housing, tax, and business rules and regulations.

TITLE 1: DESIGNATION AND EVALUATION OF RENEWAL COMMUNITIES

Establish up to 100 Renewal Communities along the following guidelines:

(1) The Secretary of Housing and Urban Development has the authority to designate these ''renewal communities,'' 25 percent of which must be in rural areas. Designations would be effective for seven years.

(2) Areas nominated would have to meet certain criteria and would be ranked on the degree to which they exceeded these criteria. The criteria are as follows: (a) have an unemployment rate of at least 1½ times the national rate; (b) have a poverty rate of at least 20 percent; and (c) at least 70 percent of the households in the area have incomes below 80 percent of the median income of households in the metropolitan statistical area.

Nominated areas also would have to meet certain population criteria. These requirements are: (1) the areas must be within the jurisdiction of local governments; (2) the boundary must be continuous; and (3) if it is in a metropolitan statistical area, the population, based on the most recent census data, must be at least 4,000 (1,000 in the case of rural areas) or be entirely within an Indian reservation.

(3) Within four months of enactment, the Secretary of Housing and Urban Development would be required to issue regulations to: (1) establish the procedures for nominating areas; (2) determine the parameters relating to the size and population characteristics of ''renewal communities;'' and (3) the manner in which nominated areas will be evaluated based on the eligibility criteria.

(4) The Secretary of Housing and Urban Development could not designate an area a ''renewal community'' unless: (1) the local governments and the state have the authority to nominate an area; (2) agree to the requirements on state and local governments (described below); and (3) provide assurances that these commitments will be fulfilled; and (4) the Secretary of Housing and Urban Development determines that the information furnished is reasonably accurate.

(5) Before being considered for ''renewal community'' status, state and local governments must enter into a written contract with neighborhoods organizations to do at least five of the following: (1) reduce taxrates and fees within the ''renewal community;'' (2) increase the level of efficiency of local services within the renewal community; (3) crime reduction strategies; (4) actions to reduce, remove, simplify, or streamline governmental requirements applying within the renewal community; (5) involve private entities in providing social services; (6) allow for state and local income tax benefits for fees paid or accrued for services performed by a nongovernmental entity but which formerly had been performed by government; and (7) allow the gift (or sale at below fair market value) of surplus realty (land, homes, commercial or industrial structures) in the ''renewal community'' to neighborhoods organizations, community development corporations, or private companies.

Communities would receive credit for past activities with respect to these activities.

(6) In addition, before being considered for ''renewal community'' status, state and local governments must agree to suspend or otherwise not enforce the following types of restrictions on entry into business or occupations: (1) licensing requirements for occupations that do not ordinarily require a professional degree; (2) zoning restrictions on home-based businesses that do not create a public nuisance; (3). permit requirements for street vendors that do not create a public nuisance; (4). zoning or other restrictions that impeded the formation of schools or child care centers; or (5). franchises or other restrictions on competition for businesses providing public services, including but not limited to taxicabs, jitneys, cable television, or trash hauling. State and local authorities may apply such regulations of businesses and occupations within the ''renewal communities'' as are necessary and well-tailored to protect public health, safety, or order.

(7) State and local governments must agree to participate in the low-income scholarship program provided for in Title IV of this bill.

(8) With respect to existing Empowerment Zones and Enterprise Communities, the first 50 designations of Renewal Communities will be offered to existing zones on a first come, first serve basis.

TITLE II: ECONOMIC EMPOWERMENT AND TAX ADVANTAGES

The tax benefits for Renewal Communities are substantial. The tax incentives are as follows:

(1) A 100 percent exclusion from capital gains for certain qualified Renewal Community assets held for more than five years;

(2) An additional $35,000 of expensing under IRS Code Section 179 for qualified Renewal Community enterprises;

(3) A work opportunity tax credit to offset the cost of hiring individuals who are either on Temporary Assistance for Needy Families (TANF), are considered high-risk youth, or are in need of some type of vocational rehabilitation. The maximum credit can be up to $3,000 of first-year wages. The credit only applies to businesses located within the Renewal Community over a seven year period.

(4) A commercial revitalization tax credit for the renovation and rehabilitation of qualified, non-residential buildings located within a Renewal Community. The credit is worth up to 20% of the cost of renovation of 5% a year for ten years;

(5) Permits taxpayers to expense costs incurred in the abatement of environmental contaminants located within a Renewal Community.

Provides Family Development Accounts for the working poor residing in ''renewal communities'' along the following guidelines:

(1) As an incentive for low-income working families to save, EITC recipients would be able to put a portion of their credit into a savings account and be rewarded with a federal match. The intent of this section is to provide low-income working families an incentive to accumulate assets and help achieve economic self-sufficiency. Withdrawals from these accounts, known as Family Development Accounts, would be tax-free for the purchase of a home, post-secondary education, emergency healthcare costs or the creation of a small business. Contributions to the account would be limited to $2,000 in unmatched income for a one year period.

(2) These FDA accounts may be matched by public and private funds to help low-income families build family assets and become independent from government programs. Matches could be provided by local churches, service organizations, corporations, foundations, and state or local governments. A federal match of this money would also be deposited into the Family Development Account in at least 25 ''renewal communities.'' The funds for these demonstration programs will come from the $1 billion extra Social Service Block Grant program created in the 1993 enterprise zone bill.

Provide a new tax credit for charitable giving to private organizations which aid the poor along the following guidelines:

(1) The credit would equal 75 percent of the value of donations to qualified charities. The maximum gift for which such credit would be claimed would be $100 for a single filer ($200 for a joint-filing household). This credit would only be active for a three year period. In order to be eligible for the credit, the filer must have completed at least 10 hours of volunteer service for the designated organization over a one year period.

(2) In order for the credit to be claimed, the charity which receives the gift: (a). must be predominately involved in the provision of services to persons whose annual incomes do not exceed 185 percent of poverty; (b). must allocate at least 70 percent of its total expenditures to direct services to low-income persons.

TITLE III: LOW-INCOME EDUCATIONAL OPPORTUNITY SCHOLARSHIP PROGRAM

Establish an educational choice scholarship program in each ''renewal community'' along the following guidelines:

(1) Parents of children who receive assistance under this program will be free to choose the school which their children will attend from a wide range of types of schools, including: alternative public schools, charter schools, private schools, and private religious schools.

(2) Funds under the program may be used (a). to cover the reasonable cost of transportation to alternative public schools or (b). to provide scholarships to pay for tuition and reasonable transportation costs to private, and private religious schools.

(3) Each locality will determine the value of scholarships for children in their locality. The maximum value of the scholarship shall not exceed the per capita cost of educating children in a public school in the locality. The scholarship shall have a minimum value which shall not fall below the lesser of: (a). 66 percent of the per capita costs of educating children in the public schools in the locality; or (b). the normal tuition charged by the private school.

(4) A parent shall be able to redeem a scholarship at any private or private religious school within the locality which meets the health and educational standards for private schools within the locality which existed as of January 1, 1996. All schools which receive these scholarships shall comply with the antidiscrimination provision of Section 601 of Title VI of the Civil Rights Act of 1964 and may not discriminate on the basis of race.

(5) The locality may not prohibit parents from using scholarships to pay for tuition in religious schools and may not discriminate in any way against parents who choose to place their child in a religious school. The Senate version of the bill ensures that state and local funds are not used for scholarships where it is prohibited by state law or state constitution.

(6) Education funds under this act shall be provided into two tiers: Tier I funds shall be based on the number of school-age children with family incomes below 185 percent of poverty; Tier II funds shall be based on the level of private and public contribution to scholarships in the locality.

The level of Tier I funds, which each community shall receive, shall be pro-rated based on the number of school-age children in families residing in the community with incomes below 185 percent of poverty relative to the total number of such children in all localities eligible for funding. 80 percent of the funds shall be dedicated to Tier I.

Tier II funds shall equal 20 percent of all education funds under this Act and shall be proportional to the level of contribution to scholarships from non-federal funds (public or private) within the locality.

(7) No individual shall be entitled to scholarships. A locality shall allocate scholarships and transportation aid to eligible parents who apply for aid on a first-come, first-served basis or through another mechanism of selection determined by the locality which does not discriminate on the basis of the type of school selected by the parent.

(8) If the funds allocated to a locality under this act exceed the total expenditures on transportation aid and scholarships in a locality in a given year, the locality may use the surplus funds to provide for the education of low-income children within the public school system.

TITLE IV: FAITH-BASED SERVICE PROVIDER EMPOWERMENT AND HOMEOWNERSHIP

The act would empower neighbhorhood groups, including religious institutions, who want to provide drug treatment and drug counseling activities in the following manner:

(1) Modifies existing drug counseling and drug rehabilitation programs. A state may provide drug counseling and drug rehabilitation services through contracts with religious organizations or other private organizations; or may provide beneficiaries with vouchers or certificates which are redeemable for services provided by such organizations.

(2) Funds may be used for drug counseling and rehabilitation programs which have a religious content and character, as long as the beneficiary is able to choose among a range of service providers, including those which are religious in character. Such use of funds shall conform to the Supreme Courts interpretation of the Establishment Clause as provided in Mueller v. Allen and Witters v. Department of Services for the Blind.

(3) No beneficiary shall be required to participate in a service or program which is religious in character. In all cases beneficiaries shall be given the option of selecting services from a non-religious provider.

(4) Except as provided in #3 above, neither the federal government nor a state receiving funds may discriminate against an organization which seeks to provide services or be a contractor on the basis that the organization has a religious character.

(5) States would be required to undertake a review of credentialing requirements for drug rehabilitation programs. The goal of this review would be to improve efficiency and effectiveness of programs by reducing credentialing requirements.

More low-income families will have the opportunity to buy their first home through the Renewal Community home-ownership provisions. These measures provide for the sale of unoccupied or substandard homes and housing projects located within Renewal Communities and owned by HUD to community development corporations.

Finally, the bill would encourage bank lending within ''renewal communities.'' The bill amends section 804 of the Community Reinvestment Act of 1977 and allows financial institutions to receive CRA credit for investments in, loans to, or other ventures with community development financial institutions as defined by the Bank Enterprise Act of 1991 and which are located within ''renewal communities.''●

● Mr. LIEBERMAN. Mr. President, from the time I came to the Senate in 1989, I have been proud to advocate enterprise zones for America's troubled neighborhoods. I think this issue is at the heart of the whole question of what America must do to redeem the promise of economic opportunity for all Americans. I was pleased to work with Jack Kemp on this issue when he was Secretary of HUD, for the past 2 years with Senator ABRAHAM, and now with Representatives WATTS, FLAKE, and TALENT.

We all believe that not enough is being done to empower those people who live, work, and want to start businesses in our poorest urban and rural areas of the country. Any response to the economic distress in urban and rural areas which does not include a mechanism to attract businesses and jobs back to these areas is a response that is destined to fail.

We took a step toward empowering poor Americans and identifying and helping impoverished communities by passing 1993 legislation creating empowerment zones and enterprise communities in more than 100 neighborhoods across the country. With the passage of that legislation, Congress recognized something that our States have acknowledged for many years: Government loses the war on poverty when it fights alone. What we really need to do is figure out a way to pull the people and the places with little or no stake in our economic system, into our system. We need to answer ''yes'' to the question posed by Paul Pryde, coauthor of ''Black Entrepreneurship in America.'' That question is, ''Can we make the market work for the discouraged, isolated and frequently embittered underclass?''

We can, and need, to answer, ''yes.'' The 1993 legislation marked a fundamental change in urban policy, by recognizing that American business can and must play a role in revitalizing poor neighborhoods. Indeed, American business involvement is essential if we are to break the cycle of poverty and the related ills confronting too many cities and rural areas today—crime, drug abuse, illiteracy, and unemployment.

The 1993 breakthrough was a good start, but we did not go far enough. That's why I am pleased to join with my colleague, Senator SPENCER ABRAHAM, on a bipartisan basis, in announcing the American Community Renewal Act of 1997. We want to help economically distressed urban and rural areas by creating 100 community renewal zones, including current empowerment zones and enterprise communities created by OBRA 1993, and additional communities meeting poverty and local commitment criteria. Specifically, these zones must have a 20 percent or more poverty rate, unemployment of at least 15 percent the national rate, and at least 70 percent of households with incomes below 80 percent median household income. Renewal communities will commit to reducing barriers to business, such as reductions in local taxes and fees, elimination of State and local sales tax, and waiver of local and State occupational licensing regulations except for those specifically needed to protect health and safety.

This legislation will offer targeted, pro-growth tax and regulatory relief to encourage private sector job creation and economic activity in impoverished areas. To enhance business and community partnerships, we have included provisions to facilitate additional housing opportunities, encourage savings, and offer additional education and investment opportunities. The CRA credit will facilitate additional investment and lending to community development financial institutions, and family development accounts will encourage low-income families to save part of their income or EITC refund. Family development account funds will be deductible for tax purposes and can be withdrawn tax-free if used for qualified purposes. Family and community

ties will be strengthened through new private investment opportunities and expanded access to drug treatment in these communities.

We cannot give up on our inner cities and impoverished areas. Government, itself, cannot revitalize these areas. Communities must be strengthened through expanded economic opportunities, jobs, and private sector development in people's own local neighborhoods. Only then, can our communities save themselves from the vicious cycle of poverty and prepare our children for the future. Local partnerships and the commitment of business and communities to improving the economy of our poorest areas will provide the cornerstone of the future.

Through limited government involvement, enhanced personal responsibility, and the economic freedom of business to grow and develop, poor communities can become players in our Nation's economy. The American Community Renewal Act helps poor Americans of all backgrounds pursue happiness, and escape from the trap of poverty that defines too many of their lives today.●

By Mr. BROWNBACK (for himself, Mr. KYL, Mr. ALLARD, Mr. COATS, Mr. ENZI, Mr. HAGEL, and Mr. SESSIONS):

S. 433. A bill to require Congress and the President to fulfill their Constitutional duty to take personal responsibility for Federal laws; to the Committee on Governmental Affairs.

THE CONGRESSIONAL RESPONSIBILITY ACT OF 1997

● Mr. BROWNBACK. Mr. President, I introduce a piece of legislation that is being cosponsored by five of my colleagues. This legislation is the Congressional Responsibility Act of 1997.

But first of all I would like to recognize the tremendous work of Congressman J.D. HAYWORTH in pushing this legislation during the last Congress. As leader of the Constitutional Caucus J.D. has worked hard to return to Congress its constitutionally granted authority over the lawmaking process, and it is a privilege to be able to work with him on this legislation during the 105th. Congressman J.D. HAYWORTH will introduce the Congressional Responsibility Act of 1997 along with 30 of his House colleagues in the U.S. House of Representatives later today.

I believe the Congressional Responsibility Act of 1997 will provide a powerful tool in returning to Congress the constitutional responsibility it has abdicated for much of this century to unaccountable executive branch bureaucrats.

Ultimately this bill is about returning the constitutional responsibility of Congress back to the Congress.

Article I, section 1 of the Constitution states, ''All legislative powers herein granted shall be vested in a Congress.''

I believe that for too long Congress has ignored this provision by purposely writing excessively broad laws that are left not to Congress for interpretation but instead to unaccountable bureaucrats. As it stands now; Congress writes a law, an executive branch agency then interprets the law and promulgates regulations, and then the agency enforces the regulation. The agency in effect becomes both the maker and the enforcer of law.

This is wrong.

I agree with Madison, who wrote in the Federalist Papers that the consolidation of power into one branch of government is tyrannical.

This type of consolidation separates the American people from the process of lawmaking by separating the Congress from the promulgation of rules and regulations.

Taxation without representation was the charge levied at the British Government at the birth of our country. I believe a new charge levied at our own Government is regulation without representation. I believe it is a charge that we must answer.

The American people have a right to be heard in the lawmaking process; and we have a constitutional responsibility to make the law. Congress cannot and must not continue to carelessly delegate its authority away to executive branch agencies. In fact, it must take back that which it has already given away.

We must be responsible.

My bill will make us responsible. The Congressional Responsibility Act of 1997 will force Congress to vote on the rules and regulations promulgated by executive branch agencies before the rules and regulations can take effect.

Some will argue that this process will place an increased burden on the Congress who, they argue, already has little enough time to consider all the issues that come before it. This is an understandable concern.

The obvious answer is that regardless of the time burden it is still our constitutional responsibility to oversee the lawmaking process.

But our bill does address some of these concerns. For example, our bill will require Congress to vote on every proposed rule or regulation in an expedited manner, unless a majority of Members vote to send it through the normal legislative process. Under the expedited procedure the majority leader of both Houses, by request, must submit a bill comprised of the text of the regulation for consideration. The bill must then come before the respective Chamber for a vote within 60 days with debate limited to 1 hour and not amendable. If the bill is sent through the normal legislative process it is amendable. If the bill is not introduced the regulation is effectively killed. Congress must act for the regulation to take effect.

It is our responsibility to represent our constituents, to create a better Government, and to ensure the integrity of our democracy by always striving to give those who don't have a voice, a voice. It is our duty—it is what we were sent here to do.

Constitutional experts from across the country have expressed their strong support for this legislation.

Judge Robert Bork and Stephen Breyer have both expressed support for this issue. As well Professor David Schoenbrod at New York Law School and Professor Marci Hamilton at Cardozo have written letters strongly recommending that we adopt this bill and reassert our constitutional responsibility over the creation of laws. KU law professors Henry Butler and Steve McCallister have signed on as well. Professor John Hart Eli of the University of Miami has endorsed this bill as well.

This is a bipartisan concept that has, in the past, enjoyed the support of people like Senator Bill Bradley, and Nadine Strossen, president of the ACLU. Judge Robert Bork has expressed his support for this concept as well.

It is my sincere hope that Congress will act as it ought to act and in so doing pass the Congressional Responsibility Act of 1997 and once and for all return to Congress the authority it should have never given away.

I urge speedy consideration of this timely and vitally important piece of legislation.●

● Mr. HAGEL. Mr. President, I rise today as an original cosponsor of the Congressional Responsibility Act. I commend my distinguished colleague from Kansas, Senator BROWNBACK, for his leadership on this matter.

This legislation is an important step toward restoring the intent of our Constitution's framers that Congress—not the executive branch—makes the law. For too long, unelected bureaucrats in Federal departments and agencies have issued rules and regulations that have the force of law but that have never been deliberated by the people's elected representatives in Congress. That's not democracy. That's not accountability. America is not supposed to work that way.

We all know stories of Federal regulations run amok. We know of rules that make no sense, of regulations whose costs far outweigh their benefits, of rules that either don't solve the problem or prove worse than doing nothing at all.

Time and again, these senseless regulations hurt real people—people who expect accountability from their Government. Regulations have become one of the largest burdens on America's small businesses, farmers, ranchers, and private property owners. If Americans are to maintain faith in our democracy, the onslaught of regulation must be stopped.

Of course, Congress is not perfect either—but at least we are accountable to the people. That is why the Framers intended that Congress would make laws, and the executive branch would only carry them out. Regulatory agencies should interpret the laws passed by Congress—not make laws of their

own. That is why we need to restore the Constitution's intended separation of powers.

This legislation would do just that. It would prevent any Federal regulation from taking effect until Congress votes on it. In essence, it transforms the Federal regulators into Federal advisors—suggesting regulations that Congress may or may not approve.

Last year, Congress enacted the Congressional Review Act, which permitted Congress to review major Federal regulations. That was an important first step. This legislation we are introducing today goes a step beyond that—it requires Congress to approve all federal regulations. If Congress does not approve, the regulators cannot regulate.

Mr. President, this bill is an important tool to return accountability to the regulatory process. This is about cutting Government and renewing the basic principle of our democracy—that the people, through their elected representatives, control the Government, and not the other way around.

I am proud to be an original cosponsor of this legislation, and I urge all of my colleagues to support it.●

By Mr. MOYNIHAN (for himself and Mr. BYRD):

S. 434. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities; to the Committee on Finance.

THE STOP TAX-EXEMPT ARENA DEBT ISSUANCE ACT

● Mr. MOYNIHAN. Mr. President, today I am introducing legislation to prohibit the use of tax-exempt financing for professional sports stadiums, the Stop Tax-exempt Arena Debt Issuance Act [STADIA], with one modification.

The bill I introduce today is identical to S. 122, the previously introduced version of the STADIA bill, in all respects save one. The new version, rather than generally applying to bonds issued on or after the date of first committee action, as specified in S. 122, will be effective generally for bonds issued on or after the date of enactment.

On February 27, during the floor debate regarding the reinstatement of the airport and airway trust fund taxes, the senior Senator from Pennsylvania, Senator SPECTER, raised an objection to the majority leader's request that the aviation tax bill be taken up and passed. Senator SPECTER's objection was based on his concerns about the effective date of S. 122. In view of the importance of the aviation tax legislation, which is critical to the funding of air safety measures, I agreed to revised the effective date of my bill. Senator SPECTER then withdrew his objection to passage of the aviation tax legislation, which the Senate proceeded to pass by unanimous consent.●

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. FEINGOLD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 25, a bill to reform the financing of Federal elections.

S. 66

At the request of Mr. HATCH, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 66, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 114

At the request of Mr. INOUYE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 114, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 222

At the request of Mr. DOMENICI, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 222, a bill to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

S. 323

At the request of Mr. SHELBY, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 323, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 368

At the request of Mr. BOND, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 368, a bill to prohibit the use of Federal funds for human cloning research.

S. 375

At the request of Mr. MCCAIN, the names of the Senator from Kansas [Mr. BROWNBACK], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

SENATE RESOLUTION 59

At the request of Mr. KENNEDY, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Utah [Mr. BENNETT], the Senator from Georgia [Mr. COVERDELL], the Senator from Delaware [Mr. BIDEN], the Senator from Connecticut [Mr. DODD], the Senator from California [Mrs. BOXER], the Senator from West Virginia [Mr. BYRD], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Massachusetts [Mr. KERRY], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Hawaii [Mr. AKAKA], the Senator from Iowa [Mr. GRASSLEY], the Senator from Vermont [Mr. JEFFORDS], the Senator from North Dakota [Mr. CONRAD], the Senator from Georgia [Mr. CLELAND], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Utah [Mr. HATCH], the Senator from South Dakota [Mr. DASCHLE], the Senator from Ohio [Mr. DEWINE], the Senator from Nevada [Mr. BRYAN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. ROTH], the Senator from North Dakota [Mr. DORGAN], the Senator from Illinois [Mr. DURBIN], the Senator from California [Mrs. FEINSTEIN], the Senator from Kentucky [Mr. FORD], the Senator from Ohio [Mr. GLENN], the Senator from Florida [Mr. GRAHAM], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Ms. LANDRIEU], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Washington [Mrs. MURRAY], the Senator from Rhode Island [Mr. REED], the Senator from Nevada [Mr. REID], the Senator from Maryland [Mr. SARBANES], the Senator from New Jersey [Mr. TORRICELLI], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 59, a resolution designating the month of March of each year as ''Irish American Heritage Month.''

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that the hearing scheduled before the full Energy and Natural Resources Committee to receive testimony regarding S. 417, a bill ''to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002,'' S. 416, a bill ''to amend the Energy Policy and Conservation Act to extend the expiration dates of existing authorities and enhance U.S. participation in the energy emergency program of the International Energy Agency,'' and S. 186, a bill ''to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States and for other purposes,'' has been postponed.

The hearing was scheduled to take place on Tuesday, March 18, 1997, at

9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC, and will be reschedule later.

For further information, please call Karen Hunsicker, counsel (202) 224–3543 or Betty Nevitt, staff assistant at (202) 224–0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS AND THE COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, March 12, 1997, at 2:30 p.m. in room 106 of the Dirksen Senate Building with the Committee of Banking, Housing, and Urban Affairs to conduct a joint oversight hearing on Indian housing programs operated by the Department of Housing and Urban Development [HUD].

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on March 12, 1997, at 2 p.m. on universal service.

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

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, March 12, 1997, beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a Public Health and Safety Subcommittee Hearing on Scientific Discoveries in Cloning: Challenges for public policy, during the session of the Senate on Wednesday, March 12, 1997, at 9:30 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 12, 1997 beginning at 9:30 a.m. until business is completed, to hold an oversight hearing on the operations of the Smithsonian Institution, the Woodrow Wilson Center for International Scholars, and the John F. Kennedy Center for the Performing Arts.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 12, 1997 at 9 a.m. to hold an open hearing on the Nomination of Anthony Lake to be Director of Central Intelligence.

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

SUBCOMMITTEE ON AIRLAND FORCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces be authorized to meet on Wednesday, March 12, 1997, at 10 a.m. in open session, to receive testimony on the Defense authorization request for fiscal year 1998 and the future years Defense Program.

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

SUBCOMMITTEE ON PERSONNEL

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet on Wednesday, March 12, 1997, at 2 p.m. in open session, to receive testimony on Department of Defense policies pertaining to military compensation and quality of life programs in review of the Defense authorization request for fiscal year 1998 and the future years Defense program.

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 12, 1997, at 10 a.m. to hold a hearing.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, March 12, 1997 to receive testimony on U.S. National Security Space Programs and Policies and the Department of Defense budget request for fiscal year 1998 and the future years Defense program.

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

SUBCOMMITTEE ON WESTERN HEMISPHERE, PEACE CORPS, NARCOTICS AND TERRORISM

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere, Peace Corps, Narcotics and Terrorism of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 12, 1997, at 1 p.m. to hold a briefing, and at 2 p.m. to hold a hearing.

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

ADDITIONAL STATEMENTS

REVERSAL RATE OF THE NINTH CIRCUIT COURT OF APPEALS

● Mr. KYL. Mr. President, I rise to make a few remarks concerning the Ninth Circuit Court of Appeals and the Senate's role in confirming judges.

The ninth circuit is enormous. It spans nine states and two territories covering 1.4 million square miles. It serves a population of more than 45 million people; the next largest, the sixth circuit, serves fewer than 29 million people, and every other Federal circuit serves fewer than 24 million. By 2010, the Census Bureau estimates that the population of the ninth circuit will be more than 63 million—a 40-percent increase in just 15 years. Given the demographic trends in our country, it is clear that the population of the States in the ninth circuit, and thus the caseload of the Federal judiciary sitting in those States, will continue to increase at a rate significantly ahead of most other regions of the country.

To serve its enormous population, the ninth circuit already has 28 judgeships, making it by far the largest circuit—and, in fact, larger than the first U.S. Senate. The next largest circuit, the fifth circuit, has 17 judgeships, while the first circuit has six and the seventh and eighth each have 11. The average number of judgeships in the Federal circuits other than the ninth is 12.6. Further, the ninth circuit has requested an additional nine judgeships, which would take it to 37 active judges, in addition to senior judges.

Unfortunately, too often the decisions reached by this circuit have had to be reversed on appeal. According to statistics published in the National Law Journal, in the last six terms of the U.S. Supreme Court—from the 1990–91 term to the 1995–96 term—the Supreme Court reversal rate for the ninth circuit was 73 percent, 69 of 94 cases were reversed. The average reversal rate for the other circuits was 61 percent, 268 of 442. And so far this term, the high court has overturned 10 of the 11 ninth circuit cases it has reviewed. Since circuit judges are simply supposed to apply the law enunciated by the Supreme Court, the obvious question is why the ninth circuit gets it wrong almost three-fourths of the time the Supreme Court reviews its decisions.

Consider, for example, the 11 decisions handed down by the Supreme Court on February 18 and 19. Three of the eleven decisions reviewed ninth circuit cases. In all three cases, the ninth circuit was in conflict with other circuits. In fact, in one case, the ninth circuit disagreed with five other circuits. In all three cases, the Supreme Court unanimously reversed the ninth circuit.

Such decisive reversals are not an aberration. Most recently, on March 3, in a unanimous decision by Justice Ginsburg, the Supreme Court reversed an

en banc ninth circuit decision that Arizona could not require State employees to speak only English on the job. The Supreme Court ordered a State employee's challenge to Arizona's English-only constitutional amendment to be dismissed as moot because the worker resigned 7 years ago. The high court castigated the ninth circuit. As the New York Times, March 4, 1997, stated, ''Justice Ginsburg was pointed in her criticism of how * * * the Ninth Circuit * * * handled this case.'' For example, Justice Ginsburg wrote, ''The ninth circuit had no warrant to proceed as it did.'' Previous opinions have been even more damning.

The Supreme Court is able to review only a small number of the ninth circuit's decisions. Thus, in all but a tiny fraction of cases, the ninth circuit is the court of last resort for more than 45 million Americans. To have so many subject to a circuit that so often errs should concern us.

Some have attributed the ninth circuit reversal rate to the unwieldy size of the bench. Others point to a history of judicial activism, sometimes in pursuit of political results. I suspect there is more than one reason for the problem. Whatever the case, the Senate will need to be especially sensitive to this problem when it provides its advise and consent on nominations to fill court vacancies. The nominees will need to demonstrate exceptional ability and objectivity. The Senate will obviously have an easier time evaluating candidates who have a record on a lower court bench. Such records are often good indications of whether a judge is—or is likely to be—a judicial activist, and whether he or she is frequently reversed. Nominees who do not have a judicial background or who have a more political background may be more difficult to evaluate.

As President Clinton noted in response to Senator Dole's criticism—of ''activist'' judges—in the last campaign, the Senate has as much responsibility as the President for those who end up being confirmed. We need to take that responsibility seriously —among other things, to begin the process of reducing the reversal rate of our largest circuit.●

DIVERSIFIED INTERGENERATIONAL CARE, INC.

● Mr. LIEBERMAN. Mr. President, I rise today to honor Diversified Intergenerational Care, Inc., in recognition of the grand opening of their facility at the West Haven Medical Center on March 21, 1997. This facility, which is the first of its kind in the Nation, will provide child care services and care for the mildly ill and elderly.

The sole principals of the company, Scott L. Shafer and Bernard L. Ginsberg, were able to make this facility a reality through a lease they were awarded by the Department of Veterans Affairs. They were selected for the Department's enhanced-use lease through a highly competitive process involving companies nationwide.

Diversified Intergenerational Care, Inc., considers it an honor to work with the Department of Veterans Affairs. They intend to continue their partnership by developing other intergenerational facilities. Their goal is to satisfy the unmet need for child care services while also providing care for mildly ill children and the elderly at VA medical centers across the country.

I congratulate Diversified Intergenerational Care, Inc., the Department of Veterans Affairs in Washington, DC, and the Connecticut Healthcare System for creating this very worthwhile facility, and thank them for working to make these vital services available to those in need.●

TRIBUTE TO GILES NORRINGTON, USN

● Mr. SMITH of New Hampshire. Mr. President, I rise to pay tribute to a fellow Navy man, Capt. Giles Roderick Norrington, who will be reaching a milestone this Friday, March 14, 1997—the 24th anniversary of his release from captivity in North Vietnam.

On May 5, 1968, Captain Norrington was shot down on a reconnaissance mission over North Vietnam while piloting his RA5C aircraft. He was held in various prisons in North Vietnam where he endured great physical and mental hardships as a POW for 5 years. During those difficult times, Captain Norrington and his fellow POW's never lost faith in their country. They persevered and they returned with honor. All Americans owe these brave men a great debt of gratitude for their sacrifices on our behalf.

Indeed, Captain Norrington's service and loyalty to his country has been commendable, not just during his captivity in North Vietnam, but throughout his 34 years of active duty naval service. After his retirement from the Navy, he dedicated himself to his community as an outstanding member of the Rotary Club of Bailey's Crossroads in the State of Virginia. Recently, his fellow Rotarians expressed their continued support for Captain Norrington by electing him as their next vice-president.

On Friday, March 14, 1997, Captain Norrington will be surrounded by his family and close friends who will be gathering to pay tribute to him. As a Vietnam veteran who also served in the Navy, I consider it an honor and privilege to share in this tribute, and I look forward to thanking Captain Norrington personally for his heartfelt service to our great Nation and to his own community.●

CONGRATULATING THE UNIVERSITY OF GEORGIA'S BULLDOGS AND LADY BULLDOGS

● Mr. CLELAND. Mr. President, I am delighted to have this opportunity to congratulate the University of Georgia men's and women's basketball teams on their outstanding seasons. Georgia fans all over the country have had the pleasure of watching these two teams play great basketball in a conference known for its competitiveness. Tubby Smith's Bulldogs and Andy Landers' Lady Bulldogs earned No. 3 and No. 2 regional seeds, respectively, in the NCAA Tournament, making Georgia one of only three schools in the Nation to claim two top four seeds in the tournament.

Coach Tubby Smith, came to Georgia from the University of Tulsa in 1995. He led the 1996 Bulldogs to a 21–10 record and their first NCAA Tournament bid in 5 years. The team won their first NCAA Tournament game in 9 years and made it to the Sweet 16. This year, Coach Smith took a team with no returning starters and tied for the most wins in Georgia men's basketball's 91-year history. As a result of their 24–8 record, they received the No. 3 seed in the NCAA southeast regional.

Coach Andy Landers has been coaching the Lady Bulldogs since 1979. During his 17 seasons at Georgia, Landers has become one of our Nation's elite women's basketball coaches. The Lady Bulldogs have appeared in 13 NCAA Tournaments, 4 NCAA final fours, and won 5 SEC titles during Coach Landers' tenure. These achievements have earned him the honors of National Coach of the Year for 3 years and SEC Coach of the Year for 3 years. The Lady Bulldogs were the SEC regular season champions and have a record of 22–5.

The University of Georgia is fortunate to have individuals of the caliber of Tubby Smith and Andy Landers coaching their basketball teams. Not only are these fine coaches teaching their players basketball skills, but important lessons for life—courage, stamina, tenacity, and grace under pressure. Although they have enjoyed great success throughout their coaching careers, their achievements go far beyond their great talents in coaching. They have given back to their community in countless ways. Coach Landers contributes his time and energy to the United Way of Northeast Georgia, and Coach Smith is also involved in the United Way of Northeast Georgia, as well as the American Cancer Society and the American Heart Association. I would be hard pressed to enumerate all of their contributions to the University of Georgia, the Athens community and to all of the athletes whose lives they have touched.

All of the athletes and coaches of University of Georgia Bulldogs and Lady Bulldogs have displayed their skills and dedication to excellence in basketball throughout this entire season. I extend my best wishes to the Bulldogs' and Lady Bulldogs' basketball teams as they begin play in the NCAA Tournament, and to the University of Georgia Athletic Department for its continued success.●

CAFE STANDARDS

● Mr. ABRAHAM. Mr. President, I rise today to speak once again on the matter of corporate average fuel economy standards. Last month, 12 Senators, from both sides of the aisle, joined with me to introduce legislation—S. 286—to return to Congress the authority for changing CAFE standards.

This issue is attracting an increased amount of attention as Americans begin to understand the consequences of increased fuel economy standards: less consumer choice, more dangerous vehicles, and reduced competitiveness for domestic automobile manufacturers. Perhaps, Mr. President, some of these repercussions could be easier to accept if the supposed benefits of increased CAFE standards were ever realized. Unfortunately, this has not occurred. In the two decades since CAFE standards were first mandated, this Nation's oil imports have grown to account for nearly half our annual consumption and the average number of miles driven by Americans has increased.

Mr. President, an excellent editorial in yesterday's Detroit News illustrates the problems associated with increased CAFE standards, and I ask that this article be inserted in the RECORD immediately following my remarks.

The article follows:

CAFE SOCIETY

Vehicle fuel efficiency standards represent regulation at its worst: unelected bureaucrats endangering the public at considerable cost while failing to achieve the promised result. Unfortunately, eliminating the existing standards appears to be politically unfeasible. But Congress should seize the opportunity recently provided by members of the Michigan delegation to halt new, more punishing mileage requirements.

The issue has taken on renewed urgency with news that the Big Three will fail to meet this year's fuel economy standards—and thus face stiff penalties that would place them at a competitive disadvantage. Fleet mileage averages have fallen with brisk sales of light trucks, sport utility vehicles and vans, which comprise a whopping 44 percent of the new vehicle market—up from 20 percent in 1980.

That consumers prefer less fuel-efficient vehicles proves how the Corporate Average Fuel Economy (CAFE) law has failed to reduce U.S. dependence on foreign oil. Nonetheless, the Clinton administration favors stricter standards convinced that increased fuel efficiency will somehow save us from environmental apocalypse.

Economic catastrophe would likely hit first. Fortunately, Michigan Sen. Spencer Abraham has introduced legislation to freeze mileage standards at current levels, while requiring Congress to approve any future increase. A companion measure has been introduced in the House by Rep. Fred Upton, the Benton Harbor-St. Joseph Republican. Both bills warrant swift passage.

The current federal standard is 27.5 miles per gallon for passenger cars and 20.7 for light trucks. Congress required car standards in the Energy Policy and Conservation Act of 1975. They left light truck levels to be set by the National Highway Traffic Safety Administration.

The fact is, consumers respond most directly to market signals, not government dictates. Oil is cheap and plentiful. It is no surprise, then, that the top 10 most fuel efficient cars represent less than 1 percent of overall car and light truck sales.

If anything, higher fuel efficiency invites more driving, not less. The average American drove about 9,000 miles per year in 1980, but 11,400 in 1995.

Absent an oil crisis, the Clinton administration is left to argue for stricter CAFE standards on environmental grounds. But its case is muddy at best—and deceitful at worst. All new cars must meet the same emission standards regardless of CAFE requirements. Tightening CAFE requirements would do nothing to temper global warming.

Stricter standards would cost a good many Americans their jobs—and lives. European and Japanese automakers long have catered to more mileage-conscious markets, which has kept their fleet mileage comparatively high. Tightening CAFE standards would require costly re-engineering by the Big Three, paring the profit margins on their best-selling and most profitable products.

Meanwhile, the vehicle downsizing required to boost mileage would only increase highway fatalities and injuries. Current standards are responsible for an estimated 3,000 additional highway deaths and innumerable injuries each year.

For two years, Michigan lawmakers have withheld funds that would otherwise have enabled regulators to increase CAFE standards. It makes more sense to rescind NHTSA's authority to change CAFE requirements. That done, Michigan's congressional delegation can turn its attention to outright repeal of what ranks among society's most costly and dangerous regulations.●

TRIBUTE TO BILL O'NEILL

● Mr. DODD. Mr. President, I rise today to pay tribute to a great citizen, a true humanitarian and a dear friend—William F. O'Neill, Jr., of Norwich, CT.

On March 14, Bill will be receiving the Outstanding Citizen Award from the Connecticut Rivers Council, Boy Scouts of America for a lifetime of humanitarian and altruistic deeds.

A World War II veteran, Bill has, and continues to make, untold contributions to the people of Connecticut. He's been a community activist and humanitarian throughout his life, holding leadership positions in the Norwich Chamber of Commerce; the Knights of Columbus; the Lions' Club; March of Dimes; and the Norwich Centenary Committee, to name only a few.

Bill has dedicated his life to making his community a better place for people to live and raise a family. Perhaps his greatest accomplishment was the founding of the Rose Arts Festival. Every year thousands of nutmeggers flock to Norwich to take part in this community event, where they enjoy entertainment, arts and crafts, and good food.

Bill has been recognized on numerous occasions for his tireless efforts, perhaps most notably in 1988, when he was presented with the Knight of St. Gregory Award by Pope John Paul II, for his many years of service to the Roman Catholic Church.

Most recently Bill received the Successful Aging Award from Connecticut Care, which honors those over age 70 who continue to play an active and vital role in the affairs of their community. Clearly, Bill has touched hundreds, if not thousands, of lives.

I have been fortunate to know Bill and his family for many years, and I can attest that he is a man of great integrity, character, and talent.

But, Bill is more than just a close, personal friend, he was also a dear friend to my mother and father. Currently, Bill is the chairman of the Thomas and Grace Dodd Memorial Scholarship—in memory of my parents.

Bill's work on behalf of my parents' and their memory is something for which I will always be grateful. But, I am just one of many who have been touched by Bill's generosity and acts of kindness.

Connecticut is indeed privileged to be able to call William F. O'Neill, Jr. one of its own, and I join all of those who have known Bill in wishing him congratulations and the very best for the future.●

ORDER FOR STAR PRINT—S. 24

Mr. MCCONNELL. Mr. President, I ask unanimous consent that S. 24 be star printed with the changes that are at the desk.

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

INVESTMENT ADVISERS SUPERVISION COORDINATION ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 410 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 410) to extend the effective date of the Investment Advisers Supervision Coordination Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. Mr. President, the Chairman of the Securities and Exchange Commission, Arthur Levitt, has requested that the Securities and Exchange Commission be given additional time to prepare for the historic changes enacted by the last Congress to the Investment Advisers Act. Chairman Levitt requests an additional 90 days before those changes become effective.

After careful review and discussion with my colleagues, and with the members of the affected industries, I believe that it would not only be proper but also desirable to give the SEC an additional 90 days to prepare appropriate regulations and take other steps necessary to implement last year's legislation.

I support this extension, S. 410, of which I am a cosponsor, primarily out of a desire that the necessary rulemaking be done carefully and responsibly. In most respects, I believe that the draft regulations published by the SEC for comment faithfully implement the language of the National Securities Markets Improvement Act and the intent of the Congress. In several instances, in fact, I believe that the SEC has done a particularly fine job in anticipating and responding in detail to the various questions that would arise as we implement the division of regulatory responsibility mandated in last year's historic legislation.

As we adopt this bill today, however, I feel compelled to express concern about one point in particular in which the draft SEC regulations are deficient. The good work of the Commission in other areas of implementing regulations makes this error so glaring. The draft regulations propose to define an investment adviser representative's ''place of business'' in a way that runs totally counter to the spirit of the legislation, the intent of the Congress, and the clear, plain reading of the language of the law.

I am aware that there are those who oppose bringing rationality to the system of securities regulation, who wish to retain superfluous layers of regulatory oversight, and who are not bothered by subjecting securities professionals to redundant supervision by the Federal Government and by a multitude of State governments. However, the fact is that Congress acted last year to eliminate where possible multiple State supervision of securities market professionals, and the SEC rules should not contradict the statute.

Under the plain provisions of the law as enacted last year, investment adviser representatives subject to SEC supervision may also be supervised to a limited degree by the Government of the State where the representatives has a ''place of business.'' When I think of place of business for an investment adviser representative, I certainly do not think of a restaurant, an automobile, an airport lobby, or a phone booth, and I would consider it bizarre to think of an adviser's client as a ''place of business.'' The implementing regulations must not indulge in the creation of this confusion, either.

Mr. President, I urge my colleagues today to agree to this legislation to give the SEC an additional 90 days to implement the investment advisers title of the National Securities Markets Improvement Act, and I do so explicitly so that the SEC will use this time wisely to correct the deficiencies in the proposed regulations, such as the place-of-business definition, and thereby implement last year's act and the will of the Congress, not frustrate it.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 410) was deemed read for a third time, and passed as follows:

S. 410

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

SECTION 1. EXTENSION OF EFFECTIVE DATE.

Section 308(a) of the Investment Advisers Supervision Coordination Act (110 Stat. 3440) is amended by striking ''180'' and inserting ''270''.

ORDERS FOR THURSDAY, MARCH 13, 1997

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Thursday, March 13. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and that there then be a period for morning business until the hour of 12:30 p.m. with Senators to speak for up to 5 minutes each, with the exception of Senator DOMENICI in control of 1 hour, Senator BINGAMAN in control of 1 hour, and Senator BURNS for 5 minutes.

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

PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, following morning business tomorrow the Senate will resume consideration of Senate Joint Resolution 18, the Hollings resolution regarding a constitutional amendment on campaign expenditures. It is the majority leader's hope that on Thursday we will be able to reach an agreement as to when the Senate will complete action on this resolution. Rollcall votes are, therefore, possible throughout Thursday's session of the Senate, and the Senate may be asked to consider other legislative or executive matters that can be cleared.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following the remarks of Senator TORRICELLI.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ENZI. Mr. President, I ask unanimous consent that the order allowing for remarks by Senator TORRICELLI be vitiated.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 6:05 p.m., adjourned until Thursday, March 13, 1997, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 12, 1997:

DEPARTMENT OF STATE

LETITIA CHAMBERS, OF THE DISTRICT OF COLUMBIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 51ST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JAMES CATHERWOOD HORMEL, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 51ST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

PREZELL R. ROBINSON, OF NORTH CAROLINA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 51ST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

CONFIRMATION

Executive Nomination Confirmed by the Senate March 12, 1997:

DEPARTMENT OF ENERGY

FEDERICO PEÑA, OF COLORADO, TO BE SECRETARY OF ENERGY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.