

This is the type of foolishness we are going to stop. We are all sensitive to the environment and we are sensitive to the need for some controls. But we are not going to allow Government to continue its heavyhanded treatment of its citizens, the people who are out there who are paying for all this fun we are having in Washington.

So we have an agenda. Those of us who are the freshmen, the 11 freshmen—I am very pleased we are going to be driving this train, keeping it on track, keeping the focus, and not forgetting. Let me give assurances to everyone out there: We are not going to forget what the mandate was of November 8.

I yield the floor now to my very close friend from the House, where I served with him and was elected with him, and now he is a leader in the U.S. Senate, the Senator from Arizona, Senator KYL.

TAXATION, REGULATION, LITIGATION

Mr. KYL. Mr. President, during the campaign that the Senator from Oklahoma was just talking about that we just went through, I heard a phrase over and over again, "taxation, regulation, litigation," the three problems in this country that we have to do something about. The Senator from Oklahoma has just spoken eloquently about the matter of regulation. This Congress is going to do a lot to reform the regulatory climate in this country, to bring some common sense back into it.

The Judiciary Committee, on which I serve, just passed out a regulatory reform bill sponsored by the majority leader that is really going to get to the heart of some of the regulatory problems in our society today, bringing cost/benefit analysis and economic impact studies and risk assessments and peer review into the regulatory process, so you do not have the kind of noncommonsensical imposition of regulations such as those the Senator from Oklahoma was just talking about.

Let me turn to the third item in that trilogy, the matter of litigation. We are debating today, and have been for almost 2 weeks now, legal liability reform. It is part of what the House of Representatives did, and it is part of what this Senate is committed to do as well, to reform our broken tort system. Some call it the litigation lottery. It produces a tort tax on all of America because we end up paying higher premiums for insurance, higher costs for products, and, frankly, we do not get the benefit of a lot of improvements that could be made in pharmaceuticals and in products and so on because the manufacturers are afraid to experiment with anything new because they may get sued, they may have to pay big damages, and their costs would go up.

So what we are trying to do is reform that system so that all of America will benefit from improved technology, reduced insurance rates, reduced product costs, and, by the way, particularly for small businesses, not constantly suffering under the threat of being sued;

also, of course, the physicians and the hospitals and other health care providers whose medical malpractice premiums have skyrocketed in recent years because of the possibility that somebody is going to sue them. They end up practicing defensive medicine, offering all kinds of services and tests that probably are not necessary but which they prescribe in order to make sure that nobody can say they did not do the absolute maximum that was necessary for the patient's good.

So these are parts of the problem we are addressing in litigation reform. I would like to just isolate one specific one that I will be talking about in about an hour and a half in the context of the bill we are debating today. I have laid down an amendment to correct a small, but I think important, part of the bill that is before us today. Many States—most States, I suspect—have what are called alternative dispute resolution mechanisms, ways of resolving disputes short of going to trial. Trials are expensive. In the end, the people who win are the lawyers. So what we are trying to do is to get people not to always go to court but to try to resolve their differences short of going to court, and most States have those procedures.

There is an error in the bill that is before us, section 103. It deals with alternative dispute resolution. It says when a State has alternative dispute resolution, the parties should use that. And that is fine. But then it says, if a defendant refuses to go forward when a plaintiff has made an offer in good faith and that defendant has refused the offer in good faith to go forward with the alternative dispute resolution, then you can assess attorney's fees and costs against the defendant. But there is no such provision with regard to the plaintiff refusing to go forward in good faith.

Mr. President, either we should not have a penalty for either party refusing to go forward or there should be the same penalty on both parties, whichever one of them refuses to go forward in good faith. But you cannot have a situation where one of the parties has the dagger hanging over his head and the other party with no downside for refusing to go forward in good faith. One way or the other that has to be fixed.

First, I said, "Why don't we have a penalty for both parties?" One objection was we should not be dictating at the Federal level what the States should do. Whatever people advertise there in the State, let that be. Then I say fine. My amendment simply strikes the penalty that is in the bill at the Federal level so that whatever the State law is the State law is. In effect, my amendment would return this alternative dispute resolution mechanism to the States to be enforced however the State law enforces it. Of course, in every State, if there is a penalty, the penalty applies equally to the defendant or the plaintiff, whichever

one is refusing to go forward unreasonably.

So, Mr. President, I think this is something I will be talking about a little bit later but something my colleagues will want to fix. Our whole justice system is about fairness. The reason we are willing to put our lives and our fortunes into the hands of one person, a judge or 12 people on a jury, is because we have faith that the system is fair. One of the reasons we are talking about litigation reform today is because a lot of people do not think it is fair. It would be the height of unfairness to have a penalty apply to one side, the defendant, but not have that same penalty apply to the plaintiff for doing the same thing—for refusing to go forward to resolve the dispute alternative to a trial.

So my amendment will simply make it the same for both plaintiffs and defendants and reinstate State law as the guiding principle.

I will be talking about this a little bit later. I think it goes back to the whole notion we have to reform. We have to do things fairly, and, if we do things fairly in our society today, if people think they are getting a fair break regarding regulation, as the Senator from Oklahoma talked about, regarding taxation and regarding litigation, then people gladly shoulder the burdens inherent in supporting the Government and society at large. But when they do not think they are getting a fair shake—that is, when they begin to say this whole thing has to be changed—it has to be reformed.

Fortunately, at least the Senate Republicans who were just elected in the last election are here speaking every week about these kind of reforms. I think we are making a difference, Mr. President.

I know my colleague from Minnesota is here and wishes to continue the debate.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. GRAMS] is recognized.

ONE HUNDRED DAYS OF REFORM FOR A NEW CENTURY OF RESPONSIBLE GOVERNMENT

Mr. GRAMS. Mr. President, I am glad to have the opportunity to join with my fellow freshmen today to speak on the topic this week, "100 Days of Reform for a New Century of Responsible Government."

Having just returned from a series of townhall meetings in my home State of Minnesota, however, it would be more appropriate to refer to it as moving forward with the people's agenda.

Over the Easter recess, I held town meetings in five cities, traveling over 1,000 miles, talking with hundreds of people across the State of Minnesota.

And the mandate they delivered last November is more focused than ever—fix things in Washington.

From Austin, MN to Brainerd, their message focused on our \$4.8 trillion debt.

The folks I talked with agree something needs to be done now. They have waited long enough.

They are not content to have a Government running deficits of hundreds of billions of dollars each year for as far as the eye can see. They are understandably frustrated by decades of Washington doublespeak when it comes to making the tough choices necessary to balance the budget.

And most importantly, they are concerned for their children and grandchildren who will be forced to finance the Government's spending spree.

Because of that massive \$4.8 trillion debt, by the time every child born after 1992 enters the work force, they will face a Federal, State, and local tax rate between 84 and 94 percent.

Think about it. If Washington keeps doing what it is doing, spending dollars it does not have and passing along the bills, every child born after 1992 will spend their whole life working just to pay off a Federal spending spree that they never even asked for.

Fortunately, my constituents had an opportunity to voice their concerns during my townhall meetings in Minnesota, and today, I want to share what they had to say.

I brought with me some of the charts that I took around the State with me in these town meetings to try to point out some of the problems that I think we are facing. This first chart we were talking about is Federal taxes as a share of the median family income.

FEDERAL TAXES AS A SHARE OF MEDIAN FAMILY INCOME

The percentage of income paid to the Federal Government in direct taxes went from 3 percent in 1948 to 24.5 percent in 1992.

In the 5 years between 1948 and 1953, Federal taxes rose from 3 to 9 percent of gross income.

You have to remember this is coming out of World War II where we had to go into debt to help finance. Only 3 percent at that time was going to the Federal taxes.

In the 8 years between 1972 and 1980, the average family saw their tax bill rise from 16 percent of their annual income to 23.5 percent of their income.

The rise of the Social Security payroll tax and the erosion of the personal exemption have been the largest contributors to the reduction of posttax income for families.

It is no wonder middle class families are finding it difficult to buy a house, put their kids through college, or put money aside for their retirement.

AVERAGE INCOME FAMILIES WOULD BE TAXED \$10,060 LESS PER YEAR

Let us look at chart No. 2, the average income families would be taxed \$10,060 less per year.

According to the U.S. Bureau of the Census, the total pretax income for a family of four in 1992 was \$47,787. After taxes, this same family's income fell to \$36,915.

Under the 1948 tax rates, the median income family of four would pay only \$812 in taxes to the Federal Government, leaving the family with an after tax income of \$46,975 when adjusted to 1992 dollar amounts.

In 1992, a family of four, with the median income of \$47,787, paid \$10,060 more in direct taxes to the Federal Government than the same family would have if tax rates had remained at 1948 levels.

To put that into everyday terms, the median price of a single-family home purchased in 1992 was \$103,700. The average annual mortgage payment was \$7,380.

The annual family income lost to increasing Federal tax burdens exceeds the average annual mortgage payments for an average home by 36 percent.

What could you do if you could keep another \$10,060 in your pockets? You could provide for the things your family needs without turning to the Federal Government and asking for more subsidies and more help. The dollars would remain in your pocket.

TWO-EARNER MEDIAN INCOME—1994

The next chart that I was able to talk with Minnesotans about is the 1994 two-earner median income chart.

A median household with two breadwinners spends about \$2 out of every \$5 it earns on taxes; 40 percent of everything you bring in goes to State, Federal, and local taxes. The average family spends more money on Federal, State, and local taxes than it spends on food, clothing, housing, and medical care combined. This does not include sales tax or your Social Security, the FICA tax. That brings it up to nearly 49.6 percent of everything an average family makes in this country which goes to pay for government.

Why are Federal taxes so high today? After all, did Ronald Reagan not pass a massive income tax cut in 1981? Yes, Reagan did sign a 25-percent income tax rate cut for all Americans in 1981. However, there have been six major tax increases since—1982, 1983, 1987, 1988, 1990, and 1993. These have nullified the Reagan tax cuts.

In the early 19th century, Chief Justice John Marshall wrote in the Supreme Court case, *McCulloch versus Maryland*: "The power to tax involves the power to destroy."

Today, this statement still rings true. Taxes are destroying the income of American families, leaving only 60 percent of what it earns to spend on life's necessities and joys.

In 1966 the median income family of four will work until May 30 to pay their share of Federal, State, and local taxes—98 days.

In 1948, the average family of four worked only 8 days to pay their share of Federal taxes.

Had Congress adopted the Republican alternative budget for fiscal year 1995, roughly 35 million families could have deducted \$500 per year from their tax bill per child next April 15. For the average family of four, that extra \$1,000 would be handy.

SOURCES OF GOVERNMENT SPENDING FISCAL YEAR 1995

The budget is composed of two principal fund groups, Federal funds and trust funds. This is how the bills are paid in Washington.

Federal funds carry out the general purposes of government, whereas trust funds, such as Social Security and Medicare, are designated by law and financed by specially allocated collections.

In 1994, trust fund surpluses totaled \$95 billion. Under current law, the sum of the trust fund surplus and Federal fund deficit equals the unified deficit, which is commonly referred to as simply the deficit.

Merging these trust funds—this is what we collect in tax receipts from your income tax, the 1040 business taxes, and others—the trust funds bring in \$511 billion and pay for Social Security payments, and others. But last year there was a \$107 billion surplus in that trust fund which the Government also borrowed along with the green part of this chart, \$192.5 billion.

What I would like to say about this green and what came out of the trust fund is money that we are borrowing from our children. We are taking this out of their future accounts to supply the dollars we need today in order to deficit spend, and the trust fund receipts in general revenues will total over \$1.2 trillion or 81.5 percent of the Federal spending.

Unfortunately, this sum does not even begin to cover the Government's expenditures. The Government again will borrow from our children this \$192 billion.

On the next chart, in real terms, a family of five making about \$45,000 would have 10 percent of its Federal tax burden reduced through the \$500 per child tax credit. This chart shows where many argue this is a tax credit for the rich. They talk about the \$200,000 a year income. In real terms, families making under \$75,000 a year would get 86 percent of the tax credit on \$500 per child.

If you make under \$100,000, about 95 percent of the families making under \$100,000 would receive a tax credit.

In the next chart, the White House and congressional Democrats argue that a \$500 per child tax credit is unnecessary because they expanded the earned income tax credit in the 1993 bill. But this claim ignores the difference between a wage subsidy and a tax cut.

The EITC is a wage supplement for working families with children with incomes up to \$26,000 per year. It is intended to offset the Social Security tax burden on these families and to increase their wages through a cash subsidy.

A family of four earning \$14,000 a year—slightly below the official poverty level—will pay no income taxes

but will bear a Social Security tax burden of roughly \$2,140. Now, this family is then eligible to receive some \$2,400 from the earned income tax credit, nearly \$260 more than its entire tax burden.

A family earning \$28,000 a year—and not eligible for the earned income tax credit—would have 57 percent of its income tax bill and 17 percent of its total Federal tax bill erased by the \$500 per child tax credit.

This is an important part of tax relief to these families that do not qualify but still make under \$35,000 a year.

Family tax relief, I believe, should not be means tested. Every working family in this country is overtaxed, thus every working family, regardless of income, should be eligible for a \$500 per child tax credit. The Tax Code should not penalize children simply because of their parents' income.

Now, along with family tax relief, the Minnesotans with whom I met during the past recess are demanding a balanced Federal budget with or without a balanced budget amendment. And if that means putting the Federal Government on a strict low-fat diet, then so be it.

One thing I heard over and over again during my town meetings, from Minnesotans who pay their own bills and balance their own budget, is that if they can do it, then the Federal Government can do it as well.

One thing is very clear: The budget can be balanced, and we can do it without gutting the vital programs on which millions of Americans depend. We will do it by containing the growth of Government while continuing to meet the needs of America's families, children, and senior citizens.

By streamlining Federal bureaucracy and sending the money back to the State governments in the form of block grants, Minnesotans know that they will have more power, not less power, more resources, not fewer, and new and better opportunities.

I have every confidence that the people of Minnesota can direct those resources and provide for those in need better than Washington bureaucrats could ever hope to do.

That is my motivation as we move forward during these next 100 days, and it is my hope that every Senator remembers the messages that they have heard over the recess and join in the effort to enact what we call the people's agenda.

We need to restrict or restrain the growth of spending in the Federal Government, but we also need tax relief for Minnesota families and for the Nation's families. We cannot have one without the other. I hope very strongly that as we move forward in these next 100 days we will be able to provide some of this long sought tax relief for middle-class American families.

I thank the Chair. I would now like to turn the floor over to my colleague, the Senator from Missouri [Mr. ASHCROFT].

Mr. ASHCROFT addressed the Chair. The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Missouri.

The first half hour of time which was reserved has expired, so the Senator has up to 5 minutes.

Mr. ASHCROFT. Mr. President, I would ask unanimous consent that I can speak as if in morning business for up to 10 minutes.

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

NATIONAL DAY OF PRAYER

Mr. ASHCROFT. Mr. President, I would like to take this opportunity to extend my appreciation to citizens all across America who are recognizing the observation of the National Day of Prayer. It is a time during which the people of America pray for this country and pray for those of us who have the responsibility to lead, not just at the national level, but at the local level as well. So in city halls across America, in State capitals, and here in the Nation's Capital, individuals are seeking to invoke the presence of God upon the deliberations of the Government, and upon the Nation as a whole.

I am especially grateful for this fitting activity and for the fact that as a nation we occasionally stop to remember the Almighty. In particular, I am pleased to express appreciation on behalf of myself and many others to Shirley Dobson who is leading the National Day of Prayer this year.

As our Nation heals from the wounds inflicted upon us by the Oklahoma City tragedy, and as we continue to confront daily the tragedies of death and violence that seem to plague our land, it is fitting we would call upon God to give thanks for the blessings we have enjoyed.

The Old Testament book of Chronicles provides a worthwhile guide to our times. It says: "If my people, which are called by my name, shall humble themselves and pray and seek my face and turn from their wicked ways, then will I hear from Heaven and will forgive their sin and will heal their land." Mr. President, I do not think there is a more noble aspiration than the desire of America to be a land of healing.

Our Nation has embodied this attitude of humility and reverence before God from the very earliest days of its existence. During the Constitutional Convention, Benjamin Franklin rose to say: "If a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid?"

There is little question but that we owe a debt of gratitude to Almighty God for the blessings he has continued to bestow upon us. As George Washington prayed: "Almighty God; we make our earnest prayer that Thou wilt * * * most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with * * * charity, humility and a pacific temper of mind."

I believe those are the kinds of sentiments we all ought to be expressing today. I pray God's blessing upon this land, and I thank those who are assembling across the country to remember our need for guidance.

A BALANCED BUDGET

Mr. ASHCROFT. Mr. President, I want to address the issue of a balanced budget, but I want to start by talking about the shifting balance of Federal-State power. Last week, in United States versus Lopez, the Supreme Court held that a 1990 Federal statute did not "substantially affect" interstate commerce. While the decision did not overturn any precedents, it marked a sharp departure from the modern Court's expansive view of congressional power to regulate commerce. By limiting Congress' ability to use the commerce clause to legislate social policy, the Court highlighted the benefits of the Federal system envisioned by the Framers, and outlined in the Constitution. Moreover, they acknowledged what the American people have recognized for quite some time: That a Congress with the power to do everything for you, also has the power to take everything from you.

In the Senate, we have just begun to discuss spending priorities for the coming fiscal year. When the budget resolution comes before this Chamber, our actions will help shape the ongoing debate over State power within the Federal system.

The question we must ask is not what power the Federal Government ought to have, but what powers have been extended by the people. We must be ever mindful of the fact that the powers conferred upon the Federal Government by the Constitution have proscribed limits. Clearly, a National Government that has a debt of \$4.9 trillion—that is over \$18,000 for every man, woman, and child—has forgotten this fact.

Mr. President, if efforts are not made to limit spending, the Federal Government will no longer be able to fulfill its most basic constitutional obligations. In just 17 years, spending on entitlement and the national debt will consume all tax revenues; Medicare will be bankrupt in just 6 years; and in FY 1997, we will pay more in interest payments on the national debt than we will spend on national defense.

Last November, the American people spoke with a clarity and an intensity seldom heard in American government. What was their message? Return to us the ability to control our own lives, our own future, our own destinies. This was not some radical, foreign concept, it was the message of the founding—the message embodied in the capstone of the Bill of Rights, the 10th amendment, which reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to