United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

Vol. 144 WASHINGTON, WEDNESDAY, FEBRUARY 25, 1998 No. 15

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:

Serendipitous Lord, fill our day with surprises of Your intervention. You have a wonderful way of going way beyond our expectations. When we least expect it, we feel the artesian surge of Your Spirit within, giving us fresh strength, supernatural creativity, and divine inspiration. You invade the glumness of our human efforts with the gladness of Your presence. You use people to speak words of comfort or courage or to simply be there as human angels, Your messengers, sent to lift burdens and infuse hope. You resolve problems when we are ready to give up. You put joy in our hearts when life interrupts our happiness. We are startled by the stunning quality of Your spectacular providence. Bless the Senators and all of us privileged to work with them that we may all live in awareness of Your unseen closeness and with expectation of Your anticipated blessings. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, the Senate will be in a period of morning business until 11:30 a.m. We had a number of Senators who requested time to speak on several important issues, including, hopefully, some comment about the Iraq situation.

As under the previous agreement, at 11:30 the Senate will debate the veto message to accompany H.R. 2631, the military construction appropriations bill. Members are reminded that while there is a 2-hour limitation on that veto message, the vote will occur later in the day in order to accommodate those Members attending the funeral of former Senator Ribicoff, and, I believe, there is at least one other Senator attending another funeral. We always try to honor requests from Senators to accommodate the votes, the demands of their schedule, especially when it involves a personal matter, like a funeral of a loved one. Senators will be notified when a vote is scheduled. We hope to have the two votes stacked at around 6 o'clock. We are working on that. We are trying to clear it with all of the interested Senators.

Following the debate on the veto message, we will resume debate on S. 1663, the pending campaign finance reform legislation. Therefore, a vote on that, also, is likely this afternoon on the pending Snowe amendment. We hope that would be the second vote that will occur this afternoon.

I remind my colleagues that three cloture motions were filed during yesterday's session of the Senate, so there is a potential for three back-to-back votes to occur on Thursday morning. Again, I will notify all Senators as to the timing of those votes, following consultation with the minority leader.

I might note that we are having meetings at this time in my office down the hall to see if we can come to some agreement as to how we can proceed to the very important ISTEA, transportation bill. We have a bipartisan group meeting, and we are anxious to get that legislation ready for consideration because it will take some time. There are some 200 amendments that have been suggested on this bill. I am sure 20 or more of them will have to be debated and voted on. We will need the time that it would take to get that legislation complete so it will be ready for conference when the House does act.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 11:30 a.m, with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Washington is recognized under the previous order.

Mr. GORTON. I ask unanimous consent to have 2 extra minutes added to that 5 minutes.

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

ARMY CORPS OF ENGINEERS

Mr. GORTON. Mr. President, I am here today to speak about one of the federal government's bureaucracies: The Army Corps of Engineers. More specifically, however, I note recent actions and inactions by the Corps that provide excellent examples of a DC government bureaucracy intent on accomplishing its own agenda at its own pace, and out of touch with the American people.

The first situation I will address involves specific direction by the Congress of the United States. The Corps is required to provide the Senate Appropriations Committee with an outline of its proposed study on the economic, biological and social implications of a drawdown of the John Day Dam reservoir on the Columbia River. Specific instructions were given to provide this information to the Committee within 90 days of the President's signing of the fiscal year 1998 Energy and Water Appropriations bill. The President signed the bill on October 13, 1997. As of today, more than 130 days later, we still have not seen the report.

Mr. President, the Portland District of the Corps sent the report to its Washington, DC, headquarters in mid-December. But, there is still no final document. Assuming that the Corps

● 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

began work immediately after the bill was approved by the President, or even a month earlier, the field office spent between eight and twelve weeks preparing the report. It has now been nine weeks since it was sent to Headquarters for approval, and we still have no idea when the Corps will finally issue it. Should a document take longer to be approved than it did to be drafted? Apparently, if it is to be approved by the Corps, it does. But it shouldn't.

Why is this document important? Countless residents of the rural Pacific Northwest rely on the benefits that the Columbia and Snake River dams provide to our region and our nation. If the Corps of Engineers is to study the drawdown of a major multi-purpose federal project like the John Day Dam, it is imperative that its plans be subjected to an open review by those of us sent back here to Washington, DC to represent these communities. Without the formal views of the Corps, these communities are left with excessive and inexcusable uncertainty over the future of their livelihoods.

Mr. President, I will continue to wait for the Corps to provide a report. I do not intend to wait patiently.

While I am on the topic of waiting, I will address a second issue. The communities in the Tri-City area of Washington state have been waiting since 1996 for the Corps of Engineers to complete a legally required transfer of riverfront land to local governments. The Corps has claimed that it does not have the funds to begin the process, and although it has recently begun working with the local communities to come to a resolution, it still claims it cannot complete the process without an additional appropriation from this Congress. Along similar lines, the Corps claims that it cannot come up with approximately $60,000 to manage the Wallula, Stateline and Juniper Canyon wildlife habitats, and must lease the management of this important, pristine land to the Confederated Tribes of the Umatilla Indian Reservation. This transfer of land management has raised many serious questions in the minds of a number of my Tri-City constituents, who have yet to receive a comforting answer.

Taken on their own, these incidents might not seem odd. The very same office of the Corps that claims poverty in these latter two cases, however, sees fit to spend freely in other areas. Mr. President, I am sure you are aware of Kennewick Man. Kennewick Man's remains were discovered in July, 1996, on the shore of the Columbia River, near Kennewick, Washington. Using carbon dating techniques, scientist have determined Kennewick Man's remains to be more than 9,000 years old, by far the oldest human remains ever found in North America. This represents a major breakthrough for the study of ancient peoples in North America.

Mr. President, what would be the logical thing to do with the land on which Kennewick Man was discovered? Should we study if further, or cover it with boulders? Some of our nation's most esteemed anthropologists and archaeologists have answered—as I am sure you or I would—that we should allow the site to be studied further, in the hope that we can learn even more about early North American inhabitants. But that is not the way the Corps sees it. If the Corps has its way, it will helicopter tons of ''rip-rap''—large stones—to the river and use them to cover the site, after which it will plant numerous willow trees, completely covering, and possibly destroying, important geological and archaeological evidence. Scientists studying the site claim that this will erect an ''impenetrable barrier'' to future research.

How much will it cost to cover this important site? The Corps has not disclosed its estimate, but I have been told by people in the local community that it is likely to cost at least $100,000, and perhaps as much as $250,000. In addition, the Corps claims, that should scientists want to study the site in the future, the boulders and trees can be removed—at a cost of course. How much? Another $100,000. Even then the boulders are likely to have crushed any remaining archaeological objects and possibly changed the chemical makeup of the soil, rendering future tests worthless.

Mr. President, if the Corps of Engineers cannot come up with $60,000 to manage important wildlife habitats, and cannot put together enough money to begin satisfying its legal requirement to transfer land to local authorities, how can it possibly justify spending upwards of a quarter-million dollars, which the Congress never appropriated, to cover a potential gold mine of archaeological information with boulders and trees? Of course It cannot. In fact, it has not even attempted to do so. The Corps spokesman in Walla Walla has refused to answer specific questions about the pending contract to cover the Kennewick Man site. If this bureaucracy has its way, it will ignore the concerns of the residents of its district, lease important and pristine land to an outside group to manage, and then apparently use that money to cover a site to which countless members of the scientific community have requested access. This is nothing short of unbelievable.

Mr. President, The Corps of Engineers has a lot of explaining to do. It owes answers to Congress and it owes answers to the people of the Tri-Cities. I sincerely hope it will be more forthcoming in the near future than it has been in the recent past. If not, I anxiously await an opportunity to question the Corps of Engineers during this year's appropriation process.

Mr. President, I yield the floor.

UNANIMOUS CONSENT AGREEMENT—VETO MESSAGE ON H.R. 2631, CANCELLATION DISAPPROVAL ACT

Mr. GORTON. Mr. President, on behalf of the leadership, I ask unanimous consent at 5:50 p.m. this evening the Senate lay aside the pending business in order to resume the veto message to accompany the military construction appropriations bill and that there be 10 minutes remaining for debate to be equally divided between Senator STEVENS and Senator BYRD. I further ask that the vote occur at 6 o'clock p.m. on the question: ''Shall the bill pass, the objections of the President to the contrary notwithstanding?''

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

UNANIMOUS CONSENT AGREEMENT—AMENDMENT NO. 1647

Mr. GORTON. I ask unanimous consent that at 2 p.m. today the Senate resume consideration of the pending SNOWE amendment and that there be 3 hours and 50 minutes equally divided in the usual form prior to a motion to table, with the vote occurring on the motion to table immediately following the scheduled 6 o'clock p.m. vote with respect to the veto message.

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

Mr. GORTON. For the information of all Senators, the Senate will next vote back to back at 6 o'clock p.m. this evening.

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. DASCHLE. 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. DASCHLE. Mr. President, what is the current order?

The PRESIDING OFFICER. The Senator has 10 minutes under his leader time and 5 minutes under morning business.

Mr. DASCHLE. I thank the Chair. I will use that time for some remarks this morning.

GENERAL LEE BUTLER

Mr. DASCHLE. Mr. President, I want to take a moment to raise one of the most critical issues facing this nation today, nuclear weapons security, and to call the Senate's attention to one of the most intelligent and courageous people involved in the debate surrounding this issue, General Lee Butler.

At a National Press Club appearance earlier this month, General Butler delivered an eloquent address entitled, ''The Risks Of Nuclear Deterrence: From Superpowers To Rogue Leaders.'' His major conclusion was that, ''. . . as a nation we have no greater responsibility than to bring the nuclear era

to a close. Our present policies, plans, and postures governing nuclear weapons make us prisoners still to an age of intolerable danger.''

For those unfamiliar with General Butler, let me provide some background on this distinguished American that should add some context to his remarks. After graduating from the Air Force Academy, General Butler spent the next 33 years advancing through the ranks of the U.S. Air Force.

In 1991, he was promoted to Commander-in-Chief of the U.S. Strategic Air Command and, shortly thereafter, Commander-in-Chief of the U.S. Strategic Command. In this last post, General Butler was responsible for the overall U.S. strategy for deterring a nuclear war and, if deterrence fails, fighting such a war.

It is safe to say that very few Americans know as much as General Butler when it comes to nuclear weapons and their role in our national security posture—from the concrete, such as the physics of these weapons, to the more abstract, such as deterrence theory. When General Butler speaks about nuclear deterrence, people should listen.

In his National Press Club address, General Butler spoke of the lessons he has drawn from over 30 years of ''intimate involvement with nuclear weapons.'' I ask that his full statement be included in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, so ordered.

(See Exhibit 1.)

Mr. DASCHLE. General Butler summarizes his experience in the following terms:

> I came to a set of deeply unsettling judgments. That from the earliest days of the nuclear era, the risks and consequences of nuclear war have never been properly weighed by those who brandished it. That the stakes of nuclear war engage not just the survival of the antagonists, but the fate of mankind. That the likely consequences of nuclear war have no politically, militarily, or morally acceptable justification. And therefore, that the threat to use nuclear weapons is indefensible.

General Butler goes on to note that for much of the Cold War period up to the present, America's massive nuclear arsenal was justified and sustained on the basis of a single concept: deterrence. However, his experience and analysis led him to the inherent flaw in the concept of deterrence.

> Deterrence failed completely as a guide in setting rational limits on the size and composition of military forces. To the contrary, its appetite was voracious, its capacity to justify new weapons and larger stocks unrestrained. Deterrence carried the seed . . . that spurred an insatiable arms race.

Mr. President, the consequences of this paradox remain with us today—despite the fall of the Berlin Wall and the end of the Cold War. Consider where the world is with respect to nuclear weapons as we approach the end of the 20th century—over 50 years since man developed the first nuclear device.

First, the United States and Russia together still field nearly 15,000 strategic nuclear weapons—each with a destructive power tens or hundreds of times greater than the nuclear devices that brought World War II to a close. The closest rival, friend or foe, has less than 500 strategic weapons.

Second, the United States and Russia each still deploy large numbers of tactical nuclear weapons. According to unclassified sources, the United States has about 500 to 1,000 operational tactical nuclear weapons, and the Russians have about 4,000.

Third, both the United States and Russia continue to operate large numbers of their strategic weapons, roughly 5,000 weapons between them, on a high level of alert, ready to be launched at a moment's notice. As noted by Senator Sam Nunn and Dr. Bruce Blair, ''while [this] practice may have been necessary during the Cold War, today it constitutes a dangerous anachronism.''

Fourth, the United States and Russia continue to adhere to nuclear plans that permit the first use of nuclear weapons and allow for the launch of weapons after receiving warning of attack but before incoming warheads detonate.

Mr. President, this is truly a very troubling state of affairs, made all the more so by the fact that the Cold War has dissipated and our major adversary during this period, the Soviet Union, has long since ceased to exist. General Butler's conclusion is that the United States and the world should aspire to the abolition of all nuclear weapons.

General Butler makes a very compelling case for this lofty yet pragmatic goal. And, as General Butler will be the first to note, it is not one that can be quickly or easily achieved. It will essentially require putting the nuclear genie back in the bottle and being able to verify that no country tries to let it out.

This is a very difficult task to say the least, and one that ultimately may not be achievable. But that is no reason not to try.

There is an old saying that, if you shoot for the stars and miss, you still could hit the moon. If in shooting for the ultimate objective of nuclear elimination we take lesser steps that enhance our security, then the journey will have been worthwhile.

At his National Press Club speech, General Butler released a letter signed by 117 leaders from 46 countries that calls for the immediate removal of nuclear weapons from alert status, an end to nuclear testing, the beginning of discussions on deeper reductions in the U.S. and Russian nuclear arsenals, and the development of a plan for eventual elimination of all nuclear weapons. Among the signatories were Mikhail Gorbachev, President Carter and Helmut Schmidt.

In this regard, there are 3 initiatives the United States could take immediately to begin this journey to reduce the threat of nuclear weapons: dealerting a portion of U.S. and Russian strategic nuclear weapons, ratifying the Comprehensive Test Ban Treaty, and pushing for much deeper reductions in nuclear weapons than currently contemplated in START II.

Each of these steps make sense in isolation. Together, they will lead to a safer world, and one much closer to that envisioned in the poignant remarks delivered by General Butler.

EXHIBIT 1

THE RISKS OF NUCLEAR DETERRENCE: FROM SUPER POWERS TO ROGUE LEADERS

(An Address by Gen. Lee Butler to the National Press Club, Washington, DC., 2 February 1998)

Thank you, and good afternoon ladies and gentlemen. Dorene and I are honored by your presence and gratified by your welcome. Although we are now proud residents of Nebraska—note the obligatory display of home team colors—Dorene and I feel very much at home in this city. I see many familiar faces in this audience, which makes the moment all the more special.

I have two roles to serve this afternoon, both very much akin to the events marking my appearance here just over a year ago. As your speaker, I intend to address two matters that go to the Heart of the Debate over the Role of Nuclear Weapons: Why these artifacts of the cold war continue to hold us in thrall; and the severe penalties and risks entailed by policies of deterrence as practiced in the nuclear age.

But first, it is my privilege to announce a compelling addition to the roster of distinguished international figures who have joined their voices in calling publicly for the abolition of nuclear weapons. Last year General Goodpaster and I unveiled a list of some 60 retired generals and admirals from a host of nations who declared their strong conviction that the world would be better served by the total elimination of these weapons. Today, at a press conference following my remarks, Senator Alan Cranston and I will present the names of more than one hundred present and former heads of state and other senior civilian leaders who have signed their names to a powerful statement of common concern regarding nuclear weapons and who have endorsed a reasoned path toward abolition.

The willingness of this extraordinary assembly to speak so publicly and directly to these issues is very much in keeping with what I have experienced since I became engaged in the abolition debate some two years ago. I have met legions of remarkable men and women from every corner of the earth who have labored long and patiently in this cause. Their ranks have now been swelled by tens of millions of citizens of our planet who reject the prospect of living in perpetuity under a nuclear Sword of Damocles.

My purpose in entering the debate was to help legitimize abolition as an alternative worthy of serious and urgent consideration. My premise was that my unique experience in the nuclear weapons arena might help kindle greater antipathy for these horrific devices and the policies which justify their retention by the nuclear weapon states. My purpose this afternoon is to share with you the abiding concern I harbor about the course of the debate. I accepted the Press Club invitation because I believe this forum is well suited to speak to that concern. In so doing, I intend to render a much more explicit account than I have given to date of the lessons I have drawn from over thirty years of intimate involvement with nuclear weapons.

Permit me, however, to preface my remarks by postulating that with respect to legitimizing the prospect of abolition, there is

much to applaud on the positive side of the ledger. Nuclear issues now compete more strongly for the attention of policy makers and the media that often shapes their interest. Converts are being won on many fronts to the propositions that these issues matter, that nuclear arsenals can and should be sharply reduced, that high alert postures are a dangerous anachronism, that first use policies are an affront to democratic values, and that proliferation of nuclear weapons is a clear and present danger. I am persuaded that in every corner of the planet, the tide of public sentiment is now running strongly in favor of diminishing the role of nuclear weapons. Indeed, I am convinced that most publics are well out in front of their governments in shaking off the grip of the cold war in reaching for opportunities that emerge in its wake.

Conversely, it is distressingly evident that for many people, nuclear weapons retain an aura of utility, of primacy and of legitimacy that justifies their existence well into the future, in some number, however small. The persistence of this view, which is perfectly reflected in the recently announced modification of U.S. nuclear weapons policy, lies at the core of the concern that moves me so deeply. This abiding faith in nuclear weapons was inspired and is sustained by a catechism instilled over many decades by a priesthood who speak with great assurance and authority. I was for many years among the most avid of these keepers of the faith in nuclear weapons, and for that I make no apology. Like my contemporaries, I was moved by fears and fired by beliefs that date back to the earliest days of the atomic era. We lived through a terror-ridden epoch punctuated by crisis whose resolution held hostage the saga of humankind. For us, nuclear weapons were the savior that brought an implacable foe to his knees in 1945 and held another at bay for nearly a half-century. We believed that superior technology brought strategic advantage, that greater numbers meant stronger security, and that the ends of containment justified whatever means were necessary to achieve them.

These are powerful, deeply rooted beliefs. They cannot and should not be lightly dismissed or discounted. Strong arguments can be made on their behalf. Throughout my professional military career, I shared them, I professed them and I put them into operational practice. And now it is my burden to declare with all of the conviction I can muster that in my judgment they served us extremely ill. They account for the most severe risks and most extravagant costs of the U.S.-Soviet confrontation. They intensified and prolonged an already acute ideological animosity. They spawned successive generations of new and more destructive nuclear devices and delivery systems. They gave rise to mammoth bureaucracies with gargantuan appetites and global agendas. They incited primal emotions, spurred zealotry and demagoguery, and set in motion forces of ungovernable scope and power. Most importantly, these enduring beliefs, and the fears that underlie them, perpetuate cold war policies and practices that make no strategic sense. They continue to entail enormous costs and expose all mankind to unconscionable dangers. I find that intolerable. Thus, I cannot stay silent. I know too much of these matters, the frailties, the flaws, the failures of policy and practice.

At the same time, I cannot overstate the difficulty this poses for me. No one who ever entered the nuclear arena left it with a fuller understanding of its complexity nor greater respect for those with whom I served its purposes. I struggle constantly with the task of articulating the evolution of my convictions without denigrating or diminishing the motives and sacrifices of countless colleagues with whom I lived the drama of the cold war. I ask them and you to appreciate that my purpose is not to accuse, but to assess, to understand and to propound the forces that birthed the grotesque excesses and hazards of the nuclear age. For me, that assessment meant first coming to grips with my experience and then coming to terms with my conclusions.

I knew the moment I entered the nuclear arena I had been thrust into a world beset with tidal forces, towering egos, maddening contradictions, alien constructs and insane risks. Its arcane vocabulary and apocalyptic calculus defied comprehension. Its stage was global and its antagonists locked in a deadly spiral of deepening rivalry. It was in every respect a modern day holy war, a cosmic struggle between the forces of light and darkness. The stakes were national survival, and the weapons of choice were eminently suited to this scale of malevolence.

The opposing forces each created vast enterprises, each giving rise to a culture of Messianic believers infused with a sense of historic mission and schooled in unshakable articles of faith. As my own career progressed, I was immersed in the work of all of these cultures, either directly in those of the Western World, or through penetrating study of communist organizations, teachings and practices. My responsibilities ranged from the highly subjective, such as assessing the values and motivation of Soviet leadership, to the critically objective, such as preparing weapons for operational launch. I became steeped in the art of intelligence estimates, the psychology of negotiations, the interplay of bureaucracies and the impulses of industry. I was engaged in the labyrinthian conjecture of the strategist, the exacting routines of the target planner and the demanding skills of the aircrew and the missilier. I have been a party to their history, shared their triumphs and tragedies, witnessed heroic sacrifice and catastrophic failure of both men and machines. And in the end, I came away from it all with profound misgivings.

Ultimately, as I examined the course of this journey, as the lessons of decades of intimate involvement took greater hold on my intellect, I came to a set of deeply unsettling judgements. That from the earliest days of the nuclear era, the risks and consequences of nuclear war have never been properly weighed by those who brandished it. That the stakes of nuclear war engage not just the survival of the antagonists, but the fate of mankind. That the likely consequences of nuclear war have no politically, militarily or morally acceptable justification. And therefore, that the threat to use nuclear weapons is indefensible.

These judgements gave rise to an array of inescapable questions. If this be so, what explained the willingness, no, the zeal, of legions of cold warriors, civilian and military, to not just tolerate but to multiply and to perpetuate such risks? By what authority do succeeding generations of leaders in the nuclear weapons states usurp the power to dictate the odds of continued life on our planet? Most urgently, why does such breathtaking audacity persist at a moment when we should stand trembling in the face of our folly and united in our commitment to abolish its most deadly manifestation?

These are not questions to be left to historians. The answers matter to us now. They go to the heart of present day policies and motivations. They convey lessons with immediate implications for both contemporary and aspiring nuclear states. As I distill them from the experience of three decades in the nuclear arena, these lessons resolve into two fundamental conclusions.

First, I have no other way to understand the willingness to condone nuclear weapons except to believe they are the natural accomplice of visceral enmity. They thrive in the emotional climate born of utter alienation and isolation. The unbounded wantonness of their effects is a perfect companion to the urge to destroy completely. They play on our deepest fears and pander to our darkest instincts. They corrode our sense of humanity, numb our capacity for moral outrage, and make thinkable the unimaginable. What is anguishingly clear is that these fears and enmities are no respecter of political systems or values. They prey on democracies and totalitarian societies alike, shrinking the norms of civilized behavior and dimming the prospects for escaping the savagery so powerfully imprinted in our genetic code. That should give us great pause as we imagine the task of abolition in a world that gives daily witness to acts of unspeakable barbarism. So should it compound our resolve.

The evidence to support this conclusion is palpable, but as I said at the outset of these remarks for much of my life I saw it differently. That was a product of my both my citizenry and my profession. From the early years of my childhood and through much of my military service I saw the Soviet Union and its allies as a demonic threat, an evil empire bent on global domination. I was commissioned as an officer in the United States air force as the cold war was heating to a fever pitch. This was a desperate time that evoked on both sides extreme responses in policy, in technology and in force postures: Bloody purges and political inquisitions; covert intelligence schemes that squandered lives and subverted governments; atmospheric testing with little understanding or regard for the long term effects; threats of massive nuclear retaliation to an ill-defined scope of potential provocations; the forced march of inventive genius that ushered in the missile age arm in arm with the capacity for spontaneous, global, destruction; reconnaissance aircraft that probed or violated sovereign airspace, producing disastrous encounters; the menacing and perilous practice of airborne alert bombers loaded with nuclear weapons.

By the early 1960's, a superpower nuclear arms race was underway that would lead to a ceaseless amassing of destructive capacity, spilling over into the arsenals of other nations. Central Europe became a powder keg, trembling under the shadow of Armageddon, hostage to a bizarre strategy that required the prospect of nuclear devastation as the price of alliance. The entire world became a stage for the U.S.–Soviet rivalry. International organizations were paralyzed by its grip. East-West confrontation dominated the nation-state system. Every quarrel and conflict was fraught with potential for global war.

This was the world that largely defined our lives as American citizens. For those of us who served in the national security arena, the threat was omnipresent, if seemed total, it dictated our professional preparation and career progression, and cost the lives of tens of thousands of men and women, in and out of uniform. Like millions of others, I was caught up in the holy war, inured to its costs and consequences, trusting in the wisdom of succeeding generations of military and civilian leaders. The first requirement of unconditional belief in the efficacy of nuclear weapons was early and perfectly met for us: Our homeland was the target of a consuming evil, poised to strike without warning and without mercy.

What remained for me, as my career took its particular course, was to master the intellectual underpinning of America's response, the strategic foundation that today

still stands as the central precept of the nuclear catechism. Reassessing its pervasive impact on attitudes toward nuclear weapons goes directly to my second conclusion regarding the willingness to tolerate the risks of the nuclear age.

That also brings me to the focal point of my remarks, to my purpose in coming to this forum. For all of my years as a nuclear strategist, operational commander and public spokesman, I explained, justified and sustained America's massive nuclear arsenal as a function, a necessity and a consequence of deterrence. Bound up in this singular term, this familiar touchstone of security dating back to antiquity, was the intellectually comforting and deceptively simple justification for taking the most extreme risks and the expenditure of trillions of dollars. It was our shield and by extension our sword. The nuclear priesthood extolled its virtues, and bowed to its demands. Allies yielded grudgingly to its dictates even while decrying its risks and costs. We brandished it at our enemies and presumed they embraced its suicidal corollary of mutual assured destruction. We ignored, discounted or dismissed its flaws and cling still to the belief that it obtains in a world whose security architecture has been wholly transformed.

But now, I see it differently. Not in some blinding revelation, but at the end of a journey, in an age of deliverance from the consuming tensions of the cold war. Now, with the evidence more clear, the risks more sharply defined and the costs more fully understood, I see deterrence in a very different light. Appropriated from the lexicon of conventional warfare, this simple prescription for adequate military preparedness became in the Nuclear Age a formula for unmitigated catastrophe. It was premised on a litany of unwarranted assumptions, unprovable assertions and logical contradictions. It suspended rational thinking about he ultimate aim of National security: to ensure the survival of the Nation.

How is it that we subscribed to a strategy that required near perfect understanding of an enemy from whom we were deeply alienated and largely isolated? How could we pretend to understand the motivations and intentions of the Soviet leadership absent any substantive personal association? Why did we imagine a Nation that had survived successive invasions and mindnumbing losses would accede to a strategy premised on fear of Nuclear War? Deterrence in the cold war setting was fatally flawed at the most fundamental level of human psychology in its projection of Western reason through the crazed lens of a paranoid foe. Little wonder that intentions and motives were consistently misread. Little wonder that deterrence was the first victim of a deepening crisis, leaving the antagonists to grope fearfully in a fog of mutual misperception. While we clung to the notion that Nuclear War could be reliably deterred, Soviet leaders derived from their historical experience the conviction that such a war might be thrust upon them and if so, mut not be lost. Driven by that fear, they took Herculean measures to fight and survive no matter the odds or the costs. Deterrence was a dialogue of the blind with the deaf. In the final analysis, it was largely a bargain we in the West made with ourselves.

Deterrence was flawed equally in that the consequences of its failure were intolerable. While the price of undeterred aggression in the age of uniquely conventional weaponry could be severe, history teaches that Nations can survive and even prosper in the aftermath of unconditional defeat. Not so in the nuclear era. Nuclear weapons give no quarter. Their effects transcend time and place, poisoning the Earth and deforming its inhabitants for generation upon generation. They leave us wholly without defense, expunge all hope for meaningful survival. They hold in their sway not just the fate of Nations, but the very meaning of civilization.

Deterrence failed completely as a guide in setting rational limits on the size and composition of military forces. To the contrary, its appetite was voracious, its capacity to justify new weapons and larger stocks unrestrained. Deterrence carried the seed, born of an irresolvable internal contradiction, that spurred an insatiable arms race. Nuclear deterrence hinges on the credibility to mount a devastating retaliation under the most extreme conditions of war initiation. Perversely, the redundant and survivable force required to meet this exacting text is readily perceived by a darkly suspicious adversary as capable, even designed, to execute a disarming first strike. Such advantage can never be conceded between nuclear rivals. It must be answered, reduced, nullified. Fears are fanned, the rivalry intensified. New technology is inspired, new systems roll from production lines. The correlation of force begins to shift, and the bar of deterrence ratchets higher, igniting yet another cycle of trepidation, worst case assumptions and ever mounting levels of destructive capability.

Thus it was that the treacherous axioms of deterrence made seemingly reasonable nuclear weapon stockpiles numbering in the tens of thousands. Despite having witnessed the devastation wrought by two primitive atomic devices, over the ensuing decades the superpowers gorged themselves at the thermonuclear trough. A succession of leaders on both sides of the East-West divide directed a reckless proliferation of nuclear devices, tailored for delivery by a vast array of vehicles to a stupefying array of targets. They nurtured, richly rewarded, even revealed in the industrial base required to support production at such levels.

I was part of all of that. I was present at the creation of many of these systems, directly responsible for prescribing and justifying the requirements and technology that made them possible. I saw the arms race from the inside, watched as intercontinental ballistic missiles ushered in mutual assured destruction and multiple warhead missiles introduced genuine fear of a nuclear first strike. I participated in the elaboration of basing schemes that bordered on the comical and force levels that in retrospect defied reason. I was responsible for war plans with over 12,000 targets, many struck with repeated nuclear blows, some to the point of complete absurdity. I was a veteran participant in an arena where the most destructive power ever unleashed became the prize in a no holds barred competition among organizations whose principal interest was to enhance rather than constrain its application. And through every corridor, in every impassioned plea, in every fevered debate range the rallying cry, deterrence, deterrence, deterrence.

As nuclear weapons and actors multiplied, deterrence took on too many names, too many roles, overreaching an already extreme strategic task. Surely nuclear weapons summoned great caution in superpower relationships. But as their numbers swelled, so mounted the stakes of miscalculation, of a crisis spun out of control. The exorbitant price of nuclear war quickly exceeded the rapidly depreciating value of a tenuous mutual wariness. Invoking deterrence became a cheap rhetorical parlor trick, a verbal sleight of hand. Proponents persist in dressing it up to court changing times and temperaments, hemming and re-hemming to fit shrinking or distorted threats.

Deterrence is a slippery conceptual slope. It is not stable, nor is it static, its wiles cannot be contained. It is both master and slave. It seduces the scientist yet bends to his creation. It serves the ends of evil as well as those of noble intent. It holds guilty the innocent as well as the culpable. It gives easy semantic cover to nuclear weapons, masking the horrors of employment with siren veils of infallibility. At best it is a gamble no mortal should pretend to make. At worst it invokes death on a scale rivaling the power of the creator.

Is it any wonder that at the end of my journey I am moved so strongly to retrace its path, to examine more closely the evidence I would or could not see? I hear not the voices long ignored, the warnings muffled by the still lingering animosities of the cold war. I see with painful clarity that from the very beginnings of the nuclear era. The objective scrutiny and searching debate essential to adequate comprehension and responsible oversight of its vast enterprises were foreshortened or foregone. The cold light of dispassionate scrutiny was shuttered in the name of security, doubts dismissed in the name of an acute and unrelenting threat, objections overruled by the incantations of the nuclear priesthood.

The penalties proved to be severe. Vitally important decisions were routinely taken without adequate understanding, assertions too often prevailed over analysis, requirements took on organizational biases, technological opportunity and corporate profit drove force levels and capability, and political opportunism intruded on calculations of military necessity. Authority and accountability were severed, policy dissociated from planning, and theory invalidated by practice. The narrow concerns of a multitude of powerful interests intruded on the rightful role of key policymakers, constraining their latitude for decision. Many were simply denied access to critical information essential to the proper exercise of their office.

Over time, planning was increasingly distanced and ultimately disconnected from any sense of scientific or military reality. In the end, the nuclear powers, great and small, created astronomically expensive infrastructures, monolithic bureaucracies and complex processes that defied control or comprehension. Only now are the dimensions, costs and risks of these nuclear nether worlds coming to light. What must now be better-understood are the root causes, the mindsets and the belief systems that brought them into existence. They must be challenged, they must be refuted, but most importantly, they must be let go. The era that gave them credence, accepted their dominion and yielded to their excesses is fast receding.

But it is not yet over. Sad to say, the Cold War lives on in the minds of those who cannot let go the fears, the beliefs, and the enmities born of the nuclear age. They cling to deterrence, clutch its tattered promise to their breast, shake it wistfully at bygone adversaries and balefully at new or imagined ones. They are gripped still by its awful willingness not simply to tempt the apocalypse but to prepare its way.

What better illustration of misplaced faith in nuclear deterrence than the persistent belief that retaliation with nuclear weapons is a legitimate and appropriate response to post-cold war threats posed by weapons of mass destruction. What could possibly justify our resort to the very means we properly abhor and condemn? Who can imagine our joining in shattering the precedent of nonuse that has held for over fifty years? How could America's irreplaceable role as leader of the campaign against nuclear proliferation ever be re-justified? What target would warrant such retaliation? Would we hold an entire society accountable for the decision of a single demented leader? How would the physical effects of the nuclear explosion be

contained, not to mention the political and moral consequences? In a singular act we would martyr our enemy, alienate our friends, give comfort to the non-declared nuclear states and impetus to states who seek such weapons covertly. In short, such a response on the part of the United States is inconceivable. It would irretrievably diminish our priceless stature as a nation noble in aspiration and responsible in conduct, even in the face of extreme provocation.

And as a nation we have no greater responsibility than to bring the nuclear era to a close. Our present policies, plans and postures governing nuclear weapons make us prisoner still to an age of intolerable danger. We cannot at once keep sacred the miracle of existence and hold sacrosanct the capacity to destroy it. We cannot hold hostage to sovereign gridlock the keys to final deliverance from the nuclear nightmare. We cannot withhold the resources essential to break its grip, to reduce its dangers. We cannot sit in silent acquiescence to the faded homilies of the nuclear priesthood. It is time to reassert the primacy of individual conscience, the voice of reason and the rightful interests of humanity.

IRAQ POLICY

Mr. KERREY. Mr. President, the world witnessed a diplomatic success in United Nation's Secretary General Kofi Annan's trip to Baghdad last weekend. We saw a successful conclusion to an episode that has been and probably will continue to be a very long drama of confrontation with Iraq. This success is not due solely to Mr. Annan's considerable powers of persuasion. Mr. Annan's mission was backed by force—by the real, credible potential for violent punishment from U.S. forces if a diplomatic solution was not achieved. He said this about his successful negotiations: ''You can do a lot with diplomacy, but of course you can do a lot more with diplomacy backed up by firmness and force.'' It takes nothing away from Mr. Annan's success to note he shares star billing as a peacemaker with the soldiers, sailors, airmen and marines of the United States.

The smile of diplomacy combined with the force of the gun has produced an offer from Baghdad to allow U.N. weapons inspectors into sites previously denied to them by the Iraqi government. For the moment there is hope that air strikes to reduce Iraq's capacity to use weapons of mass destruction will not be needed. Gratefully, for now, we will not again be witnesses to the necessary violence of combat. The images of war, which increasingly shape and limit our national tolerance for war, will thankfully not supplant Seinfeld on our TV screens this week.

And yet our gratitude for peace is not entirely satisfying. A sour taste remains in our mouths. We wonder again if Saddam Hussein has got the better of us. The question nags: Did we win a diplomatic battle but not the war? These feelings and this question flow from our national discussion of Iraq policy over the past several weeks, especially the growing realization that America should not deal with the Iraq problem episodically, but rather with finality, even if greater effort is required.

This problem was eloquently stated last Wednesday at Ohio State University by a veteran. He said:

> I spent twenty years in the military; my oldest son spent twenty-five; my youngest son died in Vietnam; six months later, his first cousin died in Vietnam. We stood in the gap. If push comes to shove and Saddam will not back down, will not allow or keep his word, are we ready and willing to send the troops in? You see, I have no problem with asking any one of these guys in the Armed Forces to stand in the gap for me now, that we stood in the gap back then. . . . I think all of Congress wants to know. Are we willing to send troops in and finish the job, or are we going to do it [half-hearted] like we've done before?

Mr. President, this veteran speaks for me. He gave the nation a clarion call to finish the job. It falls to us to determine what finishing the job means. We must do so with the understanding that wherever and however we stand in the gap, our stand and our actions will be globally public. All of us who are given power by the Constitution to declare war and raise armies must take note of how much is won or lost over the airwaves.

We will not restrict the flow of images in the next war as we have in the past. The recently released CIA report on the Bay of Pigs thirty-six years after the report was written, represents the old way of making: war in secret. The new way is portable video cameras and satellite communications opening the battlefield to full view. And victory may hinge more on the impressions of the battle conveyed through the media than on the effect of the combatants themselves. Even if the struggle is only diplomatic, it is no less public and global, and the impression made on the public who witness the struggle through the media is at least as important as the diplomatic outcome.

Television images are powerful and effect all who watch. Two and one-half billion people watched Princess Diana's funeral. Perhaps as many watched the war of words between the U.S. and Iraq. I am concerned that to date, we may be losing this battle of the airwaves. A ruthless dictator who has starved and brutalized and robbed his people for over twenty years actually appears in some media to be more interested in the welfare of his people than do we. To win, we must have an objective that is clear, will justify war's violence if war comes, and will enable us to rally world opinion. We need a mission that puts us in the gap not just to reduce a threat but to liberate a people and make a whole region secure and prosperous. We need a cause which will unite moral leaders like Nelson Mandela, and Vaclav Havel with other political and military leaders. We need an objective which will permanently remove the threat the Iraqi dictatorship poses to the United States, to our allies, to our interests, to its neighbors, and to its own people.

The containment of Iraq—although it has been a success—cannot be such a cause. Containment reduced the Iraqi military threat and introduced UNSCOM inspections, which are our principal means of limiting Saddam's production of weapons of mass destruction. But the ultimate failure of containment is signaled by the word ''reduce'' as a policy goal. With biological weapons, reduction or limitation are not sufficient. We need to be sure such weapons are eliminated from Saddam's arsenal. To ''reduce'' is not enough.

Let me say a word about the fear that has been aroused over the potential of biological weapons, both Iraqi weapons and possibly such weapons in the hands of terrorists in this country. Fear is a natural reaction, but fear is also the great debilitator. Fear keeps us from taking necessary action. We must manage our fears, we must keep fear from paralyzing us, and we must realistically measure the threat posed by these weapons. If we are to truly stand in the gap with regard to Iraq, we must do something hard: we must have a broader perspective than just altering our fear of biological weapons. We must transcend that fear and convert it into a hope for freedom. A democratic Iraq is certainly in our interest, an Iraq free of weapons of mass destruction is certainly in our interest, but it is above all for the sake of the Iraqis that we must replace Saddam.

A review of what Saddam has done to his people underscores the need to remove him. After over 20 years of Saddam, it is hard to recall that Iraq was once the heart of the Fertile Crescent, a country blessed with oil resources, rich agricultural potential, and a vibrant middle class. Through a disastrous war with Iran and then the invasion of Kuwait, Saddam mortgaged and then caused the destruction of much of Iraq's oil capacity. Through static economic policies, he marginalized a middle class which has since been almost wiped out by the effect of sanctions, which is to say, by the effect of Saddam's behavior. Per capita income in Iraq has dropped from $2,900 in 1989 to $60 today, in currency terms. The dinar, which was worth three dollars in 1989, is now at the rate of 1,500 to one dollar. Iraqis have seen their salaries drop to five dollars a month, and their pensions evaporate. We are also familiar with the starvation and the permanent health crisis he imposes on his people while he builds palaces and other grandiose monuments to himself.

Saddam's policies have killed hundreds of thousands of Iranians and Iraqis and thousands of Kuwaiti citizens, many of whom are still unaccounted for. His reign of terror continues to kill, including between 500 and 1,200 prisoners murdered in his prisons last December. His weapons of mass destruction, with which we are too familiar, were tested on living human beings, according to British press reports. In sum, if there is a dictator in the world who needs to be removed, it is Saddam Hussein.

Force, either our own or that of dissident Iraqis, will be required to remove this regime. But in my view, Desert Storm is not the model. A much better example of the marriage of military force with diplomacy, a success story in the making, is the U.S. deployment to Bosnia. An initial agreement was reached at Dayton as a result of the use of U.S. military force. Then our troops led an allied force into the country and provided, and continue to provide, the overarching security and stability beneath which a traumatized people regain the confidence to govern themselves democratically and live civilly with each other. The lesson of Bosnia is that force persuaded diplomacy, which has in turn given the people of Bosnia a chance for a lasting peace. Iraq, with its devastated middle class and ethnic divisions, may need the same kind of long-term application of potential force, once Saddam's regime has passed.

It took hope, at the worst moments of the Yugoslav war, when Sarajevo was a deadly obstacle course for its citizens, to dream of a peaceful Bosnia, and it took courage to make the commitments which are now slowly bringing that dream into reality. In the same way, we must get past our pessimism about Iraq and the Middle East, summon our hope, and dream the successful outcome of our policy: a democratic Iraq. Imagine its characteristics: a democratic Iraq would be at peace with its neighbors. It would have no weapons of mass destruction. A democratic Iraq would enjoy the benefits of its agricultural and oil wealth and would share them equitably across their society. A democratic Iraq would be a tolerant society, in sharp contrast to some of its neighbors. It would not oppress its minorities. Its Kurdish population, secure and free in northern Iraq, would not be a base for an insurgency against Turkey. A democratic Iraq would be a powerful example to the rising oil states of Azerbaijan, Kazakhstan, and Turkmenistan, a proof to them that a government can use oil revenue for something other than hiring police and buying weapons.

There is a dissonant sound to the words ''Iraq'' and ''democracy'' side by side, but this dream, aided by a sound American strategy, can become real. I know of no genetic coding that predisposes the Iraqis, or any people, to dictatorship. In November, I laid out a road map which included the following steps and I repeat them today.

First, we must convince our core European and Asian allies that democracy, not just the temporary compliance of a dictator, is the right long-term goal for Iraq. We must use the facts about Saddam's brutality to convince our allies to support a transition to democracy in Iraq, and to convince them the security and economic opportunity that would flow out of a new, democratic Iraq is worth more than the money owed our allies by Saddam's regime. In other words, we must convince our allies to forgive the debts of a post-Saddam Iraq. Beyond debt forgiveness, we should clearly state the loan and foreign assistance preferences which a democratic Iraq would receive from U.S. and multinational lending agencies.

Second, we should fill Iraqi airwaves, by means of Voice of America and commercial means, with the horrific truth about Saddam's regime. The Iraqi people must learn that we know what Saddam has done to them, and that weapons of mass destruction are not our sole concern. Two recent news stories exemplify the kind of information we should be putting in every Iraqi home. The first, from the Los Angeles Times for February 9, describes the murder of up to 1,200 prisoners in Iraq's main prison. The second, from the January 18 Sunday Times of London, relates in detail how Saddam's government tested biological weapons on human beings. Mr. President, I ask unanimous consent both these these articles be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KERREY. Third, we should openly and consistently state our goal of a free, democratic Iraq, even if we have to state it repeatedly for years. To accept less and say less is simply unworthy of our heritage.

Mr. President, there are additional steps which are essential if we are to achieve our goal:

We should announce our intention to see Saddam Hussein indicted and tried for war crimes and genocide.

As some commentators have suggested, the United States should form an umbrella organization of pro-democracy Iraqi exile groups and support them with money and military supplies.

When the exile group seizes significant Iraqi territory, the United States should recognize it as Iraq's government and make frozen Iraqi government funds available to it.

The UN has already decided to expand the amount of oil Iraq can sell in exchange for food and medicine. We should work with the UN to facilitate greater amounts of life's necessities getting into the hands of the Iraq people. Over the long term, we should consider the usefulness of sanctions in overthrowing Saddam. The debilitating effect of sanctions on ordinary Iraqis may actually help keep Saddam in power. Our policies should serve the strategy of removing this dictator from office and creating the democratic Iraq and peaceful Middle East which is our goal.

Mr. President, I am laying out what could be a long road for the United States. But when you compare today's situation with tomorrow's possibilities, it is a road worth taking. It is a road worthy of our heritage as liberators and as a free people. Mr. Annan carefully selected these familiar words to describe the U.N.'s success this week: ''We the peoples of the world can do anything if united.'' We have dreamed the possibility. Now it is time for us to make it real.

I yield the floor.

EXHIBIT 1

[From the Los Angeles Times, Feb. 9, 1998]

FREED INMATE TELLS OF MASS EXECUTIONS AT IRAQI PRISON

(By John Daniszewski)

Amman, Jordan—Ammar Shehab Dein shudders at the memory of the ''meals'' served up at the notorious Abu Ghraib prison outside Baghdad.

A ''meal'' is what guards there called the Iraqi prison's periodic mass executions. ''We have a meal tomorrow,'' they would taunt the terrified inmates.

During the last 20 days in December, said Shehab Dein, there were at least three ''meals'' in his section alone. Each time, an officer would stand in front of the two-story cellblock and read off the names of those who were to die.

The doomed men would then have their hands tied behind their backs and be led away—crying, shouting, ''Allahu Akbar'' (God is great) and, in some cases, cursing the name of Iraqi President Saddam Hussein.

Later, other inmates would be ordered into the execution chamber to clean up.

As it was described to Shehab Dein, the chamber was ''primitive,'' ropes suspended over 12 wells. Bound prisoners would be put into a noose and then pushed to their deaths, he said. Doctors were present mainly to determine if the prisoners were dead.

Shehab Dein, a 27-year-old Jordanian trader who was imprisoned last year, is not only a rare survivor of the Iraqi leader's death row. In interviews with The Times, he is also the first released inmate of Abu Ghraib prison to publicly corroborate and add detail to accounts that emerged at the end of 1997 of a series of executions of hundreds or even thousands of political prisoners and common criminals in Iraq.

At the time, U.S. State Department spokesman James Foley called the reports of mass execution ''horrific'' and said they would constitute ''a gross violation of human rights'' if true.

Shehab Dein's statements were supported by a second released inmate, a 31-year-old Jordanian businessman who said he was badly tortured shortly after his 1995 arrest and that he fears being identified by name.

''The last weeks before Ramadan, we heard [that] about 500 people were killed. . . . We used to hear them [executions] every day,'' the businessman said.

Both men were interviewed in Amman days after their Jan. 21 release in a surprise amnesty, announced by Hussein, for all Jordanian prisoners. (Hussein declared a further amnesty Thursday for all nationals of other Arab countries, apparently in a goodwill gesture hours after he met with the secretary-general of the Arab League.)

According to Iraqi opposition sources in Jordan, Britain and the United States, Hussein's regime executed 800 to 1,200 inmates at the Abu Ghraib and the Radwaniyah prisons, both near Baghdad, in a cleaning out that began Nov. 20 and lasted into December.

After the State Department raised the issue Jan. 1, the Iraqi Information Ministry angrily denied the accusations, calling them another example of the ''hostile propaganda'' of Iraq's opponents.

With the world focused on Iraq's standoff with the United States and the United Nations over access to disputed sites by arms inspectors, the allegations have elicited relatively little attention.

But the experiences of the two Jordanians, who went to Iraq voluntarily for business and say they once were sympathetic to Hussein, nevertheless are a reminder of the unpredictable brutality inside Iraq.

''If I had a choice between dying and going back to Iraq, I would prefer to die,'' said the businessman, who declined to discuss details of his torture except to say: ''Execution was something I wanted.''

Since mid-December, opposition groups have been circulating accounts of the executions, which they said were ordered Nov. 19 by Hussein's powerful younger son, Qusai, and underscore his preeminent role in the spheres of ''security and repression,'' in the words of one opposition newsletter.

The Iraqi National Congress, a U.S.-backed anti-Hussein group, has compiled lists identifying 160 of the victims.

It said one brother of an executed Iraqi Kurd had to comb through 12 cold-storage rooms containing 30 bodies apiece before he was able to find his sibling and claim the remains. The opposition Iraqi Communist Party, meanwhile, said that 109 of its followers apparently were killed in one day.

Decreed at a time when Iraq appeared to have driven a wedge between the United States and other U.N. Security Council members, the executions may have been ordered to celebrate this diplomatic ''triumph on the part of Saddam Hussein,'' speculated the Iraqi Broadcast Corp., the oppositions' radio station in northern Iraq.

Neither Shehab Dein nor the businessman actually saw any hangings, but both stated without hesitation that hundreds of their fellow inmates died.

Shehab Dein's younger brother, Jihad, and that when he visited his brother in prison in December, he saw other families collapse in sobs and wails upon learning that loved ones had been executed. He was once told that he should leave the prison because a round of executions was about to take place, he said.

Shehab Dein, who lived with his family in Iraq for most of the past six years, was arrested Sept. 9 and sent to Abu Ghraib on Dec. 10 after being condemned to death for allegedly buying up cheap construction equipment in Iraq to be dismantled and smuggled out for sale abroad.

Although Shehab Dein and his five brothers buy and sell heavy machinery, he denies being a smuggler and blames his arrest on a false accusation from a business rival who stood to get a significant chunk of Shehab Dein's assets as a reward from the Iraqi regime.

As soon as he arrived at Abu Ghraib after three months in a cell in Baghdad's Public Security Department, Shehab Dein said, he was told by fellow inmates about the mass executions that had been taking place.

''Between November and December, they used to take 50 people, 80 people a day,'' he said. ''It was not something normal.''

From Dec. 10 until Dec. 30, when executions were stopped in observance of the start of Ramadan, the Muslim holy month, Shehab Dein said, he saw or heard a total of 56 men dragged away—27, 15 and 14 at a time.

None ever returned to his section, which housed more than 1,000 people who had been sentenced to death for various crimes, ranging from corruption to theft to murder.

He said he believes that prisoners from other sections, including political prisoners and those containing people sentenced in long prison terms but not death, were being executed daily. Among those killed, he said, was a friend he had made earlier at the Public Security Department cells, a likable would-be counterfeiter whom he knew as ''Eyad the Palestinian.''

Eyad's name was among those called out one morning, and he was led out with his hands tied behind his back.

''They allowed him to say goodbye to his friends,'' Shehab Dein said quietly. ''Eyad came to me right away because I was the only other Palestinian. He said, 'Forgive me if I have done anything wrong, and give charity in my name if you have the chance.'

''I cannot describe to you the feeling—someone saying that to you. What I thought was, how dear he was to me, and I was helpless to give him any consolation,'' he said.

Shehab Dein said prison conditions were appalling.

He was in a 5-foot-square cell with three other condemned men. They took turns sleeping. But that was ''paradise'' compared with other cells of the same dimensions packed with seven or eight prisoners.

He said he was sentenced to die based on a confession he never made and upon the written testimony of two ''witnesses'' whom he had never met and who were not even present at his trial.

Iraq executed four Jordanian students Dec. 9 for smuggling, despite repeated entreaties from Jordan's King Hussein that they be spared.

Shehab Dein, who had been condemned Dec. 7, said he believed that he surely would be the next to die. But he got a reprieve when Saddam Hussein suddenly ordered all Jordanians in his prison let go, apparently to mollify Jordanian anger.

''I thought I was dead,'' Shehab Dein murmured, recalling the moment he learned that he would escape the noose. ''But I was reborn.''

[From the London Sunday Times, Jan. 18, 1998]

SADDAM TESTED ANTHRAX ON HUMAN GUINEA PIGS

(By Marie Colvin and Uzi Mahnaimi)

Evidence has emerged that Saddam Hussein, the Iraqi dictator, has had prisoners tied to stakes and bombarded with anthrax in brutal human experiments with his biological and chemical armoury.

Dozens of prisoners are believed to have died in agony during a secret programme of military research designed to produce potent new weapons of mass destruction.

In one incident, Iranian prisoners of war are said to have been tied up and killed by bacteria from a shell detonated nearby. Others were exposed to an aerosol of anthrax sprayed into a chamber while doctors watched behind a glass screen. Two British-trained scientists have been identified as leading figures in the programme.

As the first details of Iraq's use of human guinea pigs came to light, Saddam threatened yesterday to expel United Nations weapons inspectors unless they complete their work within six months. The British aircraft carrier Invincible is sailing for the Gulf to support American forces.

Saddam's biological and chemical warfare programme is at the heart of his latest confrontation with the UN, which began when a team of inspectors was prevented from visiting Abu Gharib jail, near Baghdad, to investigate evidence that some prisoners were sent to a military facility for experimentation two years ago.

The Sunday Times has obtained evidence about the programme from several sources, including UN inspectors, Iraqi dissidents and Israeli intelligence. The evidence suggests that tests on human beings began in the 1980s during Iraq's eight-year war with Iran after initial experiments on sheep and camels.

According to Israeli military intelligence sources, 10 Iranian prisoners of war were taken to a location near Iraq's border with Saudi Arabia. They were lashed to posts and left helpless as an anthrax bomb was exploded by remote control 15 yards away. All died painfully from internal haemorrhaging. In another experiment, 15 Kurdish prisoners were tied up in a field while shells containing camel pox, a mild virus, were dropped from a light aircraft. The results were slower but the test was judged a success; the prisoners fell ill within a week.

Iraqi sources say some of the cruellest research has been conducted at an underground facility near Salman Pak, southwest of Baghdad. Here, the sources say, experiments with biological and chemical agents were carried out first on dogs and cats, then on Iranian prisoners.

The prisoners were secured to a bed in a purpose-built chamber, into which lethal agents, including anthrax, were sprayed from a high-velocity device mounted in the ceiling. Medical researchers viewed the results through fortified glass.

Details of the experiments were known only to Saddam and an inner circle of senior government officials and Iraqi scientists educated in the West.

Madeleine Albright, the American secretary of state, said Saddam was ''tightening the noose around himself''. She added, ''By not letting this inspection team go forward, in almost a strange way it's almost as if he has come close to saying, 'Okay, you caught me'.''

IRAQ TESTED ANTHRAX ON POW'S

They started with domestic cats and dogs. But the scientists at Salman Pak, a military complex 50 miles southwest of Baghdad, were under pressure from President Saddam Hussein to prove the potency of the technology that would underpin their new weapons of mass destruction. It was inevitable that their experiments would eventually be conducted on human beings.

From behind a reinforced glass screen they watched as, one by one, Iranian prisoners of war were strapped to the bed in a chamber at the underground facility.

The terror of their victims as a high-velocity device mounted on the ceiling dispensed a lethal spray can only be imagined. Sometimes it contained anthrax bacteria, which penetrate the skin and lungs. The prisoners died in agony from internal hemorrhaging.

At other times the aerosol was of toxins suitable for use in chemical weapons. The results were no less devastating. The facility, which is understood to have been built by German engineers in the 1980s, has been at the centre of Iraq's experiments on ''human guinea pigs'' for more than 10 years, according to Israeli military sources.

The first details of the atrocities carried out there and in experiments in the open air emerged this weekend as Saddam threatened to expel United Nations weapons inspectors unless they complete their work within six months.

Dozens of prisoners have died during the research. In one test, 10 Iranian prisoners were taken to an open-air site near Iraq's border with Saudi Arabia. There they were tied to posts and left helpless while shells loaded with anthrax were detonated by remote control 15 yards away. The prisoners' heads were shielded to protect them from shrapnel so that the effectiveness of the bacteria could be observed. All died from the disease.

In another experiment, 15 Kurdish prisoners were tied up in a field while shells containing a pox virus were dropped from a light aircraft. The virus was camel pox, normally a relatively mild disease. Iraqi scientists, however, are believed to have developed a more virulent strain by genetic manipulation. All the prisoners fell ill within a week.

The programme is the focus of Iraq's latest confrontation with the UN, which began when inspectors were prevented from visiting Abu Gharib jail, near Baghdad, to investigate evidence that prisoners had been sent away for experimentation two years ago.

Two of the leading researchers in Iraq's biological programme studied in Britain. Rihab al-Taha, educated at the University of East Anglia, is the head of Iraq's military research and development institute. Another scientist, who received a doctorate in molecular biology from the University of Edinburgh, is said by Israeli sources to have specialized in anthrax although her precise role, if any, in human experiments is unknown.

The evidence compiled by the Israelis could not be independently corroborated. But it appeared consistent with information about Iraq's chemical and biological programmes in documents recovered by UN inspectors after the 1995 defection of Hussein Kamel, Saddam's son-in-law, who had been in charge of Iraq's military procurement programme.

Apparently afraid of what Kamel would reveal after he fled to Jordan, Iraqi officials led the inspectors to a cache of papers they said they had discovered in a shed on his chicken farm in the hope that he would be blamed for the programme. Inspectors raised eyebrows at the fact that the boxes were shiny new while their surroundings were filthy. Kamel was killed on his return to Iraq in 1996.

Among the ''chicken farm'' documents on biological warfare was a photograph of a human arm with lesions. The inspectors also found video footage of dogs that had died after being exposed to unidentified agents.

Iraqi opposition sources said last week they had received reports of prisoners disappearing from their cells, only to return with mysterious illnesses that proved fatal.

The prisoners, they said, were usually released out of fear of contamination and died afterwards at home.

EDUCATION IN AMERICA

Mr. DOMENICI. Mr. President, I note the presence on the floor of the chairman of our committee that handles education matters, Senator JEFFORDS. You have talked to me a lot of times about the reforms necessary in education. I look forward to your committee doing some real reform work.

I ask unanimous consent to have printed in the RECORD something I read today with great embarrassment and chagrin on the front page of the Washington Post: ''U.S. High School Seniors Rank Near Bottom'' when it comes to math and science. They are not at the bottom of the free world when they finish the first grade and the fourth grade. They are in good shape. However, when they graduate from high school, they are at the bottom rung of all the countries that will be competing with us in the next millennium for the kind of competitive industries and the kinds of things that are necessary to keep America strong.

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

[From the Washington Post, Feb. 25, 1998]

U.S. HIGH SCHOOL SENIORS RANK NEAR BOTTOM—EUROPEANS SCORE HIGHER IN MATH, SCIENCE TEST

(By Rene Sanchez)

American high school seniors have scored far below their peers from many other countries on a rigorous new international exam in math and science.

The test results, which were released yesterday, present a damning assessment of American students in their last year of mandatory schooling: In both subjects, their scores ranked close to last among the 21 nations that participated. And their showing was much worse than the marks that American elementary and middle school students have earned on similar international exams in the past two years.

Even the scores of academically elite American students—those who take either physics or advanced math courses in high school—were a disappointment. They also finished below the international average and lagged behind many other nations on the latest test.

The nation's education leaders reacted with dismay to the poor results yesterday. Education Secretary Richard W. Riley called the American scores ''unacceptable'' and said that too many schools are failing to establish tough academic standards for students and often lack qualified teachers in math and science even when they do.

''We need to have higher expectations for our students,'' Riley said. ''Many of our students stop taking math and science after 10th or 11th grade.''

Riley said that middle schools also may be a source of the problem. ''Other nations begin to introduce challenging concepts such as algebra, geometry, probability and statistics, but we continue to focus on arithmetic, even though our students are good at arithmetic,'' he said. ''So we shouldn't be surprised that by the 12th grade, our students have fallen even further behind our counterparts abroad.''

The work of American fourth-graders is quite strong in math and science when compared to similar students in other countries, but from that point their scores decline in international tests. American eighth-graders posted mediocre marks in both subjects when their work was matched recently against counterparts around the world.

In a speech to the National Council of Jewish Women yesterday, President Clinton said the fact that fourth-graders do well while eighth- and 12th-graders struggle indicates the problem lies in instruction, not in the abilities of students, or that the United States has more students from disadvantaged backgrounds than other nations.

''The fourth-graders represent the same socioeconomic diversity'' as the older students, Clinton said. ''Therefore, there is something wrong with the system. . . . I do not believe these kids cannot learn. I am tired of seeing children patronized because they happen to be poor or from different cultural backgrounds than the majority. That is not true.''

About 10,000 seniors selected randomly from more than 200 public and private high schools across the United States took the international exam. American high schools are often run quite differently from secondary schools abroad. Here, most schools are comprehensive and strive to teach all types of students. In other countries, however, many teenagers are instead placed into specific kinds of schools, some heavily academic, others vocational. But test officials said they accounted for the differing academic arrangements in other countries by giving the test to students from varying backgrounds and types of schools.

The 90-minute test assessed students' general knowledge of math and science concepts through problem-solving and multiple-choice questions.

Only 57 percent of American students, for example, chose the correct answer to this question: ''Experts say that 25 percent of all serious bicycle accidents involve head injuries and that, of all head injuries, 80 percent are fatal. What percent of all serious bicycle accidents involve fatal head injuries?'' The answer is 20 percent.

American students fared poorly in math and science even though they expressed more enthusiasm for learning the subjects than their peers in other nations and reported using computers and having lab experiments and practical lessons more often in class.

Also, none of the Asian nations that have finished at the top of other similar tests in math and science participated in this one. Most of the countries that excelled on the exam are in Europe, in particular the Netherlands, Sweden and Norway. But Canada and New Zealand also had higher marks than the United States. American scores were comparable to those of students from Russia, Italy and the Czech Republic. American students outperformed students only in Cyprus and South Africa.

''This study is a wake-up call for us to change the culture in the classroom,'' said Gerry Wheeler, executive director of the 53,000-member National Science Teachers Association. He added that many science teachers say they get mixed signals about what to teach and lack the time and resources to achieve more in class.

A report on the test, which was supervised by the Education Department and similar government agencies around the world, does not give conclusive reasons for why American students had such a dismal performance. But it offers possible clues.

First, researchers said that school curricula seem stronger in other nations than in the United States. The percentage of high school seniors taking math and science courses also is lower here than in most other nations. American students spend fewer hours on homework than most of their international peers. And many more American high school seniors work. More than half of them who took the test said they spend three hours a day at a paid job. Only about one-fifth of high school students from other nations had to balance a daily job with their class work. American students reported watching roughly the same amount of television weekly as students abroad.

To some educators, the test results starkly reveal how far the nation's high schools are from the goal state governors set at the start of the decade: to make American students ''first in the world'' in math and science.

Many states and school districts have begun the difficult task of revamping what they teach in those vital subjects, and there are signs that strides are being made. On another highly regarded exam, the National Assessment of Educational Progress, student scores in math and science have risen in recent years.

But some of the nation's top business leaders, worried about American competitiveness in the global economy, have been pressuring schools to show more academic progress. ''These results are very disappointing,'' said Susan Traiman, who directs education initiatives for the Business Roundtable, a national group of executives from large corporations. ''It looks like reforms are taking hold in the early grades, but one we get beyond the basics, it's clear that our curriculum is still not demanding.''

Other educators, however, contend that drawing profound conclusions from an international test is risky, even dubious, because the educational systems of other nations are so different from those in the United States, where schools are run locally and often have extraordinarily diverse student enrollments. Of the 21 nations that took part in the latest test, for example, half had a strict national curriculum, a notion that much of the American public views either with suspicion or hostility.

Riley said the poor test results offer compelling evidence for why states and Congress

should support Clinton's call for voluntary national tests for eighth-graders in math. Only a small sample of students now take national tests, and many educators say Clinton's plan—which Congress has delayed—could prompt schools to demand more from students. But critics say the testing Clinton wants could create too much federal involvement in schools and lead to a national curriculum.

The latest test results are the third and final part of an international study that began three years ago. It is the most comprehensive attempt ever made to compare the academic work of students around the world. Some skeptics of other similar efforts say this one is more credible because students from all types of high schools were tested.

One bright spot on the test for the United States was that, unlike in many other nations, the scores of male and female students in math and science were roughly the same.

Mr. DOMENICI. While I am here and while the chairman of the committee is here, let me suggest that it is time we at the national level stop looking at proliferating programs on behalf of education. We don't need any more programs on behalf of education. Let me say what I think we ought to do. Let me state for the Record the General Accounting Office, assisting the Budget Committee, has found the following: We have 86 teacher training programs in 9 agencies and offices of the Government. I repeat, 86 teacher training programs. At-risk and delinquent youth, the Federal Government has 127 at-risk and delinquent programs in 15 agencies and departments. Some of them you don't even have jurisdiction over because they are in Interior and all kinds of departments. Young children, the Federal Government has over 90 early childhood programs in 11 agencies and 20 offices.

It is time we square with the American people and say we have just been duplicating, adding programs on programs because there is a problem out there. Yet today we wake up and read the article in the paper this morning. One wonders whether we have any idea with all this proliferation of programs that I just read.

Frankly, Mr. President, if we ask the GAO to take another five areas they will find a proliferation just as large and significant as previously mentioned. When you wake up today and read this article—let's take another look and try to do it. It doesn't mean more. It means go to the problem and try to solve the problem.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Kansas is recognized for up to 10 minutes.

Mr. BROWNBACK. Mr. President, thank you, very much.

(The remarks of Mr. BROWNBACK and Mr. HUTCHINSON pertaining to the introduction of S. 1673 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. FAIRCLOTH addressed the Chair.

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

Mr. FAIRCLOTH. I thank the Chair.

(The remarks of Mr. FAIRCLOTH pertaining to the introduction of S. 1674 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. FAIRCLOTH. Mr. President, I yield the floor, and I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, what is the pending situation in the Senate?

The PRESIDING OFFICER. The Senate is conducting morning business until 11:30 a.m., at which time there will be 2 hours of debate on the veto message to accompany H.R. 2631.

Mr. BYRD. Do I have any time under a previous order?

The PRESIDING OFFICER. The Senator from West Virginia had 20 minutes reserved. Since we only have 10 minutes left in morning business, the Senator would be recognized for 10 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be recognized for the 20 minutes.

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

Mr. GRAMM. Would the distinguished Senator yield?

Mr. BYRD. Yes, I will be happy to.

Mr. GRAMM. Would the distinguished Senator amend his unanimous consent request to include that I might have 5 minutes at the conclusion of his remarks?

Mr. BYRD. Mr. President, parliamentary inquiry. I believe that under the order that was entered into with respect to the line-item veto debate, I had 5 minutes, did I not?

The PRESIDING OFFICER. The Senator from West Virginia will control 30 minutes.

Mr. BYRD. In that debate?

The PRESIDING OFFICER. In that debate.

Mr. BYRD. Mr. President, I ask unanimous consent that I may control 20 minutes in that debate and have 10 minutes now for other purposes.

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

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order. I yield—how much time does the Senator wish?

Mr. GRAMM. Mr. President, I think 5 minutes would be sufficient.

Mr. BYRD. I yield 5 minutes.

Mr. GRAMM. I will listen to the distinguished Senator from West Virginia. At the conclusion of his speech—would he like me to go ahead and speak?

Mr. BYRD. I prefer that the Senator would go ahead first, if he will.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

THE HIGHWAY BILL

Mr. GRAMM. Mr. President, over one year ago the distinguished Senator from West Virginia and I got together to talk about a real problem in America related to highway funding. It is a problem of priorities and it is a problem of basic honesty in Government. The problem of priorities is that we have a crumbling transportation infrastructure in America.

My State has 31,000 miles of highways that are substandard. We built our farm-to-market system in the 1930s, and those roads had a life of about 30 years. That life basically ended in 1960, yet we are still using those roads today. Our newest highways in Texas, our Interstate System, were built in the 1950s and 1960s, and it is approaching the end of its life. This is not just a problem in Texas; it is a problem all over America. That is the priority problem that Senator BYRD and I are concerned about.

The fairness problem, the honesty problem, is that when Americans all over the country go to the filling station and stick that nozzle in the tank of their car or truck, and pump gas, they read right on the sign on the gas pump, that about a third of the cost of a gallon of gasoline is taxes, but the tax goes to build highways. The problem that Senator BYRD and I started working on a year ago, was that that statement is not true. In fact, since the late 1980s, we have been collecting money in gasoline taxes and spending the money on other things. Then starting in 1993, the diversion got as big as about 30 cents on the dollar.

Senator BYRD and I worked together last year on the tax bill where I offered an amendment in committee to guarantee that every penny of the gasoline tax went into the highway trust fund. We offered a sense-of-the-Senate resolution last year on the budget saying that it is the sense of the Senate that the money ought to go into the trust fund and it should be spent on highways. Eighty-three Members of the Senate voted for that amendment, and it is now the law of the land that all gasoline taxes go into the trust fund.

What Senator BYRD and I have been working to do is guarantee that the money is spent on highways. We are in the process now of looking at the highway bill coming up perhaps as soon as tomorrow. Senator BYRD and I have

been pushing to deal with the highway bill since this session started, so we rejoice at that, and we want to thank the majority leader for moving ahead on this issue before current highway funds expire on May 1.

Our position in principle is simple, straightforward, and is not going to change. And that is, we are not asking that the money that has been diverted out of the trust fund in the past be given back to us. While we have every right to ask for that, we are not asking for it. We are not even asking that interest on the trust fund be spent, though it should be. We are asking for something much less demanding. If the American people had a vote on this, our amendment would receive an overwhelming majority.

All we are saying is, from this day forward, the amount of new money coming into the trust fund ought to be spent on highways. Not that it be promised to be spent, not that there be obligations that it be spent in the sweet by-and-by, some time between now and the second coming, but that it actually be spent where the dollars actually go to the States and where the States actually pour the concrete and lay the asphalt. That is our position, and we are in the process now of trying to work out an agreement. That is how the democratic process works.

But today we want to thank the 53 cosponsors we have. We would like to have more. If Members have not signed on, we could be on this bill tomorrow and you have one more opportunity to have your name on this list. When you get to the Pearly Gates, Saint Peter will look down at this bill and see your name on it as a cosponsor if you sign on today. As of tomorrow, it will be too late.

I think if the Lord struck Ananias dead, in the Book of Acts, for claiming he was selling his worldly goods and giving them to the church—not only struck him dead but also struck Sapphira, his wife, dead, too—then maybe there are Members who will want their names on this list. We are going to tell the American people the truth, that if they pay gasoline taxes, that those gasoline taxes are going to be used for the purpose of building highways, and only to build highways.

So we are grateful for the 53 cosponsors we have, but we would like to have more. We have one more day. We hope there will be an agreement. But if there is not an agreement, we are going to be fighting for this principle. I believe we are going to be fighting successfully. The principle is, when you tell people the money is going into the trust fund to be spent on highways, do not spend it on anything else; spend it on highways. It is a simple principle and one we think people understand. The most important principles are simple principles.

So I thank Senator BYRD for his leadership. I thank him for giving me this opportunity to speak before he did. Thank you.

Mr. BYRD. Mr. President, I thank my friend from Texas.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia, of the original 20-minute grant, has 15 minutes remaining.

Mr. BYRD. I had 20 minutes originally out of the order that was previously entered.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. But I also asked that 10 minutes I will have on the veto override be included. And so that will be 10 minutes off my time in that.

The PRESIDING OFFICER. The Senator has up to 25 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, let me echo the sentiments that have been expressed by my friend from Texas. We want to see this 4.3-cent gas tax that the American people are paying every time they drive up to the pump—they pay 4.3 cents, which, added to the previous taxes, amounts to 18.3 cents on the gallon.

Now, of course, some of that goes for mass transit, but of the 4.3 cents, 3.45 cents on each gallon goes to the highway trust fund for highways, and .85 cents goes to the trust fund for mass transit, am I correct on that? My colleague nods in the affirmative.

Now, Mr. President, I have been on this floor each day urging that the leadership take up the highway bill. I compliment the majority leader on his indications that he intends to take up the highway bill, perhaps as early as tomorrow. That would still be his judgment to make. I also compliment the distinguished majority leader for having some of the principals in his office this morning to discuss this matter so that, hopefully, we can arrive at some conclusions and agreements which will pave the way for expeditious action on the floor in connection with the highway bill when it is taken up. The majority leader did a worthwhile service when he did that.

The majority leader also stressed that this was nonpartisan, and it is. This is not a Republican bill. It is not a Democratic bill.

So for the first time, this morning we sat down to discuss this matter and we had the chairman of the Environment and Public Works Committee, Mr. CHAFEE, the chairman of the Budget Committee, Mr. DOMENICI, the ranking member of the Environment and Public Works Committee, Mr. BAUCUS, we had Senators GRAMM, D'AMATO, WARNER, and myself. We had these Senators together in the room.

Now, Mr. President, I have been reading almost daily—and even this morning before I went to that meeting—that there is a deal. There is no deal. I have been reading little headlines and statements in various publications to the effect that a deal is near. Well, we don't know about that. This is the first time that I have sat down with the principals to discuss this matter. I have talked about it with my friend from Texas, Mr. GRAMM, and with the other two cosponsors of the amendment, Mr. BAUCUS and Mr. WARNER, but there is no deal, not yet. We all hope that we will reach a point where we can hold each other's hand and say we, as principals in this effort, have agreed to thus and so, and then we will come to the floor and see where we go from there.

I should state at the very beginning, again, that the Byrd-Gramm-Baucus-Warner amendment provides for every State in the United States to have an increase in their highway contract authority—every State, am I not correct on that?

Mr. GRAMM. Yes.

Mr. BYRD. So as far as our amendment is concerned, all States benefit—not just West Virginia, not just Texas, not just Montana, not just Virginia—but that will be discussed at another point. I just want to stress that again.

Mr. GRAMM. Will the Senator yield?

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

Mr. GRAMM. Not only does our amendment provide that every State would have an increase, but the amount is roughly 25 percent. By requiring the Government to live up to the commitment it makes when it collects the tax, to spend the appropriate share on highways, what our amendment would do in essence is guarantee that every State in the Union relative to the bill as it now is written would get approximately 25 percent more.

Mr. BYRD. Exactly.

Mr. GRAMM. That is the difference it makes if you don't divert the gasoline tax to other uses; but you, instead, spend it for the purpose that it is collected.

Mr. BYRD. Absolutely.

Mr. GRAMM. I thank the Senator.

Mr. BYRD. I thank the distinguished Senator.

Until we brought out our amendment there was no other game in town, no game in town, for increasing highway spending in the States over what was in the reported bill. I had various Senators come to me and say, ''We need more money.'' I'm not the chairman of any committee at this point, but I said why not spend this money that the American people are putting into the highway trust fund? So I came forward with the amendment to do that, together with Senators GRAMM, BAUCUS, and WARNER.

Each time citizens go to the gas tank, as gasoline comes out of that nozzle and goes into the tank, the American people see a little cylinder that turns round and round. They should also, in their mind's eye, not only see the gasoline coming out of that nozzle into their tank, they should also see the money which they are paying as an additional tax on gasoline go into that trust fund. As they watch that cylinder, let them think in those terms—there is money going into that trust fund, and they have been told,

there are some who don't like to admit this, but they have been told that this money will be spent on highways. Now, that can be discussed because there was a period when they were not told about a particular portion of that money, the 4.3 cents, there was a brief period when that was not going into the trust fund for highways.

Because of the action by the distinguished Senator from Texas, Mr. GRAMM, and the Finance Committee, that money, the 4.3 cent tax, is not going into the highway trust fund but it is just sitting there. We are saying in our amendment, let's spend it, because the American people think that is what they are getting when they go to the gas tank. Don't let anybody tell you they don't think that.

I was in this Congress in 1956—I was in Congress before that—but in 1956 we created a highway trust fund. That was during the Eisenhower administration. It was during his administration that his great and good idea concerning an interstate highway system came into being. In order to fund that highway system, Congress created a trust fund. The people were told that the moneys that they were putting into that trust fund in 1956 would go for highways, and they have been under that impression for 42 years, except for a couple of years, perhaps, beginning in 1993 or some such.

Mr. President, the people ought to have faith in their Government and that is what this amendment is all about, a faith-in-Government amendment. Build highways. And the Department of Transportation tells us that only 39 percent of the highway systems throughout this great country stretching from the Atlantic to the western waters and from the border of Canada to the Gulf of Mexico can be considered in good condition.

The highways are rapidly deteriorating. So are the bridges. We have over 580,000 bridges and 180,000 of them are either structurally deficient or functionally obsolete. The American people want to see their highways and their bridges built back up. We talk a lot about child care. We see people spending their time in the long lines because of congestion. They ought to be home taking care of the children who have just come in from school. They have to have good highways in order to do that. It took me an hour and 15 minutes to get from my house, 10 miles away, to my office yesterday morning. What are we talking about? What are we kidding the people about? That is our purpose.

Now, I hope, as do my colleagues, that we can reach an agreement among the principals. I am encouraged by this morning's meeting, very much encouraged, by the attitudes and presentations of all who were there. I want to express my compliments and my thanks, again, to the majority leader and to the chairmen of the committees who were there, Mr. DOMENICI, Mr. CHAFEE, and to the ranking members who were there. Everyone participated.

Mr. President, I hope we will be able to continue these discussions. The majority leader is going to ask us to come back tomorrow, and in the meantime we will be talking. But there is no deal, and I hope people will debunk some of such wishful thinking from their minds. We have yet to see where we are going to go and how we are going to get there. We are making progress but we are not there yet.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes and 50 seconds remaining.

Mr. BYRD. Mr. President, I see Mr. WARNER has come on the floor. Would he like any time at this point? Our friend, Mr. GRAMM, and I have been discussing this highway bill. I think the Senator who has just walked on the floor would be pleased with what we said.

Mr. WARNER. I was not able to be here when our distinguished colleague from West Virginia spoke, but I am sure the Senator got the assurance of our colleagues to work this problem out, together with the Republican leader, and I am sure, shortly, the Democrat leader, will likewise join. I think it is in the interests of the Senate that this legislation move. That was very definitely Senator LOTT's principal motivation to try and assemble this meeting today. We would not have reached this meeting today had it not been for the leadership shown by the distinguished Senator from West Virginia and the senior Senator from Texas.

Here we go. Let's hope for the best.

Mr. BYRD. I thank my friend from Virginia, Mr. WARNER, who has been a participant in this matter from the beginning. I am sure he will agree that until he and Senator GRAMM and Senator BAUCUS and I came up with this amendment, the Byrd-Gramm-Baucus-Warner amendment, until we came up with that amendment, there wasn't any idea as to how we were going to get more money above the reported bill for the States. It is only because our amendment was prepared and 53 cosponsors are on it today, that any of the States have real prospects for getting more money for highways.

Is that an accurate statement?

Mr. WARNER. Mr. President, I say to my distinguished colleague, you will recall Senator BAUCUS and I had an amendment early on in this procedure. It failed, by my recollection, by one single vote. I believe the distinguished Senator from West Virginia joined in our amendment urging the Senate for a greater allocation of spending.

I do believe, however, there is considerable momentum not only within the 53 Senators who have joined in this Byrd amendment but other Senators who are hearing from their respective highway constituencies, and that is not just the road builders, that is the citizens that use the highways.

As the distinguished Senator from West Virginia pointed out in our meeting with the majority leader this morning, there is one-third growth in the use of highway structure, which in and of itself is perhaps only one-third to 40 percent in top shape. So it is essential for America that this is truly a bipartisan effort, for America to move ahead to improve its infrastructure transportation.

I thank the distinguished Senator.

Mr. BYRD. Mr. President, I just close by thanking the people out in the country who have shown great interest in this amendment, who have discussed it, Senators in their home States with the people, and people who are in the construction business, people who are in the highway construction business, people who are in the cement-asphalt business, other related industries that see the imperativeness of having this highway bill called up, acted on, in time, that it can be acted on in the House, in time, that both Houses can go to conference, in time, that we hopefully can get a signature on the bill by May 1. I thank those groups, as well.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes and 35 seconds remaining.

Mr. BYRD. Mr. President, I will yield back that time. Before I do, I thank all Senators for listening. I thank the Chair.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CANCELLATION DISAPPROVAL ACT—VETO

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the veto message to accompany H.R. 2631.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives, as follows:

> The House of Representatives having proceeded to reconsider the bill (H.R. 2631) entitled ''An Act disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45'', returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was
>
> *Resolved,* That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The PRESIDING OFFICER laid before the Senate a message from the President of the United States to the House of Representatives, as follows:

To the House of Representatives:

I am returning herewith without my approval H.R. 2631, ''An Act disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45.''

Under the authority of the Line Item Veto Act, on October 6, 1997, I canceled 38 military construction projects to

save the taxpayers $287 million. The bill would restore all of the 38 projects.

The projects in this bill would not substantially improve the quality of life of military service members and their families, and most of them would not likely use funds for construction in FY 1998. While the bill does restore funding for projects that were canceled based on outdated information provided by the Department of Defense, I do not endorse restoration of all 38 projects.

The Administration remains committed to working with the Congress to restore funding for those projects that were canceled as a result of data provided by the Department of Defense that was out of date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 13, 1997.*

The Senate proceeded to consider the bill (H.R. 2631) disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45, returned to the House by the President on November 13, 1997, with his objections, and passed by the House of Representatives, on reconsideration, on February 5, 1998.

The PRESIDING OFFICER. Under the previous order, there will be 17 hours of debate on the message, to be equally divided between the chairman and ranking minority member of the committee, with 1 additional hour for debate to be under the control of the Senator from Arizona, Mr. MCCAIN.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, we have a logistics problem here, myself being the cause of most of it. This is the first time that the U.S. Senate has considered a veto message from the President under the line-item veto law. This has already been taken up in the House. There were 38 projects in the military construction appropriations bill that were lined out by the President, and those vetoes were overridden in the House by a strong bipartisan vote of 347–69.

The line-item veto provides a mechanism that allows the President to veto items that he doesn't think necessary or which do not meet his approval. We have been asked many times, ''Do you still support it?'' after we have worked so hard with the ranking member, Senator MURRAY of Washington, and then it came back with 38 projects lined out—and probably with a very, very weak argument.

I urge my colleagues to vote for this override of the President's veto of H.R. 2631, a bill disapproving the President's line-item vetoes for the fiscal year 1998 military construction bill. I will go back and say that this money should be in the pipeline. Here we are halfway through the year, or better, and if you come from a northern tier of States, especially Montana, we only have two seasons, winter and the construction season. So these projects need to be on line. I will have more to say about this particular issue. I have to take the Presiding Officer's chair this morning between 12 and 1. First, I would like to say that this is a pretty nonpartisan piece of legislation, the appropriations on military construction, and even this project of the Presidential veto override.

The cooperation between the ranking member of our committee and the work that we do on this for the good of families, and also keeping our military infrastructure in pace with the times, sometimes takes lots of work, and decisions have to be made, sometimes tough decisions, especially if we have less money to work with—and we are going to have less money to work with in the next year—it is going to be even more difficult.

I want to state publicly what a pleasure it was to work with Senator MURRAY and her staff in putting together what we think are the priorities that should be taken care of to ensure that the infrastructure, especially military construction and support of our fighting men and women, whenever it is needed. Senator MURRAY has an opening statement, and I will have more to say on this later on.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that Jay Bynum, a Capitol Hill fellow serving on the staff of Senator JOHN MCCAIN, be granted privileges of the floor during the debate on the veto message to accompany H.R. 2631.

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

Mr. BURNS. I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I thank my colleague, Senator BURNS, the chairman of the committee, who has done an outstanding job in leading our way through this bill.

Mr. President, the Senate today once again is addressing the line-item veto exercised by the President of 38 projects that were included in the fy 98 military construction appropriations bill.

Last fall, the Congress and the American people were informed of a list of 38 projects included in the military construction appropriations bill that fell victim to the President's new line-item veto authority.

The administration cited three criteria that were used in determining whether the President should veto certain projects.

The first criteria is that the project was not included in the President's fy 98 budget request. However, in creating our fy 98 military construction bill, it should be noted that careful thought went into considering the President's requests, the priorities included in the Department of Defense's five-year plan, and due consideration for the Guard and Reserve projects that are too often woefully overlooked by the Department in fashioning its request.

We balanced these interests with the interests of our constituents and the American people to come up with a comprehensive, reasoned and well-rounded list of projects that will benefit our country.

This balancing of interests is consistent with committee practice—particularly with regard to Guard and Reserve matters. The budget is not perfect, and Congress must act affirmatively to make the most responsible decisions.

The second criteria demanded by the White House is that the project was not a quality of life project, such as housing, dining, clinics, child care or similar family-oriented facilities.

This has always been my number one priority, and in fact, the subcommittee added many such quality of life projects on its own initiative.

I know the President shares my concern for quality-of-life initiatives, but there needs to be some give and take on both our parts to ensure that not only are we providing our men and women in uniforms with a high quality of life, but we are doing this without sacrificing our readiness capabilities.

The third and final criteria offered by the White House, which we were told had to be met by all projects selected, is that the project must be executable in fiscal year 1998.

Inexplicably, the administration claimed none of the projects were executable. However, this was not the case at all. In fact, all the projects included in the FY 98 Senate-passed bill were in fact executable.

By a standard set by the subcommittee itself along with recommendations of the Armed Services Committee, every project was deemed executable. Furthermore, the executable status of these projects was confirmed in Department of Defense reports.

Mr. President, the chairman and ranking member of the Appropriations Committee, Senators STEVENS and BYRD, rejected the vetoed items as an inappropriate overreaching of authority on the part of the administration.

I am gratified that the committee has stood up for the subcommittee's work. It is a substantially better product than the budget submitted by the President, and that is our job. The administration has no exclusive corner on wisdom in making its selection of projects.

Mr. President, the Senate passed a resolution of disapproval, rejecting the President's veto of the projects in the military construction bill last October 30, 1997.

Under the terms of the Line-Item Veto Act, the President then exercised his veto power of this Senate resolution. It is that final Presidential veto that we are attempting to override today, and thereby reinstate the viability of the projects originally subjected to his line-item veto pen.

While it is clear that the entire question as to the constitutionality of the line-item veto law is being considered by the Supreme Court and will be ruled on in the next few months, that nevertheless should have no impact on Senators' votes on the matter before us.

I suggest that Senators need not address their position on the constitutionality or wisdom of the line-item veto legislation itself to vote for this resolution. It was supported by 69 Senators last October, and I would hope it has at least that much support this afternoon when we vote on it again.

A vote for this measure is a vote against the administration's blatant exercise of power that was sloppy and rushed and resulted in many errors.

The subcommittee and full committee, as well as membership of both houses, labored over a period of several months to scrub the budget and add only those projects that were deemed worthy.

I hope that this measure will receive the strong support of the full Senate as it has in the past, and that this will be the end of this matter.

I yield the floor.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I ask unanimous consent to be allowed to proceed as in morning business.

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

MILITARY ACTION AGAINST IRAQ AVERTED

Mr. LOTT. Mr. President, it now appears that U.S. military action against Iraq will not be undertaken in the near future. All Americans, and I'm sure people all around the world, are pleased when military force can be avoided, when our men and women in uniform are not put in harm's way, and when innocent civilian lives are not put at risk.

But we must be clear: We cannot afford peace at any price—peace that could lead to a much more difficult conflict later on down the road.

It is always possible to get a deal if you give enough away. The central issue with regard to Iraq is whether an agreement furthers American interests.

The deal negotiated by U.N. Secretary General Kofi Annan with Iraq does not adequately address the threat posed by Saddam Hussein. After years of denying that Saddam Hussein had any right to determine the scope of inspections or the makeup of inspection teams, this agreement codifies his ability to do both. It is, to quote one diplomat, ''the beginning of the unraveling of the inspection process.'' This accord sets up a new inspection regime under the control of the Secretary General of the so-called ''eight palace residences.'' He appoints ''senior diplomats'' to the group. He names the head of the group.

And it is not clear to me, although others I am sure are getting clarification on this, who that person would be. Would it be one of the UNSCOM inspectors? Would it be some diplomat?

The group will have its own rules. And we don't know exactly what they are because they have not yet been developed. I know questions are being asked about this by Ambassador Richardson. I know he is trying to get clarifications. I also know that he is concerned about what he is learning.

The Secretary General is calling the shots. The United States is not. Secretary Albright earlier this week objected to my characterization of this episode as ''contracting out U.S. foreign policy.'' With all due respect, I stand by that comment, because it appears that in fact is what has happened.

Because of the central role of the U.N. Secretary General, it is important to understand his approach and his conclusions.

Before and after his mission to Baghdad, Secretary General Annan stopped in Paris. He briefed the French government before he met personally, as I understand it, with any senior U.S. official. I find if of great concern that the French are, frankly, accorded a privilege denied to the United States.

The Secretary General has now briefed the Security Council and the press on his trip.

Let's look at what he has said. ''Saddam can be trusted.'' ''I think I can do business with him.'' ''I think he was serious.'' These are all direct quotes. The Secretary General told reporters he spent the weekend building a ''human relationship'' with Saddam Hussein.

The Secretary General thinks that he can trust the man who has invaded his neighbors, who has used chemical weapons ten times, and who tried to assassinate former President George Bush. This is folly. I cannot understand why the Clinton Administration would place trust in someone devoted to building a ''human relationship'' with a mass murdered.

According to the Washington Post, Secretary General Annan described UNSCOM inspectors ''as 'cowboys' who had thrown their weight around and behaved irresponsibly.'' He also ''passed along without comment on Iraqi complaint—denied by [UNSCOM] as a paranoid delusion—that some of the most aggressive U.N. inspectors were seeking to hunt down Iraqi President Saddam Hussein so he could be assassinated . . .''

The Secretary General of the U.N. starts describing the inspectors as ''cowboys,'' when, as a matter of fact, I had the impression, and it was universally agreed, that they had been very professional. These are people with expertise on biological and chemical weapons. These are people that have come from the international atomic agencies. They know what they are doing. Mr. Butler, the Brit, was in charge of the inspectors, has been very diligent, and very circumspect. As a matter of fact, I understand that one of the most aggressive and most effective inspectors is a Russian. Why in the world would the Secretary General use this kind of wording? Why would he come up with, or even pass along, this ridiculous suggestion that they were being used to hunt down Saddam Hussein?

These comments are outrageous. They reflect someone bent on appeasement—not someone determined to make the United Nations inspection regime work effectively.

The Secretary General has greatly harmed the credibility of the United Nations by cutting what appears to be a special deal with the most flagrant violator of United Nations resolutions, probably in history. Instead of standing on principle, he sat with the unprincipled—and gave him what he wanted.

The United States has not yet formally announced its support for the deal negotiated by Secretary General Annan. It is not too late to reject a deal if it leaves Saddam Hussein rejoicing and leaves UNSCOM out in the cold.

I yield the floor, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I wanted to make some remarks about the situation in Iraq as well.

Is this a time that has been set aside within the MilCon debate, or should I ask consent?

The PRESIDING OFFICER. The Chair would entertain a request from the Senator that she might proceed as if in morning business.

Mrs. HUTCHISON. Thank you, Mr. President. I ask unanimous consent to proceed as if in morning business.

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

THE SITUATION IN IRAQ

Mrs. HUTCHISON. Mr. President, I appreciate very much the leadership that Senator LOTT has provided in the ongoing discussions that we have had in Congress on the situation with Iraq.

I was very pleased that in the 2 weeks previous to this, when the President came to consult with Congress, that Senator LOTT stated that we needed a plan, that it was important that the President have, indeed, in an aftermath certainly the acknowledgment that there might be a retaliation, and asking the President to tell us what the response would be. I think this set in motion, on the part of the President and the President's advisers really the awareness and the reality of the situation—that it is not an immediate situation that is going to be set aside and not visited again. In fact, I think all the indicators point to the fact that we are going to revisit this again—that perhaps we have a reprieve, that we

have a window of opportunity. And this window of opportunity should be taken to lay out a long-term strategy—a long-term strategy that would, once and for all, make clear what our policy is in dealing with Saddam Hussein.

For whatever else you say about Saddam Hussein, his objectives are clear. He has been very clear in his actions and in his words that he intends to make weapons of mass destruction, that he intends to abuse his people to be able to keep them, that he does not intend to be part of the community of nations. And I think it is time that America be just as clear with Saddam Hussein as he has been with us and with the world.

It crystallized I think for the American people a higher-stake universe—not the rabble rousing by the people who were protesting the war. They would protest the war, no matter what. The people who would protest the war for the integrity and the security of the United States are not the mainstream of America. But who was the mainstream of America? It is that veteran, who spoke with a cracked voice, who said, ''I fought in a war. My son fought in a war.'' And he asked the question that the American people and the Congress ask. And that is: What are you going to do? What is the plan? If you are going to put our troops in harm's way, are we going to have the guts to stick with it when the going gets tough? That was his question. He was so sincere. He captured the heart of America in that moment. And he captured the essence of what Congress has asked the President to do; that is, to submit a plan. If our troops are going into harm's way, if we are going to have an altercation with another country, let's be specific about what the mission is.

The time has come to stop status quo with Saddam Hussein. The majority leader just mentioned that Saddam Hussein has quite a record. He plotted the assassination of our former President Bush. He used chemical weapons on his own people. He used chemical weapons on the Iranian people. He went into Kuwait, and tried to take over another country. This is not a man that we can deal with very easily. And business as usual has not worked for the last decade with Saddam Hussein.

So I believe that the time has come for Congress and the President to work together to address this issue of Saddam Hussein. I hope the President will continue to consult with Congress, because I think in the last 2 weeks there has been a good understanding of where Congress is and where the American people are. Now is the time to put forth a plan. A group of our former Secretaries of State and Secretaries of Defense have made some suggestions. This is not to say that this is the only thing we could do. But certainly having a strategy is something that America has been able to do in the past, and should be able to do today.

I think it is important that we look for another Iraqi Government that we could support—one that wants to be part of the community of nations. We could look at lifting sanctions in liberated areas of Iraq and communicate directly with the Iraqi people. Let them know the dangers of the chemical weapons that are being housed in their country and tell them there is another way. We want to help the Iraqi people. We want to give them the food and medicine for their children that we would like for them to have that every parent in the world wants for his or her children.

We should target relief supplies to those Iraqi people who are in need. We need to delegitimize Saddam Hussein. And we need to be ready with enough troop force to make the threat and live up to it. That, if Saddam Hussein does not live up to this potential agreement that is laid before the Security Council today, we will be ready to act with force swiftly and go for what will be a destabilization of Saddam Hussein; that is, the military regime.

That brings up another question. Are we ready to lead the forces we need for that kind of strength in the area of the Persian Gulf? Are we ready? That brings up the issue of what we are doing in other parts of the world. Is that bringing our forces down to the extent that we are not going to be able to do what we need in the Persian Gulf where everyone I think would agree we have a security interest? Right now we have some pretty alarming statistics. Last year the military had its worst recruiting year since 1979. The Army failed to meet its objectives to recruit infantry soldiers—the single most important specialty in the Army. More than 350 Air Force pilots turned down the $60,000 bonuses they would have received to reapply for the Air Force for 5 more years. That was a 29 percent acceptance rate. Mr. President, 59 percent of the pilots offered that bonus accepted last year and 81 percent in 1995. This is an alarming trend. This is something that we must address as we look at the issues of the use of our force and where they are.

I come back to the need for a policy of when we are going to send American troops into harm's way. I think we must be very careful, because they are stretched so thin, that they are not going to be able to establish in the Persian Gulf a major presence in addition to our responsibilities in Korea and in Europe, and then with responsibilities that we have taken on for the United Nations in places like Haiti and Somalia. We have to have a policy. I would ask this administration to look very clearly at drawing down our readiness at the same time we are asking our troops to do more.

So, these issues are before us. I think the administration should step back and use the window of opportunity to have a clear policy in Iraq. As we go into the discussion of Bosnia, I hope the President will also look at the fact that we have 500,000 fewer soldiers today than we did in Desert Storm, and that we are having a tough time keeping our good people in the military. Let's have a policy that will use our military when there is a U.S. security interest, but be very careful about dissipating our resources in places where we do not. That is causing us to lose many of our best people in the military.

The young men and women who sign up to protect our freedom deserve the support of the U.S. Congress and the President—the support, the training, the quality of life, the equipment to do their job—because their job is protecting our freedom, and there can be nothing as important.

I ask the administration to address these issues as we are looking at Iraq, as we are looking at Bosnia, as we are looking at our responsibilities in a global sense. Let's start acting like the superpower that we are and target our defense dollars for our readiness and our national security. Let's have policies where, when the United States speaks, everyone knows that we will be a reliable ally and a formidable enemy.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. We are on the veto message of H.R. 2631.

Mr. SHELBY. Mr. President, I ask unanimous consent that I may proceed in morning business for 10 minutes.

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

Mr. SHELBY. I thank the Chair.

(The remarks of Mr. SHELBY pertaining to the introduction of S. 1675 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

CANCELLATION DISAPPROVAL ACT—VETO

The Senate continued with the consideration of the veto message.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield to no Senator, with the possible exception of ROBERT C. BYRD from the great State of West Virginia, in my contempt for and disdain for the line-item veto bill that we passed in the 104th Congress and which two district courts have held to be unconstitutional. But I intend to vote to sustain the President's veto.

I stood on this floor day after day, year after year, saying that the line-item veto was a lousy idea, an unconstitutional idea. When I think of the abuse that I and Senator BYRD and the people who stood fast on the floor of the Senate against the line-item veto—when I think of the abuse we took, the political abuse we took for resisting what was a palpable political idea, that still rankles me. Like so many ideas that have been floated through this body in the past 23 years that I have

been here, they have immense popularity but they are lousy ideas, and the line-item veto stands out about as high as any next to the constitutional amendments related to prayer in school, flag burning and term limits and all those others things that people love to bring up here so they can run on them because they are popular.

A little history. When Ronald Reagan ran for President in 1980 he ran on the single proposition that he would balance the budget, and the people of this country were becoming, at a time when the national debt was $1 trillion—the people were not only becoming apprehensive about the ability of Congress to control its habits, they were becoming downright frightened. So the soothing voice and the soothing promise of Ronald Reagan played very well with them and he was elected in a landslide. He carried 44 States. He promised that he would balance the budget in 4 years and maybe in 3.

I believed him. I thought he really was committed to a balanced budget. Frankly, not to denigrate the President, I think he really was committed to a balanced budget. I just think, somehow or other, his advisers gave him bad advice and convinced him that, somehow or other, the budget would take care of itself just because he was President. So he came with one of the strangest economic programs in the history of this country. The Nobel laureate at MIT, whose name I forget, who won a Nobel prize for economics, said it was the most profligate, irresponsible economic policy, not in the history of America, but in the history of the world.

And what was it? We would balance the budget by cutting taxes. That is a new one, isn't it? You balance the budget by cutting taxes. And, to his credit, he offered a lot of spending cuts. Some of them were foolish. I remember making ketchup a vegetable in the school lunchrooms. I didn't think that was a very appropriate way to balance the budget. I didn't think considering Hamburger Helper to be an entree was a very good way to balance the budget. But I voted against his tax cuts. There were 11 Senators, 11 Senators who voted against the tax cuts which were, as usual, mostly for the rich. But on the spending cuts I voted ''Aye.'' Eleven Senators voted against the tax cuts, and I said—if you want to read a beautiful speech, write my office and I'll send you a copy of it—I said, ''If you pass this bill, you are going to create deficits big enough to choke a mule.'' I was wrong. They were big enough to choke an elephant.

But then when it came time to vote for the spending cuts, and there were a lot of programs that I liked that President Reagan was proposing to cut, some to eliminate, and I voted with him. And you know something? There were only three U.S. Senators who voted against the tax cuts and for the spending cuts.

The budget would have been balanced in 3 years if a majority of the Members of Congress had voted that way. Three Senators—Bill Bradley from New Jersey, FRITZ HOLLINGS from South Carolina and yours truly. I want that put on my epitaph.

As the deficits began to soar, first to $100 billion and then later to $200 billion, that was scary. That was scary, Mr. President, when we doubled the national debt of $1 trillion, which has taken us 200 years to accumulate, and all of a sudden the first 4 years of Ronald Reagan's administration we doubled it. We did not balance the budget, we doubled the national debt, and people were scared. That is when President Reagan said, ''What we need is a line-item veto. If you will just give me a line-item veto, I can balance the budget.''

Every thinking person knew at that time that you weren't going to balance the budget with a line-item veto.

I can remember when entitlements represented almost as much as the entire income to the Federal Government. I used to do a study every year on seven programs: defense, Social Security, Medicare, Medicaid, interest on the debt, Civil Service pensions and one other thing which eludes me. Seven things. When you added those seven things up, not counting any other discretionary spending, you used up virtually all of the income the Federal Government had. To suggest that a line-item veto could be used to bring this budget into balance in light of those kinds of statistics was absolutely inane, if not insane.

I can remember when I ran for reelection in 1986, the question was always—of course, first of all, I had to face prayer in school. But you know something, Mr. President, with my constituents, I was the only southern Senator who voted against a constitutional amendment for prayer in school. When I explained to my constituents why I voted against it, I got 62 percent of the vote. That sounds like a boast. I don't mean that. All I am saying is, when people hear common sense, they respond in a commonsensical way.

Not only was I having to defend myself against prayer in school, I was having to defend myself against the so-called line-item veto. Why do you not want the President to have the right to stop all those pork projects? It was like Gerald FORD said when he was first elected President. He learned early on the difference between those very meritorious projects out in his district in Michigan and all those poor projects in the rest of the country.

The point is, every analysis that was done of the Federal budget showed that if a line-item veto were used to the very maximum, it would have a minuscule effect on the deficit. It was nothing but a distraction, but a very politically popular one. A lot of us who stood up for the Constitution paid dearly. We were abused politically by admittedly unsophisticated people, well-meaning people, but people who really did not understand the Constitution, which says Congress shall pass a bill and present it to the President. It did not say for the President to pick and choose what he wants. It said he shall sign it or not sign it. If he does not sign it, he can veto it. Approve or not approve, those were his options.

The President has the right and the power—he has the bully pulpit. Anytime the appropriations committees are meeting in the U.S. Senate, the President can call over here and say, ''If you put this, this, this and this in that bill, I am going to veto it.'' I have seen Presidents do it a lot of times. Bill Clinton does it all the time.

Do you know what we do? We normally take it out because we do not want the bill vetoed. That is a Presidential prerogative. But John Adams, James Madison, people who drafted the Constitution, would be whirling in their graves if they knew this body passed such a piece of legislation as the line-item-veto bill.

Mr. President, I feel badly sometimes when I talk the way I am talking right now, because a lot of well-meaning Senators really believed in the line-item veto, I think. I don't mean to denigrate anybody who disagrees with me on this. It is just that I feel so strongly about the Constitution.

I have to say, the Congress is the worst place in the world for trivializing the Constitution. It is incredible the things that people come up with. There was even a resolution in 1976 in the House of Representatives saying it shall be unconstitutional for any President to run who hasn't got enough sense to get out of a hail of bullets. Not out of the rain, out of a hail of bullets.

Mr. President, 11,000 resolutions have been submitted in the Congress since this great Nation was founded—11,000—to change the Constitution. If you take the Bill of Rights out, to the eternal credit of both Congress and the American people, we have only tinkered with it 17 times. No thanks to Congress, in one way, because there have been plenty of efforts, 11,000 efforts, to amend the Constitution, the greatest organic law in the world.

So every time we get a chance to do something politically popular, it is always the Constitution that suffers, that magnificent document crafted by the greatest assemblage of minds under one roof in the history of the world. People around here treat it as though it is a rough draft.

I do not want to wait for the Supreme Court to declare the line-item veto unconstitutional, which they will surely do. I want the people who passed the line-item veto bill in the first place to repeal it. It is our solemn duty to undo one of the most miserable mistakes we have ever made.

I spoke to some of my good friends who supported that thing, and now they tell me they supported it because they believed there would be a new President in 1996—I must say a lot of people voted for the line-item veto because they thought Ronald Reagan

would have been elected forever for life. Nobody ever thought about William Jefferson Clinton being in the White House when the line-item veto took effect, and he likes it. He had it when he was Governor. I was Governor of Arkansas before he was and I liked it. I used it. I used to call those legislators up and say, ''You know that vo-tech school down there in your hometown. There is $250,000 in this budget. If you don't get down there and behave, there isn't going to be any vo-tech school in your hometown.'' If you want to straighten up a legislator's conduct, that is the way to do it.

As I say, I am not being cute about this, I am just simply saying I am going to vote to sustain the President's veto, because I want the line-item veto to be painful enough that a majority of the people in this body will be willing to undo a miserable mistake we made.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. 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. MCCAIN. Mr. President, as one who fought for 10 years to pass the line-item veto, I rise in opposition to H.R. 2631, which would restore $287 million for 38 military construction projects which were eliminated by the use of the line-item veto from the fiscal year 1998 Military Construction Appropriations Act. I urge my colleagues, a significant majority of whom supported enactment of the line-item veto authority, to vote against this egregious waste of taxpayers' dollars.

Mr. President, many arguments have been mentioned as a compelling reason to restore this funding. Sadly, most of these arguments seem to be thinly veiled attempts to provide a convenient rationale for Congress' self-serving pork barrel spending. Some of my colleagues have argued that the President's use of the line-item veto to eliminate those unrequested low-priority military construction projects was politically motivated. These arguments conveniently ignore the possible political motivations of the Members of Congress who added the projects.

Others defend various and sundry projects saying they meet the criteria established by Congress to provide a rudimentary method to evaluate group requests by Members of Congress for military construction add-ons. Others simply say that it is the prerogative of the Congress to add projects to the budget request. While true, Congress should not abuse its power over the purse strings by wasting money on special-interest projects in our home States or districts. Finally, some of my colleagues simply object to the line-item veto authority. Although I do not share their opinion, I respect it.

Today, I would like to point out that the exercise we are completing today was set up in the Line-Item Veto Act to ensure that Congress has the last word in determining how Federal funds are spent.

While I disagree with the expected outcome of the Senate's action on this veto override bill, I believe it supports the constitutionality of the line-item veto by demonstrating that the prerogatives of Congress to control the Government's purse strings are protected in the law.

Now, I understand that not long ago my friend from Arkansas spent time talking about how terrible the line-item veto is. I do not quite understand how, in this setting, that my colleague would be averse to the line-item veto since what we are seeing is exactly what the line-item veto was intended to do, and that is, if the President vetoes and the Congress does not believe that that veto is warranted or legitimate, Congress has the right to override the veto.

My friend, the Senator from West Virginia, kept talking about how terrible it would be if we enacted the line-item veto because then there would be this arrogance of power and blackmail exerted on Members of Congress.

Have we seen any manifestation of that, Mr. President? I have not. And if anyone has, I would like to hear about it. Maybe I have missed something.

The reality is, what we are seeing today is an affirmation—even though I regret what is probably the outcome—we are seeing an affirmation of the line-item veto. Because there will be times, I say to my colleagues, that the line-item veto will be exercised, and the President's line-item veto will not be overridden for various strong and compelling reasons.

This is a time where as much as I object to it—and I will elaborate shortly about my objections—the President's veto will be overridden. So the process works. So there has not been a huge transfer of power as so eloquently articulated by some of my colleagues, most of them on the other side of the aisle, when we passed the line-item veto. This has not destroyed the entire appropriations process as was predicted. In fact, the opposite has happened.

In my view, the President of the United States has exercised the line-item veto all too little—all too little. There are billions of dollars in these appropriations bills that he should have—that he should have—vetoed and did not. So to those of my colleagues who somehow use this particular exercise where we are about to override the President's veto as an argument against that line-item veto, I respectfully disagree with your assertion. This is an affirmation—an affirmation—that the Congress has indeed not abrogated its power nor consigned it to the executive branch. In fact, the opposite is happening.

I look forward, as I have for the last 10 years, to debating this particular aspect of the issue with my most respected and revered colleague, the Senator from West Virginia, Senator BYRD.

Most of the arguments in favor of this bill miss the point that wasting scarce defense dollars on pork barrel projects is a disservice to the men and women who serve our military and is potentially detrimental to our national security.

Mr. President, I want to repeat that. Most of the arguments in favor of this bill miss the central point of my remarks and the central point of this issue: Wasting scarce defense resources on pork barrel projects is a disservice to the men and women who serve in our military and is potentially detrimental to our national security.

The question is not whether these unrequested military construction projects can be defended as meeting the Senate's review criteria or as actions within the prerogatives of Congress. The question is whether we are directing scarce defense resources where they will do the greatest good for our country and for the men and women of our All Volunteer Force. I believe we are not.

Today, the United States has approximately 30,000 men and women deployed to the southwest Asia theater of operation, preparing to go into harm's way in Iraq if so ordered. There are 8,000 American troops deployed in support of peacekeeping operations in Bosnia and another 70,000 U.S. personnel deployed in support of other commitments worldwide. That is a total of 108,000 personnel of a 1.4 million men and women force, a force that is nearly half the size of our force a decade ago, deployed overseas in support of our Nation's interests.

Now, Mr. President, that is a lot of people gone for a long time under very difficult conditions. We have an All Volunteer Force. I promise you, I promise my colleagues, if we continue to waste scarce defense dollars on unwanted projects, unwanted weapons systems and unneeded programs that have nothing to do with defense, you will see a dramatic and continued erosion of the All Volunteer Force.

I will give you one example—one example—although I could give many. An Air Force pilot is obligated for 8 years of service after completion of that pilot's training. At the end of 8 years is the first time a pilot has the option of leaving or remaining in the U.S. Air Force. The year before last, 30 percent of those Air Force pilots who had the option of leaving the U.S. Air Force left. Last year, 60 percent—60 percent—of the most highly trained young men and women who are young Air Force pilots left the Air Force. What was the reason? There was primarily one reason that dwarfed all other reasons—too much time away from their homes and families; too much time away from their homes and families. Almost all of them are married. Almost all of them have children. And yet we are going to

spend—in this case we will override $287 million—$287 million. I will describe to this body what that $287 million would buy.

Never before has the U.S. military been more heavily committed overseas in time of peace, and not since before World War II has our standing force been this small. The increasing demands placed on our shrinking Armed Forces coincide with more than a decade of national defense budget cuts. In the last 10 years, the defense budget has been cut in half as a percentage of the gross domestic product and, in real spending terms, by over $120 billion. Yet, America's military personnel have performed admirably, bridging the gap between decreased funding and increased commitments with sheer dedication to duty and professionalism.

Mr. President, in 1998, the U.S. Air Force is one-half the size that it was in 1991—one-half. The U.S. Air Force is half the size and has four times the amount of commitments that they had during the cold war—four times. Some of these young people are meeting themselves coming and going as they go from one deployment to another.

By the way, one of the reasons why I am so skeptical about this latest agreement with Saddam Hussein is: We are going to keep our forces out there for an indefinite period of time? All these aircraft carriers, all these aircraft and people deployed for an indefinite period of time?

Mr. President, I will tell you, it is called the All Volunteer Force—the All Volunteer Force. We are having trouble right now recruiting them, and we are having a terrific problem retaining them. They are responsible for some multimillion dollar and sometimes even billion dollars worth of equipment.

The Clinton administration has consistently underfunded our Nation's defense requirements. Although the Republican Congress has increased funding overall for national defense, we failed to allocate those funds to meet the highest priority needs of our Armed Forces.

In fact, the tendency of Congress to waste billions of defense dollars on low-priority pork projects may be just as potentially harmful to our national security as the administration's neglect of those needs in its budget requests.

Last month—last month—the Chairman of the Joint Chiefs of Staff, General Shelton, sounded a warning about the state of readiness of our forces. He said:

> There is no question that more frequent deployments affect readiness. We are beginning to see anecdotal evidence of readiness issues in some units, particularly at the tactical level of operations.

To many of us, these words sound a lot like the cautious criticisms of top military leaders in the late 1970s, when our Army had been hollowed out after years of inadequate funding and inattention to training and operational readiness. It took nearly a decade to restore force readiness and the morale of our troops.

Let us look at the warning signs of declining readiness.

Recruitment and retention shortfalls are beginning to significantly impact our Armed Forces. The Army is not meeting requirements for infantry units which are already undermanned; pilot shortages are affecting all of the services.

Large force training exercises have been reduced due to funding shortfalls.

Last year, the military had to come hat in hand to Congress to ask for an additional half a billion to fund flying hour accounts to provide pilots and aircrews with required training. By the way, I have been told by the administration that they will be coming over for a supplemental appropriations bill to pay for the latest exercise in the Persian Gulf. I hope that is the case. It has not always been the case in the past.

Aircraft maintenance backlogs are up. At last count, nearly $900 million was required to clear those backlogs. The Navy alone had 172 aircraft awaiting critical depot level maintenance in 1997.

It has been reported that, of 200 tactical aircraft on the front line in the Arabian Gulf region, only 160 aircraft are mission capable. Let me emphasize, this is the front line force, the very force sent to the Gulf to prepare for combat.

The aircraft at home are in worse shape. In many of today's Navy squadrons, commanders are forced to remove hydraulic actuators, flight control surfaces and laser targeting pods from shore-based squadrons in order to keep their deployed aircraft mission capable.

Over the past three years, Congress has added more than $20 billion to the defense budget requests submitted by the Clinton Administration. So why do we still have these serious and growing deficiencies in readiness? Because the practice of Congress has tragically been to misuse billions of these scarce defense dollars to add unrequested programs and building projects to the defense budget.

Let's look at military construction, which is just a small part of the defense budget.

Since 1990, in 1998 dollars, the Congress has spent $8.2 billion on unrequested military construction projects, including new National Guard armories and reserve centers in every state. Not a single one of these projects was requested. Many were not in the long-range military construction plan. Some projects added by Congress were actually at facilities that were to be closed. We paid to build facilities at bases that were scheduled to be closed.

One need only look at the 129 unrequested military construction projects at a cost of nearly $1 billion in the FY 1998 Military Construction Appropriations bill to realize the pork habit has become an addition.

I have no doubt that many of the projects may be needed, but I do question whether any one of these low priority projects are more necessary than the basic welfare and readiness of our armed forces. If this veto is over-ridden and we have to pay the $287 million price tag for this bill, we will be sending an embarrassing message to the American taxpayer, and more importantly, to the men and women of our armed forces.

The message we will be sending to aircraft mechanics is that we know they can't keep their aircraft mission capable because there are not enough parts. But Congress thought it more important that Fort Irwin, California get a new $8.5 million car wash and Oakdale, Pennsylvania get a new $25 million replacement reserve center.

The message we will send to our pilots who are ready to go into harm's way is that, even though they have lost significant training opportunities due to budget cuts, Congress thinks it more important that there's a new $9.5 million facility at the Asian-Pacific Center for Security Studies in Hawaii.

Picture a young enlisted member and his family that must use food stamps to pay the grocer. What's the message to his family as they struggle to make ends meet? We found a way to spend $12.7 million on the construction of the Olympic village in Utah, a project for which land has not yet been purchased and where environmental concerns have not even begun to be addressed.

Each of these projects were included in the long-term military construction plan of the Department of Defense, but in the year 2003, the very last year of the six-year plan. Certainly, projects in the earlier years of the FYDP should logically be deemed higher priority than these projects. There are over $32 billion worth of programs that the Pentagon included in its plan as higher priorities than these projects.

There are other examples of projects that are less than critical to the primary mission of the services.

$7.7 million was earmarked for the expansion of an ammunition supply point at Fort Bliss, Texas, at a facility that was upgraded in 1991, just a few years ago.

Eight million nine hundred thousand dollars was added to build a civil engineering complex at Grissom Air Reserve base in order to improve facilities that were admittedly serviceable but not optimum. It is interesting to note that the DoD project data sheet was blank regarding the planned year of the project.

At a time when the rest of the Defense Department was shrinking, $14 million was set aside for an aircraft hangar at Johnstown, PA, for an activity that had not yet stood up into existence.

So why did Congress deem these projects worthy of fiscal year 1998 funding? Because a Member of Congress asked that they be moved forward, and because that's the way these deals have always been made.

Mr. President, the message will get through, loud and clear, to the men and women who volunteered to serve their country that Congress cares more about pork-barrel spending than their well-being. And a vote to over-ride the veto of $287 million in unrequested, low-priority military construction projects is an endorsement of each and every one of those messages.

Our military is wearing out its machines and wearing out its people. Military health care remains under funded, and there are reports that as many as 11,787 service members and their families are on food stamps. These are the priority problems facing our armed forces, and we, the Congress, are not addressing them.

What could we have done with the $8.2 billion we wasted on unnecessary military construction projects?

According to recent estimates, the costs incurred in support of peacekeeping in Bosnia total $6.7 billion. The estimated costs of the force buildup in the Persian Gulf will be about $1 billion. We could have paid the bills of those commitments and still had nearly half-a-billion dollars left.

That $500 million would be enough to fully fund the short-term modernization of the Navy and Marine Corps Hornet fleet. That modernization would put new radios, global positioning equipment, upgraded defensive countermeasures, improved mission computers and a datalink system that would make all 618 C and D model Hornets ready today to operate in the information centered warfare environment of the next millennium, not to mention be better equipped to face Iraqi defenses, if necessary.

And that's just the military construction pork. In last year's Defense Appropriations bill, Congress added nearly $2 billion for programs that were clearly funded for special interests in their States or districts. Since we added only $2.6 billion overall to the defense budget last year, clearly, pork-barrel spending consumed the entire add-on and more, and took precedence over the real priorities for national security.

Unfortunately, we cannot undo the damage done by past wasteful spending. Today, however, we are faced with the historic opportunity to halt the source of Congress' undisciplined spending and prevent the waste of defense dollars in the future.

Mr. President, I urge my colleagues to seize this opportunity to send the right message to our servicemen and women by voting against the veto override. It is the right thing to do.

I yield the floor.

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

Mr. BINGAMAN. Mr. President, I rise to urge my colleagues to vote to override the President's line-item veto of these 38 military construction projects which we approved in the 1998 budget.

I think the recent district court decision that would reverse legislation granting the President the right to veto individual projects confirms my view of what the Constitution requires. I opposed extending the line-item veto authority to this President or to any President because I believe that those who wrote our Constitution had it right. The separation of powers assigned by the Constitution prevents political manipulation that does a disservice to the democratic process.

Aside from the constitutional question, however, I want to say a few words about why I believe that the President's choices, at least the ones I am familiar with, for program vetoes were ill-advised, at least in the case of the projects in New Mexico that are included in this bill. These were not pork barrel projects. I understood my colleague from Arizona and his comments about opposition to pork barrel spending in the defense bill, and I commend him for that because I agree with him that there are numerous instances each year where projects are added that cannot be justified on a military basis. I do not condone that in any way.

By its own admission, the administration canceled a number of the projects this year in this bill because in the administration's view they did not meet the criteria that they had set up for selection. In spite of what the administration concluded, I'm persuaded that many of these projects were important to the quality of life of military personnel and their families. In addition, many of these projects had been able to complete significant planning that would permit their construction to begin in 1998.

Let me just indicate the sequence of events that occurred with regard to some of the projects in New Mexico when this list of projects that the President was going to line-item veto came out. On the list were some projects that I will refer to later, including White Sands Missile Range, to refurbish aging facilities at White Sands Missile Range. I called the director of the Office of Management and Budget and asked why they had chosen to delete these particular projects. His response was that according to the information he had been given by the Department of Defense, the necessary planning and design work for construction or refurbishing of those facilities had not been done and the money could not be spent in 1998.

We went back to the Army, which is the military service that had the funding in its budget, and asked if we had false information here or inaccurate information and what their understanding was. They assured us, as they had before, that this money was needed, that these were projects where design and construction planning had occurred, and that the money could well be spent in 1998.

I am persuaded that at least with regard to those projects, the Office of Management and Budget was giving the President incorrect advice or incorrect information and that incorrect information was the basis upon which the President chose to line-item veto those particular projects. I don't think this was intentional on anyone's part. Nobody was intentionally misrepresenting the situation, but in its haste to compile a list of projects to veto and in its concern for maintaining secrecy about that list, the administration did not submit candidate projects to the kind of thorough review that such important decisions normally warrant.

I blame the process that was used. Obviously, as I have said before, I believe the process is unconstitutional and has fatal flaws in that regard. But clearly, in addition to that, I think this process was flawed because of this inaccurate information that was given to the President.

As I stated before, part of what the President vetoed was funding to refurbish aging facilities at White Sands Missile Range in New Mexico. Of course, I am concerned about that because many of my constituents work on that facility and believe that facility is important. But I am also concerned because, as General Reimer recently testified before the Armed Services Committee, White Sands is a critical national asset; it is our most capable test evaluation center. It is the premier facility that we have with unique capabilities to test new technologies and weapons, to ensure continued technological superiority over any potential adversary.

The test range is operated by the Army, but it supports testing by all of our various military services. Also, it supports testing by many companies in the private sector. Because of that fact, that the Army does not exclusively benefit from the work at White Sands, the installation has been vulnerable to budget and personnel cuts in the Army that threaten the continued capability of that range. Accordingly, it threatens the continued long-term national security of the country.

Since 1995, for example, White Sands has lost about 43 percent of its military contingent needed to ensure that the users participate in the design, test, and operation of new weapons systems. If the Department of Defense Quadrennial Defense Plan is fully implemented, then White Sands would eventually lose all of its soldiers who are assigned to operate, maintain, and test systems being evaluated.

Similar severe cutbacks have occurred in the civilian work force needed to support the scientific work and operations of the test range.

Meanwhile, the testing workload at White Sands continues to increase as the services move toward this high-tech weaponry of tomorrow's military services. I am concerned because I did visit White Sands this last week and I had the opportunity to observe the conditions of the range firsthand. Many of the facilities on the base date back to World War II. Some of the launch facilities are lodged in makeshift trailers with jury-rigged air conditioning and outdoor toilet facilities.

The risk of fire hazard is great at many of White Sands' widely dispersed facilities, and the ability of the base to combat a blaze effectively is extremely limited. Personnel risk their personal safety in some of these facilities that the President's line-item veto would prevent from being replaced.

Mr. President, my concern extends beyond the refurbishment of the aging buildings at White Sands. I am concerned, also, that the instrumentation that we have in place to conduct and analyze tests at White Sands is inadequate to meet the challenges of new technologies and weapons systems of the future.

Instrumentation at the range is simply not capable of meeting high optical, radar, and telemetry standards needed to observe, report, and evaluate tests of new technologies that are now being designed.

Scientists and the military personnel at White Sands indicated to me that it could cost in the range of $110 million to modernize the instrumentation at White Sands sufficiently in order to meet future test requirements.

While we fully intend to modernize our military weapons, we are not taking the steps necessary to ensure through testing that those weapons will work as designed and as needed.

White Sands is critical to meeting these requirements. If we permit the President's line-item veto to stand, we would endanger our national security interests by continuing to allow the Nation's preeminent testing facility at White Sands to atrophy further than it already has.

I call on my colleagues to reverse the President's veto and to join me in ensuring the future effectiveness of White Sands during this year's defense authorization and appropriations debates.

Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise today to speak in favor of the resolution to override this line-item veto. I have heard the argument both philosophically about not overriding the President and on the specifics, and I am not persuaded in either case because I supported the line-item veto. I see absolutely no inconsistency in supporting the line-item veto and supporting this override because that is exactly what was intended by the line-item veto in the first place. It was to let the President have a chance to cut projects that he considered inconsequential or not necessary, and Congress reserved the right, as it always does, to override a President's veto by two-thirds vote. It is a higher standard. I think this meets the test of the higher standard, because the President went back and looked at the line-item vetoes he had made and admitted he had made mistakes in his calculations.

The Department of Defense also said that some of the information was erroneous. For instance, these projects are in the military 5-year plan. Many of these projects are very important for our military readiness. In fact, one of the specifics that was mentioned by the Senator from Arizona, the Fort Bliss ammunition storage facility, is necessary and will actually pay for itself because you won't have to pay for the transportation of ammunition 20 miles from a firing range into Fort Bliss. So you are going to save transportation costs and, most of all, you are going to have a safety factor that will be better because you are able to have the ammunition stored in and next to the firing range where it will be used.

This is the end of a project that has already been started. So this is just one instance. I don't disagree with, perhaps, the other suggestions of the Senator from Arizona. I don't know much about that. I know that at Fort Bliss the ammunition storage facility is essential. In fact, I thought it was interesting that the President signed the bill for ammunition storage facilities in Europe. He signed the bill for facilities such as operations headquarters in Europe, and yet he vetoed those that were in the budget in the United States. So I think he has shown that he sees the importance of operational headquarters and the importance of ammunition storage facilities. I just think we need to have those at our bases where they are necessary and where they are in the 5-year plan in our military here.

I think it is important, as we are testing the line-item veto in Congress—and it is already being tested in court—the test should be exactly what we are looking at today. It should be the importance of these projects where Congress has said in its budget submission to the President that they are a high priority. The military has given them a high priority, and I think Congress certainly should have the ability to add to the priorities. In fact, Congress has added to the military budget every year that I have been in Congress and that President has been in office. President Clinton cuts the military budget and Congress puts it back in because Congress values military spending.

Congress believes that the readiness of our forces depends on many things, such as quality of life, pay raises, our military construction, our equipment being maintained. All of this is an issue between Congress and the President, and it is a legitimate issue. Congress has spoken. The President has spoken. Congress has the right under the line-item veto, with a two-thirds margin, to override the President and say these are in fact priorities.

So I hope the President will understand that we have our set of priorities. We are going to fund the military. We are going to make the military a priority. This is our national security at stake, and we believe these projects meet the test. The Senate has a rigorous test. We don't even add in the Senate military budget a military construction project that isn't already in the Defense Department 5-year plan. We never do that. That is our standard. So it is not like we picked something out of the air that the military didn't think was important. It is in the military 5-year plan, and we believe that spending this money for military construction is part of readiness. As we have added equipment, training, salary increases, we are also adding military construction for the overall readiness of our troops.

We cannot continue to add to the responsibility of our military and cut the spending for the military budget. We cannot do it. We are facing a crisis in Iraq, which we must meet, and I support the President sending troops to make sure that we shore up our situation in the Persian Gulf. I hope the President will give us a plan of action for the future there. We support that. But we can't take from military readiness accounts all over the world when we have a situation like we do in Iraq where we need to respond. That is why we are trying to plan for the future, and that is why it is important to override this line-item veto of the President, so that we can maintain that readiness.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. 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. COATS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

Mr. COATS. Madam President, I yield myself such time as I may consume. I don't anticipate consuming more than about 5 or 6 minutes.

Madam President, I come before my colleagues today with a sense of duality regarding the measure we have before us. On the one hand, the line-item veto override contains two items that are very important to me and to the State of Indiana, and also important to the national defense of our country. On the other hand, embodied in this line-item veto override is a fundamental question that goes to the very root of the principle of the Line-Item Veto Act. That question is whether Congress will abandon the longstanding practice of chasing good money with bad money, of holding worthy projects hostage to unnecessary funding.

So, for me, this vote represents a choice of parochialism and a choice of principle—the former rooted in the hard realities of the military construction process and the latter rooted in the Line-Item Veto Act and the critical necessity of fiscal discipline.

During the markup of the fiscal year 1998 military construction appropriations bill, a preestablished criteria, jointly agreed upon by Congress and the Pentagon, was used to determine what projects would be funded.

There were four criteria:

First, is this project consistent with past action?

Secondly, is the project requested in the future years' defense plan?

Third, is the project necessary for reasons of national security?

Fourth, could a contract be awarded for construction of the project during the next fiscal year, this being fiscal year 1998?

However, the Congress ultimately appropriated five projects that did not meet the jointly established criteria. The President abandoned this criteria when determining which projects he would veto. Thus, both the legislative and executive branches were guilty of abandoning the fiscal discipline established under the joint criteria.

Madam President, I assert that it is impossible to have a disciplined, consistent budget process if the Congress and the White House can't stick with a preestablished plan.

You see, further aggravating this situation is that, following the President's veto, there came admissions from the White House that errors had been made in evaluating projects for the veto, errors beyond the obvious abandonment of the joint criteria. This is of particular frustration to this Member, as two of the projects that were incorrectly vetoed reside in my home State.

However, the Congress has a veto override process designed to address such situations. That is what we wrote into the law. But in an act of regression to past fiscal habits, the override resolution before us today contains those five projects that didn't meet the criteria in the first place, totaling $50 million, that, as I said, failed to meet the criteria, the preestablished criteria.

One is tempted to conclude—and maybe the only conclusion is—it's business as usual. It is just an indication of how extraordinarily difficult it is for Members of Congress, all of us, to curb our compulsion for spending taxpayer dollars.

In this case, the cost of abuse is compounded because the game is being played with our national security at stake.

A maintenance facility for chemical and biological warfare detection devices at Crane naval surface warfare center, and a civil engineering center a Grissom air reserve base are included in this resolution. Both projects are in my home state, and both meet the joint criteria.

The Crane chemical/biological detection center, a $4 million project, relates to a mission shortfall in chemical and biological warfare detection capabilities that should be built as soon as possible.

It would address the Navy's growing need to provide maintenance and support for chemical and biological warfare detection devices aboard surface ships such as those deployed in the Persian gulf today.

Current facilities are inadequate and lack the required environmental controls. The Navy supports the project and local officials have already entered into a contract for the design of the facility. So it meets the criteria that we established.

I want to inform my colleagues and the Members of the Indiana delegation, those who work at Crane, the Department of the Navy, that I intend to work with them expeditiously and as conscientiously as I can, along with the Secretary of Defense and the Department of the Air Force, to accelerate this Crane project—not just support but to accelerate, as well as the Grissom Project, in an effort to ensure that our national defense capabilities are not weakened as a result of the cancellation of these projects.

However, as I previously stated, there is embodied in this resolution the violation of a principle basic to the line-item veto, a principle of fiscal discipline and restraint.

Senator MCCAIN and I fought a long battle for passage of the Line-Item Veto Act. We did so in the belief that it would apply a measure of discipline to a Congress that seemed consumed by a spending habit, and particularly egregious—a practice which loaded otherwise meritorious acceptable spending with that which had not met the criteria and gained the support of a majority of Members of Congress in an up-or-down vote, or straightforward debate on that particular item, but attached to something that was popular, attached to something that was needed with the intent of having it ride through on the train of something that was important. Unfortunately, the resolution before us today embodies that same practice, that same budget chicanery that has taken place in the past.

Though there are many projects of merit contained in this resolution, these meritorious projects are being used to spirit through those that are without merit.

This resolution is a missed opportunity. As the Supreme Court readies itself to ponder the final fate of the Line Item Veto Act, Congress had the opportunity to send the President a resolution that embodied the principle and the practice of fiscal discipline. Instead, we have squandered this opportunity by providing legislation handicapped by fiscal indiscipline.

Mr. President, though I am disappointed in this particular measure, I firmly believe that it demonstrates that the line item veto process is both practical and constitutional.

Judge Hogan has now placed the final question on the Line Item Veto Act before the Supreme Court. As such, I would like to comment briefly on the constitutional strength of the measure.

I believe that the Line Item Veto Act conforms to the presentment clause of the Constitution and that Congress is within its constitutional right in granting to the President the authority to rescind, or withhold from obligation, spending, as he administers the law.

As Walter Dellinger, then assistant attorney general testified before the Senate Judiciary Committee: ''Unlike line item veto bills that our office previously found unconstitutional, S. 4 would not violate any aspect of the presentment clause: It would not authorize the President to veto some portions of a bill and also sign the remaining portions into law. Rather, it would permit the President to rescind discretionary spending after the enactment of an appropriations act that would remain law. Such rescission authority would not implicate the specific textual requirements of Article I, Section 7: It would apply to the administration by the executive of a duly enacted law, not to the constitutionally prescribed procedures for a bill's enactment.''

Timothy Flanigan, a former assistant attorney general during the Bush administration went further, stating that:

> This approach avoids the presentment clause problems . . . by doing nothing to alter how an appropriations or spending bill becomes law. It would not alter the presentment process but instead authorizes the President to rescind specific spending items, unless Congress within a certain time acts to approve that particular item.

The process established by the Line Item Veto Act is not new. Rather, it is the essential restoration of a budget process that existed prior to the Impoundment Control Act of 1974.

On the delegation of powers question, just as Gramm-Rudman survived constitutional scrutiny, so shall the Line Item Veto Act. In that case, the courts ruled that appropriations power was not distinguishable from other powers that had been successfully delegated in the past. The court equated Congress' power to appropriate with the power to tax. Taxing power has been successfully delegated in the past.

I am confident that the Line Item Veto Act is fully constitutional.

Opponents of the line item veto have long argued that any such measure could face constitutional challenges in two key areas. They suggest that a line item veto may violate the presentment clause because a bill no longer would be signed or vetoed in whole, but in part. Secondly, they suggest that the line item veto represents an unconstitutional delegation of Congress' power of the purse. The district court bought into this argument, and the supreme court will now have final say on the question.

The Line Item Veto Act clearly meets the presentment clause standard. It does not allow the President to individually veto sections of a bill when it is presented to him. Rather, the act grants the President authority

to rescind, or withhold from obligation, spending, as he administers the law.

In hearings before the Senate Judiciary Committee, Walter Dellinger, former Assistant Attorney General, Department of Justice testified about the line item veto:

Unlike Line Item Veto Bills that our office previously found unconstitutional, S. 4 would not violate any aspect of the presentment clause: It would not authorize the president to veto some portions of a bill and also to sign the remaining portions into law. Rather, S. 4 would permit the president to rescind discretionary spending after the enactment of an appropriations act that would remain the law. Such rescission authority would not implicate the specific textual requirements of article I, section 7: It would apply to the administration by the executive of a duly enacted law, not to the constitutionally prescribed procedures for a bill's enactment. Our office has carefully reviewed S. 4 and concluded that it is constitutional.

In fact, Timothy Flanigan, former Assistant Attorney General during the Bush Administration, testified that of the various line item veto proposals, enhanced rescission is on the strongest footing constitutionally.

A far more promising legislative proposal, S 4, the Dole-McCain-Coats legislative Line Item Veto Act of 1995, is aimed at giving the President greater control over the expenditure of funds. This approach avoids the presentment clause problems by doing nothing to alter how an appropriations or spending bill becomes law. Senator Dole's bill would not alter the presentment process but instead authorizes the President to rescind specific spending items, unless Congress within a certain time acts to approve that particular item. A statute of that type would amount to a restoration to the President of power taken by Congress during the Nixon Presidency in the Impoundment Control Act of 1974.

Just as the Line Item Veto Act meets the presentment clause challenge, it in no way exceeds Congress' constitutional Authority to delegate its functions to the Executive.

Gramm-Rudman-Hollings survived a constitutional challenge. The courts ruled that appropriations power was not functionally distinguishable from other powers that had been successfully delegated in the past. The court noted that Congress' power to appropriate was particularly akin to its power to tax which has been successfully delegated in the past.

In 1989, the Supreme Court unanimously rejected a plea that Congress' power to tax may not be delegated, the court stated:

Article I, section 8 of the Constitution enumerates the powers of Congress. First in place among these enumerated powers is the 'power to lay and collect taxes, duties, imports and excises . . .' We discern nothing in the placement of the taxing clause that would distinguish Congress' power to tax from its other enumerated powers . . . in terms of the scope and degree of discretionary authority that Congress may delegate to the executive. . . . (Skinner v. MidAmerica Pipeline Co., 109 S. Ct. 1726, 1732, 1733 (1989).

Walter Dellenger testified before the Senate Judiciary Committee,

Although [delegation] is a significant constitutional issue, we are confident that the Supreme Court would sustain S. 4 or similar legislation. It is well established that Congress may delegate sweeping discretionary powers to the executive, including powers that related directly to the nation's fiscal policy. For example, Congress may authorize the President to raise or lower tariffs, to set the price of agricultural commodities, or to recover excess wartime profits. Indeed, on only two occasions—both of which occurred nearly sixty years ago—has the Supreme Court struck down a statute on the grounds that it impermissibly delegated power to the President.

Timothy Flannigan added,

Although this type of bill has previously been attacked on the ground that it would constitute an unconstitutional delegation of congressional power, there is no foundation in the constitution for that claim. The constitution requires that no money be drawn from the treasury except ''in consequence of appropriations made by law,'' (Article I, Section 9, Clause 7), but there is no requirement that the President spend all moneys that are appropriated. Indeed, such a policy would either encourage gross fiscal irresponsibility by the President or would require Congress to micromanage all aspects of Federal procurement. There is nothing in the Constitution that requires either result. [Timonthy Flannigan, Subcommittee of the Constitution, Senate Judiciary Committee, January 17, 1995].

I am confident that the Line Item Veto Act is constitutionally sound and that it will be upheld by the Supreme Court.

Let me conclude by stating that I am saddened to be confronted with a resolution that places my principles in conflict with the interest of my State. However, we are entrusted by the people who elected us to make the tough decisions that will ensure the long-term health, security, and fiscal soundness of this great Nation. As such, I cannot support a resolution that continues the fiscal chicanery of the past. Thus I must vote against it, and urge its defeat.

Madam President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Madam President, we didn't make our opening statement a while ago because we had sort of a logistics problem. But we have most of that ironed out.

There are a couple of points that I would like to make on which the support for the override of this veto is very important. I assure my good friend from Nebraska that I will not take long.

We have worked with Senator MCCAIN, who serves on the Armed Services Committee, in developing parameters and guidelines on what we should do when making determinations of spending that money on military construction. I am beholden to him, and I thank him for his leadership, because not only did it help us develop our guidelines but also it helps us to at least coordinate the activities of military construction with Armed Services.

There are two different entities here. I agree that it is alarming whenever we see the attrition, especially an accelerated attrition and losing people who are essential to make our fighting forces really effective—in other words those pilots, those specialized people, who are highly technical and necessary to operate in today's modern Army, Air Force, Navy, or Marine Corps.

There has been some attention given to Guard facilities. There is a very good reason for that. This administration since it came to town has been integrating Guard and Reserve units with regulars wherever they can because the force structure and our cutback in defense spending has required them to do that. In each one of those places where you have Guard or Reserves, it takes facilities that at least come up to the standard that you would find in any regular unit.

So there is a new way of looking on how we build facilities and what facilities are going to be needed. I also say that losing through attrition these people that we depend on in technical positions concerns me. But it also concerns me that if they do not accept advancement or more money to fly 5 or 6 more years, then there is another reason why they are leaving the military. You say they are away from their families. I would say quality of life has a lot to do with that. And the emphasis of the last 3 years or 4 years or so has been on quality of life—not only quality of life for the person that is serving in uniform, or serving in our particular services, but also the spouses of those men and women because that is just as important, too, when we take a look at family life on any base, post, or operation.

It might surprise a lot of Senators that the biggest share of appropriations—the lion's share—goes to environmental cleanup caused by BRAC, the Base Realignment and Closure Commission. The ranking Member and I have looked at some figures, and fully a third of next year's appropriations will be in environmental cleanup. It does nothing to add to the quality of life nor to build facilities nor to integrate anything that has to do with the security and the defense of this country.

There we ought to make some changes, because I think sometimes when we go into environmental cleanup when a base is closed and all of these requirements we are putting on, a lot of these bases are not going to end up being day care centers. Maybe we ought to find out what they are going to be used for and go to that degree as far as environmental cleanup. I am not against environmental cleanup. I do not want to go as far as I can to eat off the floor of barracks. But that is what we are talking about here. All of these so-called add-ons were authorized by the committee. Those are the guidelines. Those are the guidelines and the parameters that were set down.

We will continue as long as I am chairman of this committee to press for quality of life, and also the new

thrust of how we are going to prepare our young men and women for the defense of this country. And if we are going to integrate what we would call regulars with the Reserves or with the National Guard, then it is going to take a new thrust in the way we allocate money to maintain the infrastructure for that to happen. That is the thrust we have used today.

I yield the floor.

(Mr. COATS assumed the chair).

Mr. CAMPBELL. Mr. President, I take the time today to announce my support for the upcoming vote to override the President's veto of the Military Construction Line-Item Veto bill. This bill would have restored the funding to several very important construction projects in twenty-four states, one of which is my own.

I voted for the line-item veto law. This law has recently been adjudged unconstitutional. We could simply wait for the Supreme Court to strike this law down. But I want to be on record reaffirming my belief that the President should have the authority to strike certain portions of congressional appropriation bills. However, I also want to be on record affirming the error in the President's line item in this instance of a certain Colorado project, as well as many others which my colleagues will attest.

In vetoing the restoration of funding to these projects, the President commented, ''the projects in this bill would not substantially improve the quality of life of service members and their families, and most would not likely use funds for construction in FY 1998.'' Mr. President, I can assure you that this assumption is certainly not the case for the appropriation for work on the Army railyard expansion at Fort Carson. It is not, as the President seems to imply, a ''pork project.'' In fact, the Army itself stated it needs this project. It is included in the Army's 5-year development plan.

This project is necessary to expand Ft. Carson's rail capacity to meet the minimum requirements to deploy several assigned units and potentially very large number of reserve units. Let me repeat that: this project is necessary to enable Ft. Carson meet the minimum requirements of deployment. In other words, Ft. Carson currently does not meet the minimum deployment requirements.

In addition, the project would add several basic infrastructure components, including rail spurs, an operations support building and a maintenance shop. If these improvements are not made, the railyard's ability to deploy units, as a member of the ''contingency force pool,'' will be severely limited.

As you can see, the project's completion is necessary in the Army's opinion. I urge my colleagues to vote to override this veto.

Mr. DOMENICI. Mr. President, I rise today in support of the override of the President's veto of the fiscal year 1998 Military Construction Appropriations Bill. On November 13, the President vetoed H.R. 2631 which would have restored funding for the 38 military construction projects he earlier line-item vetoed. It had passed the House by a veto proof margin (352–64) November 8, 1997, and been passed by the Senate in its own version of the same bill by a vote of 69–30.

Mr. President, I believe the Senate will overwhelmingly override the President's veto of this bill. The President listed as one of the criteria used that none of the 38 projects he line-item vetoed was requested by the DoD in FY98. I want to caution the President. Article I, Section 8 of the Constitution of the United States says the Congress has the responsibility to raise and support the military. That means that he does not have the only say how to raise and support our troops. If the Congress believes that certain projects will support our military, it is our right and responsibility to fund those projects. I supported the line-item veto when it was originally passed, but I agree with the Chairman of the Appropriations Committee and others who have stated that his action on this particular bill was an abuse of authority.

The President stated in his line-item veto announcement, ''The balanced budget that I signed into law this summer will extend America's fiscal discipline into the next century. It will bring enormous dividends in our long term economic health. But it will continue to require difficult choices. American government will live within its means.''

It should be clear to everyone, neither the Military Construction Appropriations bill, or any other appropriations bill this Congress has passed, violates the Budget Agreement. America is living within its means, and none of the 38 projects the President vetoed changes that fact.

The President states that the projects he is canceling do not make substantial contribution to the quality of life and well-being of our men and women in uniform. I believe that those who put this list together for the President made a grave error in calculating what exactly can be called a contribution to the quality of life and well-being of our men and women in uniform. It is my belief that calculation should take into account the health and safety of those working at the facility in question. In our case, at WSMR, $6.9 million was appropriated for Launch Complex Revitalization. At the current Launch Complex, personnel are potentially exposed to HANTA virus due to infestation by rodents below existing structures. If that does not qualify as making a contribution to the quality of life, I do not know what else will.

In addition the President line-item vetoed $14 million for the construction of a new Theater Air Command Control and Simulation Facility and Kirtland Air Force Base. This facility was in the Department of Defense's five year plan, it met the President's requirement for 35% design being completed, and it was deemed to have been a military essential project.

In both cases, as with the rest of the 38 projects the President vetoed, these items are important to strengthening and protecting the health and safety of the Department of Defense and those who work at these facilities. The President made grave errors when he put this list together, and I am gratified that after a lot of hard work, today we will be correcting his mistake once and for all. All of these projects were scrutinized by the Appropriations Committee in detail. The Committee found that in many cases the criteria were not correctly applied. This effort is to correct those mistakes.

I ask all my colleagues to support the veto override. I believe it is the appropriate action for us to take. I yield the floor.

Mr. CRAIG. Mr. President, there is another vote that will occur here tonight at 6 o'clock that is very important. That is a veto override. I ask my colleagues to recognize the importance of this and the 38 military construction projects that the President vetoed last fall. He is a bit embarrassed about that now. Somehow the communication between he and the Defense Department on those projects that he had already penciled off on for this year's budget but that we found and the budget process found adequate moneys for, he vetoed.

I am one who supported the line-item veto, but I will say if it is going to be used as haphazardly as it was used in this instance, I will have to reconsider my support, as I think others do.

Mr. President, today the Senate is considering whether to override President Clinton's veto of 38 military construction projects last fall. The President argued that these projects weren't requested, couldn't be completed in FY 98, and did not contribute to quality of life for service member. Mr. President, I strongly disagree. I offer that his reckless veto of these projects is an indication of his disregard for important defense matters and sloppy work by his staff.

Let me begin by setting the record straight. The President claimed that the projects he vetoed were not in the future years defense plan (FYDP). Wrong, Mr. President. 33 of the 38 projects were in the FYDP. The President also contended that design work for the projects wasn't complete and couldn't be executed in the coming fiscal year. Wrong again, Mr. President. For example, the two projects vetoed for Mountain Home Air Force Base in Idaho are currently designed at 50 percent or more, and could be awarded this year.

This President has consistently underfunded the military construction budget, and then had the audacity to veto projects that the Congress thoughtfully restored. This isn't frivolous, Mr. President, the total Military

Construction Appropriations approved by Congress FY 98 was already $610 million below FY 97, but the President's budget was lower—because it was reckless in underfunding the military construction and quality of life projects. In July, this body approved the additional funds for military construction recommended by the Senate Armed Services Committee to help provide money for rundown bases facilities and other high priority projects submitted by the military services that were not funded in the President's budget. It think it is noteworthy that both the authorizing Committees in the House and the Senate noted the continuing low priority military facilities received, despite maintenance and modernization backlogs.

Congress knew better than to cut defense as deeply as the President. It's pretty clear to me that this Commander-in-Chief doesn't have the regard for the men and women in uniform that they deserve. What also angers me also is that the Administration never tried to negotiate or object to any of these projects when they came before the Congress for a vote. It seem apparent that these vetoes were either afterthought or politically motivated.

Despite my frustration by the President's action, I do want to reiterate my support for the line-item veto. However, today Congress is also exercising its right to object and vote down those vetoed items. Certainly, a vote to override the President's veto is not a vote against the line-item veto, it's a vote against arbitrary and reckless vetoes of important projects.

One of the items vetoed is the B–1 Bomber Avionics Shop at Mountain Home Air Force Base. I can hardly think of a more worthy candidate for military construction funds. Currently, it is difficult to keep the proper environment necessary to perform required maintenance tasks on the composite wing aircraft avionics and EMC systems. In fact, sometimes the avionics projects have to be flown off base and back to finish the required work. This mission essential avionics shop not only supports the B–1 beddown, but will also restore inefficient avionics repairs for the F–15 and F–16 which are done in an aging misconfigured building. The current facility has repeated power dumps from faulty fire suppression alarm system, leading to equipment failures and costly repairs.

The President also vetoed the F–15 Squadron Operations Facility. This project replaces a 28 year old, substandard facility that is misconfigured for flight operation and geographically separated from the flight line. The new facility will provide adequate space to plan, brief, and critique combat crews, and direct the F–15 flight operations. Administrative space is required for the commander and staff to program and conduct mission briefings and command activities and to care for, store and issue equipment.

Mr. President, although military construction represents a small portion of the overall defense budget, it is a very important part. The quality of our facilities and installation directly strengthens or weakens the safety and readiness of our troops. It seems apparent to me than many of the vetoed items enhance quality of life of our troops and directly contribute to the mission that our service men and women are asked to perform—no one is asking for country clubs, or golf courses here. These projects are essential to national security interests and improving the readiness of our forces. Mr. President, your vetoes are simply not justified.

I yield the floor.

Mr. ALLARD. Mr. President, I come to the floor today in support of HR 2631. Let there be no mistake, I support the line item veto, but, perhaps just as important, I support Congressional authority to override the veto if deemed necessary. In fact, one of the reasons that I support the line item veto is to make Members go on record in support of or against the vetoed items. I am willing to go on record and support this Resolution without hesitation. One such program is to fund the Army Strategic Mobility Program railhead project at Fort Carson. This project is recognized by the Department of the Army as a need for readiness and is included in the Administration's own Five Year Plan.

To give a brief history, the current railhead at Fort Carson was built in the 1940's and includes several one-story wooden warehouse buildings that were built during the same period. Since then, the railhead has received no major improvements or overhaul.

While the loading and storage capabilities were adequate for many years, they are no longer. Fort Carson is now home to two TIER I units, the 10th Special Forces and the 3rd Armored Cavalry Regiment. As you know, TIER I units must be able to deploy within 72 hours upon receiving notification. The current capabilities fall far short of this requirement. The Army Strategic Mobility Program requires that the railhead deliver 500 cars for a two day outload. The current railhead only allows for 314, well short of that required for the ASMP.

The 3rd ACR is the only heavy cavalry unit in the Army's inventory, and as such it can be sent to any theater of operations. It is critical that this unit be able to meet its deployment requirements. Unfortunately, at this time it cannot due to the inadequacy of the Fort Carson railhead.

Also, Fort Carson would serve as a major staging area for numerous National Guard and reserve units in time of war and the rail-loading and warehousing deficiencies could hamper those activities as well.

Mr. President, when Congress granted the President the line item veto we did not make him the final voice on budget priorities. Congress has the Constitutional obligation to have the final say on all revenue and outlay matters. This is how I believe the system should work. The President vetoes projects and if the Congress disagrees, then two-thirds of the Members in each body must vote to override. Today, it is my belief that Congress will use its veto-override power to approve these projects which are in the Administration's Five Year Plan.

Mr. DOMENICI. Mr. President, the Senate is considering the question as to whether the Senate shall override the President's veto of legislation to disapprove his line item veto of projects in Public Law 105–45, the FY 1998 Military Construction Appropriations Act.

In his first use of the line-item veto authority on an appropriations measure, the President proposed to cancel $287 million in budget authority for 38 military construction projects.

The President used three criteria upon which to evaluate these military construction projects for use of his line-item veto authority: The project was not requested in the President's 1998 budget; the project would not substantially improve the quality of life of military service members and their families; and the project almost certainly would not begin construction in 1998 because the Defense Department reports that no design work has been done on it.

All of these projects were scrutinized by the Appropriations Committee in detail. The committee found that in many cases the President's criteria were not correctly applied. The Appropriations Committee found that in many cases—

The project was included in the Department of Defense's future year defense plan;

The project was mission essential;

The project would enhance readiness, safety or working conditions for service personnel;

A site had been identified for the project;

Money had been spent on the design of the project; and

The Department could begin to execute the project during fiscal year 1998.

Based on this information, the Senate passed S. 1292 on October 30 by a vote of 69 to 30. The President vetoed this legislation on November 11. The House voted to override his veto on February 5, by a vote of 347 to 69. While the Supreme Court has not ruled on the constitutionality of this legislation, lower Federal court has ruled it unconstitutional. If that ruling stands, the 38 projects will be restored. We should go ahead now to permit that to happen. Also, the criteria that the Senate Appropriations Committee applied to these projects are still valid. For that reason alone, the projects should be approved.

Mr. President, this is the first test of the line-item veto on an appropriations bill. I support overriding the President's veto.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Montana is recognized.

The Presiding Officer will advise the Senator from Montana that under a previous agreement we are scheduled to return at 2 p.m., which is just about 30 seconds away, to the Snowe amendment No. 1647 to S. 1663.

Mr. BURNS. Mr. President, I would like to advise the Chair that on this issue of the override vote on this bill, we are prepared to yield back the remainder of our time. After I make a couple of unanimous consent requests, I think we are prepared to yield back our time and then we can go on to campaign finance.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BURNS. Mr. President, also, we had a hearing on this bill after it was vetoed the first time. I ask unanimous consent to have printed in the RECORD the proceedings of that hearing.

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

[Excerpts from a hearing before a Subcommittee of the Committee on Appropriations, United States Senate entitled ''Evaluate the President's Use of the Line Item Veto Authority for Military Construction Fiscal Year 1998 Appropriations'']

They went in to say because the Department reported to the office that no design work had been done on it. Are any 1 of those 33 that are Air Force projects subject to those restrictions?

General LUPIA. Thirteen of those were line item vetoed. Sir, all of those 13 projects were in our 5-year defense plan. None of the 13 were in the President's budget. But they were all in our 5-year defense plan.

The program years varied. Some were in the year 2000 out to the year 2003. Of the 13 items, quite frankly, sir, there is 1, a dining hall at Malmstrom Air Force Base, that I am having a little bit of trouble with determining why the project did not qualify as a quality of life project, and I was not in on the decisionmaking, so I do not know what criteria was used.

The CHAIRMAN. It is all three criteria, General. Was it capable of being executed in 1998?

General LUPIA. Yes, sir, executed, it was, sir.

The CHAIRMAN. But you had trouble finding whether any design work had been started?

General LUPIA. No, sir; I have the information on design work. What I was saying was I have trouble understanding why the Malmstrom dining hall did not qualify as a quality of life project, and again I do not know who made the decision or how, but it is, in fact, a project that supports 700 of our airmen who eat in the dining hall at Malmstrom.

The CHAIRMAN. Well, it was my understanding if it satisfied any one of those three criteria it was not supposed to be on the list. That was what I was informed. Quality of life projects were taken out. Those in the President's budget were taken out. And those that already had design work and could be executed in 1998 were taken out, and the balance were supposed to be those that were vetoed.

Were there any of those that did not have one of those three criteria, as far as the Department of Air Force is concerned?

General LUPIA. No, sir.

The CHAIRMAN. General Gill, how about your service, the Army?

General GILL. Mr. Chairman, we had 44 projects that were accelerated by Congress. I believe 14 were line item vetoed. Of those 14 projects, 12 were in the 5-year, the future years defense program; 2 were not.

Earlier we had been asked by Congress last spring whether or not these projects were in the FYDP and could they be executed in fiscal year 1998. You can debate what execution means. We reproted in all cases that they could be executed. To me as a budget person or as an engineer, that means award of a contract.

The CHAIRMAN. But two of them have some question as to whether that design work has actually been done. The design work I think was added in at an earlier time. Were either of those two quality of life projects?

General GILL. No, sir, they were operational projects. One was a National Guard aviation support facility in Rapid City, SD, and in this case the design work is done by the State, and the action officer in the National Guard Bureau and the State Guard representative miscommunicated and we provided the wrong information to OSD. The State had actually, begun some design work, but had been reported as zero percent design.

The other case was at Fort Campbell, KY, a vehicle maintenance shop. This was the result of a project that was phased and, in fact, the design had been done completely in the earlier phase 1. The data base did not carry the design as being completed for phase 2. Phase 2 was accelerated. It was reported as not designed when, in fact, it is at 100 percent.

Admiral AMERAULT. Yes, sir; sir, all but 3 of the 12 projects that were line item vetoed in the Navy were in the FYDP, in the years 2000 to 2003, some in the out-years of the FYDP.

We reported that all could be executed. That is under the definition that executable means to us a construction contract could be let in the fiscal year. We reported that they could all be executed in fiscal year 1998. And none of them were quality of life.

The CHAIRMAN. I want your judgment, General, whether each of the projects that were vetoed, in every case, the Air Force projects, is the project an essential Air Force project to meet your mission?

General LUPIA. Sir, the projects are essential to the Air Force and they are in our 5-year defense plan. In terms of budget constraints, some of them are in later years than we would like to have them, but they are of military value. Each of the projects vetoed would enhance operations at the respective installations, but their deferral to a future year does not undercut national security.

General GILL. I think categorically I can say that those that are in the FYDP were essential. It is my judgment—and you asked my judgment—that those which fell within the FTDP, appear to be essential facilities for the accomplishment of the Army's mission. They would have been moved forward had there been enough room in our budget. Some of them would have come forward; others would have been gotten to later. It was simply a matter of how many dollars we had and our internal prioritization.

The CHAIRMAN. Thank you. The same question to you, Admiral.

Admiral AMERAULT. Yes, sir; we reported that, whether or not these projects were militarily essential in our response to questions from OSD, we reported in all cases that they were, with the exception of those three that were not in the FYDP. We were not asked that question for those three.

Their placement within the FYDP was simply a matter of budget priorities, affordability, and so forth.

The CHAIRMAN. The timeframe of affordability within the 5-year plan. Thank you much.

Senator DOMENICI. I will go very quickly. I think the project at Kirtland Air Force Base, that is yours, General Lupia. I understand that this project was included within the defense future year defense plan. Is that true?

General LUPIA. Yes, sir; it was in 2002.

Senator DOMENICI. Is this project mission-essential within the context of the plan?

General LUPIA. Yes, sir, it is.

Senator DOMENICI. Has a site been identified for this project?

General LUPIA. Yes, sir, it has.

Senator DOMENICI. Has money been spent on the design of this project?

General LUPIA. Yes, sir; we have already invested $350,000 in beginning the planning and design of the project.

Senator DOMENICI. Can you begin to execute this project during fiscal year 1998?

General LUPIA. Sir, we can execute it, the definition being contract award in 1998, yes, sir.

Senator INOUYE. Admiral, if I may ask, my staff indicated the Navy had every intention of executing construction of the Asian Pacific Center.

Admiral AMERAULT. Yes, sir; sir, that project is in the FYDP in the year 2003. We had spent no military construction planning and design funds on that project. That is what we reported on September 26. Since that time, the A&E contract for preparation of an RFP was awarded on September 30, 9 days ago. Since then $145,000 has been obligated.

Our anticipation was the earliest construction contract award would be in the third quarter of fiscal year 1998.

Senator INOUYE. So your files would indicate that we have already expended $145,000 for design?

Admiral AMERAULT. Within the last 9 days, sir.

Senator INOUYE. And you are ready to move in the third quarter of the next fiscal year.

Admiral AMERAULT. We anticipate that we could award that contract in the third quarter of 1998.

Senator CRAIG. Thank you much, Mr. Chairman.

Let me do a similar action, General Lupia, on the two items vetoed—Mountain Home Air Force Base, the B–1 avionics building. What is its current status?

General LUPIA. Sir, we reported in April 1997 that the project was zero percent designed. We are today reporting 10 percent work that has been accomplished since then.

Senator CRAIG. So design activity is fully underway?

General LUPIA. Yes, sir, that is correct.

Senator CRAIG. Location?

General LUPIA. The site has been identified, no problem with the site, no environmental problems. The project is in the Air Force's 5-year defense plan in the year 2000. So we had already planned to spend 1998 design money to get it going. We spend 2.5 percent 2 years out, and then 6.5 percent on design 1 year out. We have already invested in the project.

Senator CRAIG. How essential is this to the overall beddown of the B–1's at Mountain Home?

General LUPIA. Sir, this project is essential to the beddown. We have been using workabounds and will continue to do that, but it is essential to the beddown.

Senator CRAIG. The F–15 squadron operations facility, what is the status of that, to your knowledge?

General LUPIA. Sir, that project is in the Air Force's 5-year defense plan in the year 2002. So we reported that we have not begun design. But this is again back in April 1997.

Senator CRAIG. So both of these are clearly within the 5-year plan, design work has begun, locations have been determined.

General LUPIA. No environmental problems, sir.

Senator CRAIG. No environmental problems, viewed to be essential for mission?

Mr. BURNS. Mr. President, we have checked with Senator MCCAIN and his office. He requires no more time. The vote on this will occur at 6 p.m. this evening, I am told. We are prepared to yield back the remainder of our time, and I yield the floor.

PAYCHECK PROTECTION ACT

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

The assistant legislative clerk read as follows:

A bill (S. 1663) to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 1646, in the nature of a substitute.

Snowe amendment No. 1647 (to amendment No. 1646), to amend those provisions with respect to communications made during elections, including communications made by independent organizations.

The PRESIDING OFFICER. Who seeks time? Who yields time?

Mr. BURNS. 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.

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

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

Ms. SNOWE. Thank you, Mr. President. I think that the debate on the Snowe-Jeffords amendment has been very important in terms of underscoring the issues that need to be addressed in reforming our campaign finance system. I would like to review for the membership of this body exactly what the Snowe-Jeffords amendment would do, because we have heard so much about the impact of it and the misconceptions about the impact of the provisions included in this amendment.

The fact is, this amendment will affect several categories with respect to advertising by groups across this country during the course of an election designed to influence the outcome of a Federal election. We are not saying they cannot advertise. We are not saying that they cannot engage in political activity. But what we are asking these groups to do is to disclose their major donors if they advertise on either medium, radio or television, 60 days before a general election, 30 days before a primary, in which they identify or mention a candidate for Federal office.

They then would be required to disclose their major donors who contribute more than $500. That is more than twice the threshold for disclosure for Federal candidates.

So, unlike the suggestion of those who are opposed to the campaign finance proposal and the Snowe-Jeffords amendment that this is too invasive, too broad, it is not. In fact, it would meet the Buckley standards handed down in that Supreme Court decision of not being invasive. In that Court decision, they were considering the impact of requiring donors of more than $10 to be disclosed. Obviously, that is broad and invasive. But this would pass constitutional muster.

We are talking about groups that spend money on television or radio broadcasts in which they identify a Federal candidate 60 days before a general election, because, obviously, when those ads are aired at that point in time, they are intending to influence the outcome of an election.

The medium is radio and television. The timing is 60 days before a general election, 30 days before a primary. The ad must mention a candidate's name or identify the candidate clearly.

Targeting: The ad must be targeted at voters in the candidate's State.

And the threshold: The sponsor of the ad must spend more than $10,000 on such ads in the calendar year.

It is very narrow, it is very clearly targeted, very specific. And the Supreme Court has said that you can make a distinction of electioneering communications from other forms of speech. That is exactly what the Snowe-Jeffords amendment does. We are replacing the issue advocacy provisions of the McCain-Feingold legislation, section 201, that could raise constitutional questions. The proposals that Senator JEFFORDS and I are offering today are ones that have been designed by legal and constitutional experts based on court decisions.

What the Snowe-Jeffords amendment would not do, because, again, we have heard so much about what the impact would be and, in many cases, have been very erroneous in some of the circulations in Congress by various groups, it would not prohibit groups from communicating. If they want to advertise, they have every right to do that. They can communicate with their grassroots membership.

It does not prohibit them from accepting funds, corporate or labor funds. It would not require groups to create a PAC. They can continue what they are doing. But they are required to disclose if they are going to identify a candidate 60 days before an election in a television advertisement or radio broadcast.

It would not affect the ability of any organization to urge grassroots contacts with lawmakers in upcoming votes. They can say, ''Call your Senator, call your Member of Congress, using the 1–800 number,'' which is a popular means today. That is certainly allowed. There is nothing to discourage that. If they identify a candidate in a TV or radio broadcast 60 days before an election, then they have to disclose their donors of more than $500, and that is all we are requiring. So it is not invasive; it would not require them to give an advance of the specifics of their advertisement and the text.

What we are requiring in all of this is disclosure so that everybody understands who is financing these advertisements when they are designed to influence the outcome of an election.

It guards against sneak attacks. Doesn't everybody have the right to know? Absolutely. And that is why the Supreme Court made that distinction in Buckley and in other cases, to draw that bright line, which is what the Snowe-Jeffords amendment does.

The Court has never said that there is one route towards what can be distinguished in terms of electioneering communications. The fact of the matter is, it said you can make that distinction, that the U.S. Congress has the prerogative to make that distinction in a very narrow, very targeted way.

This amendment would pass constitutional muster. I think that is what causes some anxiety for some people, because they are opposed to this amendment because it will require disclosure of major donors.

Since when has disclosure been antithetical to good government, to campaign financing? Because that is the thrust of this amendment. It is disclosure. I think we all can concur that secrecy does not invite the kind of campaign that we want to see in America. We are entitled to know who finances these campaigns when it comes to major donors, when they are running ads that influence the outcome of these campaigns.

The fact is, these groups have spent at least, based on what we know because it is a guesstimate because they did not have to disclose, $150 million—$150 million. The best we can guess, because, again, it does not require disclosure, is a third of all the money that was spent was spent on campaign advertising in the last election cycle, and we do not know where one dime comes from. We don't have the identity of donors, and yet they play a key role in influencing Federal elections.

We had $150 million spent on issue ads in the 1996 election, and $400 million was spent for all the candidates: for the President, the Senate and the House. And yet, of this $150 million—this is probably a conservative estimate; this is based on the Annenberg Public Policy Center study; probably the most definitive study on issue advertising and issue advocacy. In fact, what they did was they analyzed advertising that was done by 109 organizations—109 TV and radio advertisements from 29 organizations. So we would expect that that estimate is pretty conservative. So what we are saying here is that there should be a means for disclosure.

The courts have never said that disclosure is not in the public interest.

The fact is that the Supreme Court has ruled time and again, and specifically in Buckley, that there is strong governmental interest that justifies disclosure, and that is why we have designed this amendment in the manner that we have.

We also restrict campaign spending by unions and corporations with their nonvoluntary contributions in television and radio advertising in which they mention a candidate 60 days before a general election and 30 days before a primary because, again, there has been a century-long decision by the Government as well as the Congress in which that distinction can be made.

The courts have made that distinction that Congress has the right to restrict spending by those entities because of those benefits that have been conferred on unions and corporations by the Congress, so that we are entitled to draw that distinction. And we do in this amendment.

The courts have ruled that the Congress has the right to enact a statute that defines electioneering as long as it isn't vague or overbroad, that we can develop a more nuanced approach, because I know the Senator from Kentucky has cited cases in which he said that the Court would not support this type of an amendment.

To the contrary, the fact of the matter is, this amendment is not vague and it is not overbroad. Not only will it pass muster, I think the Court would have the advantage of seeing what has happened over the past 22 years since it ruled in Buckley that has made a mockery of the campaign laws in ways in which the system works today. If they had had the advantage of that back when they made the decision in Buckley, I think there is no question that they would have indicated the approach that we have here today.

There is something wrong in a system where we have $150 million influencing Federal campaigns and we do not require disclosure, and that is what the Snowe-Jeffords amendment is all about.

Mr. President, I hope that Members of the Senate will see fit to support this amendment because I think it is in the interest of our campaign system, it is in the interest of good government. We have heard so much about these issues ads and the content of these so-called ''issue ads'' in the last election. Every group has the right to state their position. They have the right to communicate with their lawmakers. They have the right to even participate in the political process in advertisements and voting for or against. But I think they also should be required to identify their major donors when they are identifying a candidate 60 days before an election.

Now, there are different kinds of issue ads. The one that I am mentioning here in the content of so-called ''issue ads'' isn't pure issue advocacy because there is a difference between issue advocacy and candidate advocacy.

In this case, what we are seeing in what is so-called ''issue ads,'' 87 percent of what is called ''issue ads'' actually referred to a candidate or an official—87 percent.

So rather than just talking about an issue and informing the public or running an ad that says, ''Call your Senator or call your Congressman,'' it was one in which it was designed to influence the outcome of an election, because 87 percent of those ads referred to an official or a candidate.

In fact, according to the Annenberg study, 41 percent of those ads were ''pure attack''—41 percent—and yet not one dime is required when it comes to disclosure. So $150 million of this money was spent on so-called ''issue ads,'' and some of them were pure issue ads, but many of those ads, in fact 87 percent, referred to an official or to a candidate that, again, had the impact, or certainly had the intent, of affecting the outcome of an election, or otherwise they would not have mentioned the candidate's name.

Mr. GORTON. Mr. President, will the Senator from Maine yield for a set of factual questions about her amendment?

Ms. SNOWE. I am glad to yield.

Mr. GORTON. Mr. President, would the Senator from Maine tell us, am I correct in reading the requirements relating to electioneering communications, that they apply to broadcast stations, television and radio broadcast stations, but not to newspapers or to direct mail?

Ms. SNOWE. That is correct.

Mr. GORTON. Do they apply to the Internet?

Ms. SNOWE. Excuse me?

Mr. GORTON. Do they apply to the Internet?

Ms. SNOWE. No. Television and radio.

Mr. GORTON. So none of these requirements apply to newspapers or direct mail or to——

Ms. SNOWE. If I can answer the Senator's question, that is correct. I know the Senator from Kentucky has objected to any possibility of impacting the first amendment. We would all agree in that respect, that obviously we want to draw that bright and distinctive line. Because no one wants to chill the first amendment right of freedom of speech. So that is where you can invite the possibility of concerns when it comes to printed material and to direct mail and to newspapers. We also know that most of the money in campaigns is particularly in television, rather than radio, because it has the greatest impact. It can have the greatest effect. So as a result, we do narrowly target those two mediums.

Mr. GORTON. I take it the Senator from Maine believes it is constitutional to target one medium of communication but not to target a separate, a different, medium of communication?

Ms. SNOWE. That is correct.

Mr. GORTON. Does the Senator from Maine believe, in connection with the exceptions for the broadcasting stations' own editorial comments, which is granted here, that in fact she is granting that exception simply because she feels it to be desirable, or does she—let me rephrase the question. Does the Senator from Maine believe that she could have constitutionally applied these rules and regulations to the television station's communication of its own ideas?

Ms. SNOWE. Well, obviously, we are talking about political advertising that is sponsored by organizations. That is what we are identifying here because that is obviously playing the primary role.

Mr. GORTON. I understand what it is being aimed at. My question is, is this exception a part of the amendment of the Senator from Maine because the Senator from Maine believes that it is mandatory that she could not constitutionally apply these electioneering communications to TV stations? Or is she doing it because she does not think it is a good idea to apply it to them?

Ms. SNOWE. I think we are taking the approach in this amendment to draw it as narrowly as possible so that we do not affect the first amendment rights. So, we are taking the most prudent, most cautious approach in designing this amendment.

Mr. GORTON. So the Senator feels that——

Ms. SNOWE. If I might reclaim my time to answer the Senator's question. My concern—and I think shared by others, such as Senator JEFFORDS, who is a lead sponsor of this amendment as well—we are concerned about the political advertising that is in these campaigns, hundreds of millions of dollars, where there is no disclosure, that influences the campaigns. So we are creating a separate category of advertising called ''electioneering communication,'' in response to the question.

Mr. GORTON. I think I do understand the Senator's feelings on that. I was simply asking whether she is exempting the television stations because she thinks she is required to by the first amendment.

Ms. SNOWE. Yes.

Mr. GORTON. Or she thinks it is a good idea.

Ms. SNOWE. I think it is the most cautionary approach.

Mr. GORTON. Thank you.

Ms. SNOWE. The courts have allowed and made those distinctions in the past where we can draw a line in terms of methods of communicating and have allowed different rules for public airwaves. We are focusing on the most egregious abuses that have been identified in these campaigns in the past.

If anything, I think the 1996 cycle highlighted the extent of the problem by the amounts of money that were placed in issue advertising that ordinarily would be, I think, a significant component in the campaign. But what has developed in the final analysis, as we all know, is sort of circumventing some of the restrictions that are currently in campaigns by what is masked

as issue ads but really are candidate advocacy ads. That is what we are highlighting in this amendment by requiring disclosures by those groups that support these advertisements on behalf of candidates or in opposition to candidates shortly before the election.

So we create a very narrow timeframe so that we do not engage in any possibilities of interfering with first amendment rights. We limit the medium to television and radio, again, so we do not invite any infringements on freedom of speech.

Candidates-specific. They have to identify the candidate. Again, if that advertisement is targeted to a candidate's State, or in terms of House of Representatives elections, towards that candidate's district, again it is a threshold so that we don't affect small groups. If the sponsor of the ad spends less than $10,000 in a calendar year, they would not be required to disclose.

Again, the Senator from Kentucky has mentioned Court cases like the NAACP v. Alabama in 1958, saying that the courts say you should not be required to supply your donor list because such disclosure could cause the fear of reprisal by its membership. Certainly there are exceptions to every rule, but you can have those exceptions without having the Court rule on its constitutionality. So, yes, there are exceptions, and the Court would require groups to obviously demonstrate that they had reasonable feeling that disclosing their donor base would be a reprisal. But there are exceptions, and there can be exceptions, but the law can be allowed to stand without suggesting that it will be ruled unconstitutional because there is an exception to that rule.

We have drawn this amendment to be as narrow as possible in order to be as protective of the first amendment rights, constitutionally. If even possible we could have gone further but we chose to be narrow so that we don't create any problems with this legislation, because one of the concerns originally with the McCain-Feingold legislation is we would have the ban on soft money, but the issue advocacy provisions very possibly would have been struck down. So we designed this amendment in order to address those concerns.

Mr. President, I yield such time as he may consume to Senator JEFFORDS, the other sponsor of this amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise to urge my colleagues to support this fair and reasonable amendment. I think it is important for us to take a close look at what this does to make sure that we understand that it is really hard for anyone to be against it as near as I can tell. It is not the end-all of the situation that we face or the problems that need to be handled, by any means, but it does take into consideration doing something where nothing is done now to alert the public to who is behind the things that are being thrown on television.

I can just imagine a candidate, and this happens now, I am sure, when they think they are running their campaign, they had it all organized and they are watching carefully the amount of money their opponent has, and then they wake up one morning thinking they are in fine shape and every channel they turn on on the television has this ad attacking them at the last moment, the last couple of weeks before the election, and they don't know who it is coming from or what to do about it; they were not aware of it.

All we say is, OK, that can happen; but at least 45, 50, 60 days before it happens, you know it will happen. That is all we are saying. So that you don't get the surprise attacks by somebody who is running so-called issue ads that did not place them under the FEC regulations with respect to supporting that candidate.

That is the real world we are faced with. It happened last time. It happened to the tune of $135 million. The least we could do, the very least, is to say at least you ought to know it is coming, first; and No. 2, where it is coming from so you have an idea when you get this last-minute flurry of advertising you are ready to do the best you can to protect yourself against it.

Again, I want to commend the Senator for the continued leadership on this very important issue. Senator SNOWE mentioned yesterday and today it is the duty of leaders to lead, and that means making some difficult choices in doing the right thing. On the issue, Senator SNOWE has been a true leader. Crafting a compromise is often difficult. I thank the Senator from Maine for leading this body to a logical resolution, one which is sensible and one which is so commonsensical it is hard to understand why anybody would be against it,

As was discussed yesterday, the basic tenets of the Snowe amendment are boosting disclosure requirements and tightening expenditures of certain funds in the weeks preceding a primary and general election. The amendment strengthens the McCain-Feingold bill in these areas in a reasonable manner. I could not support the McCain-Feingold bill until something was put into that area which is going to be the most used area. It is the first time it was used in the last election and we saw $135 million or more come in to the election. You have to remember that power is what those who are spending money seek. The money is going to follow that group which is most effective in gaining that power. Our job is to know where it comes from.

The last Presidential election shows how terrible our means are to trace the money now. This is an opportunity to trace effectively, to know where it is coming from, you have a chance to understand where it came from. The last few election cycles have shown the spending has grown astronomically in two areas that cause me great concern: First, issue ads that have turned into blatant electioneering; second, the unfettered spending by corporations and unions to influence the outcomes of elections.

As an example of how this spending has grown, a House Member from Michigan in 1996 faced nearly $2 million in advertisements alone before the fall campaigning season had begun. Campaigning really starts early and then there is a big boost at the end. Early on you want to knock the candidate out before he has a chance to get on the scene, and at the end it is because you know a large percentage of the people who vote really don't pay much attention until the last couple of weeks. The Snowe-Jeffords amendment addresses these areas in a reasonable, equitable, and, last but not least, constitutional way.

Mr. President, citizens across this Nation have grown weary of the tenor of campaigns in recent years. This disappointment is reflected in low voter participation and the diminished role of individuals in electing their representatives. Increasing the information available to the electorate will help return the power of this democratic aspect to the people who should have it—the voters. Expanded disclosure will bring daylight to this process. Increased disclosure will rid corruption; more disclosure will protect the public and the candidates.

How can we deny our electorate the ability to know the sponsors of electioneering communications? Give the people the information they need to better evaluate those Federal candidates that they will be voting on. Each of us should ask or be fully informed before we vote on a bill or amendment. How can we as Members of Congress stand here and say that the public should not have all the information they need before stepping into the voting booth?

Additionally, the disclosure required in the Snowe-Jeffords amendment will help deter actual corruption and avoid the appearance of impropriety that many feel pervades our campaign finance system. Armed with this information, voters are guaranteed access to the truth. This change will restore the public's confidence in the election process and their elected representatives.

As noted yesterday, the Annenberg Public Policy Center report figured there were somewhere between $135 to $150 million spent during the 1996 elections on so-called issue ads. This is a conservative estimate prepared very specifically not to lead to any exaggeration. The Annenberg report found that nearly 87 percent of these ads mentioned a candidate of office by name, and over 41 percent were seen by the public as pure attack ads. You ought to know who paid for them so we can better judge whether or not to believe them. This is the highest percentage recorded among a group that also

included Presidential ads, debates, free time segments, court candidates, and new programs. Clearly, these ads were overtly aimed at electing or defeating targeted candidates, but under current law these ads were not subject to disclosure requirements of any nature.

The second part of our amendment considers an area Congress has long had a solid record on: imposing more strenuous spending restrictions on corporations and labor unions. Remember, under the law, these are not given the same freedom of speech rights that individuals are, and rightfully so. Corporations have been banned from electioneering since 1907; unions, since 1947. As the Supreme Court pointed out in United States v. UAW, Congress banned corporate and union contributions in order to ''avoid the deleterious influences on Federal elections resulting from the use of money by those who exercise control over large aggregations of capital.''

Our amendment would ban corporations and unions from using General Treasury funds to fund electioneering communications in the last 60 days of the general election and the last 30 days before a primary. They still have the right to foster and to approve PACs, organizations for their employees or members of the union, to contribute to, in order that they individually, working together in the PACs, can influence the election process.

The Snowe amendment takes a reasoned, incremental and constitutional step to address the concerns many of my colleagues have voiced on campaign finance reform proposals.

Mr. President, some of our colleagues have expressed constitutional concerns with our amendment. Let me assure Members that we have taken great pains to craft a clear and narrow amendment on this issue in order to pass two critical first amendment doctrines that were at the heart of the Supreme Court's landmark Buckley decision, vagueness and overbreadth. Vagueness could chill free speech if someone who would otherwise speak chose not to because the rules aren't clear and they fear running afoul of the law. We agree that free speech should not be chilled and that is why our rules are very clear.

Any sponsor will know with certainty if their ad is an electioneering ad. There would be no question the way we have delineated within the bill.

Overbreadth could unintentionally sweep in a substantial amount of constitutionally protected speech. Our amendment is so narrow that it easily satisfies the Supreme Court's overbreadth concerns. We have asked the experts to check and give us advice on this. It is not just merely our opinion. We strictly limit our requirements to ads run near an election that identify a candidate—ads plainly intended to convince voters to vote for or against a particular candidate.

As the Court declared in Buckley, the governmental interests that justified disclosure of election-related spending are considerably broader and more powerful than those justifying prohibitions or restrictions on election-related spending.

Disclosure rules, the Court said, enhance the information available to the voting public. Who can be against that? Disclosure rules, according to the Court, are ''the least restrictive means of curbing evils of campaign ignorance and corruption.'' And our disclosure rules are immensely reasonable.

As James Madison said:

> A popular government without popular information is but a prologue to a tragedy or a farce or perhaps both.
>
> Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

Mr. President, our amendment will arm the voters in order to sustain our popular Government. I fear that without our amendment, and campaign finance reform generally, the disillusionment of the voting public will grow, along with the scandals, and the participation of our voting public will continue to decline, to the extent that we will be embarrassed. It is close to that point now when, many times, only half of the people even bother to go to the polls.

I ask that each Senator carefully consider the beneficial effects that our amendment will have and support us in moving this debate forward.

Mr. GORTON. Mr. President, I yield such time off of Senator MCCONNELL's time as I may use.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, it is with intense regret that it's my view that this amendment, representing a good-faith attempt by two of my friends and my Republican colleagues, it seems to me, is subject to even more widespread and deeper constitutional objections than the original McCain-Feingold bill—a bill that seems, to this Senator at least, to be unconstitutional on its face.

The fundamental objection to all of these attempts to limit the freedom of speech, of course, is that they fly in the face of the unrestricted language of the first amendment, language that does not—though the Senator from Maine might wish to permit it to do so—permit exceptions to every general rule.

This amendment, however, seems to me to violate the 14th amendment in many respects, with respect to both equal protection and due process. This amendment imposes broad and what some may consider to be onerous disclosure requirements with respect to what it calls ''electioneering''—on electioneering in certain ways through the mass media, but not at all in other ways, and even in the ways in which it covers electioneering by certain groups and organizations and not by other groups and organizations.

The Senator from Maine said, during the course of her comments, that she does not think that she could constitutionally apply these requirements to electioneering by mail. She has not applied them to electioneering through newspapers, nor has she applied them to electronic electioneering through the Internet, but only to electronic electioneering by television or by radio. She does that, she says in all candor, because those seem to be the most effective methods of electioneering, the methods of choice by those who have engaged in what the law now calls ''express advocacy'' and what she calls ''electioneering.''

Well, Mr. President, it seems to me hardly to be subject to argument that you can say that the Government can regulate your speech in one medium, but cannot or will not regulate it through another medium. That is a fundamental denial of the most fundamental of all of our constitutional rights. It does, however, illustrate the flaw in this entire debate, and that is that effective electioneering should be banned, or severely controlled, and that certain kinds of speech are so unfair or so late in a political campaign that we ought not to allow them; and if we have to allow them, we ought to impose on them such heavy restrictions as to discourage them, even though we are going to permit exactly the same kind of communication, as long as it is done in a relatively ineffective fashion. To claim, Mr. President, that the Constitution of the United States, in the first and 14th amendments, permits those distinctions is to fly in the face of all rationale, all logic, and all constitutional law.

But the amendment doesn't stop there. Even with respect to radio and television electioneering, it makes an exception. What is that exception? It is any news story, commentary, or editorial distributed through the facilities of a broadcasting station. So now we will have a law that clearly states that no matter how expensive, no matter how unfair, no matter how late in a campaign, a television station or a television network can do whatever it wishes without any of the restrictions of this statute; but no one else can without being subject to the restrictions of this amendment. Is there something that is so much superior in an editorial appearing on a television station over similar opinions expressed by a labor union, or by the Christian Coalition, or by any other political organization, that one should be discouraged and the other should be encouraged?

Mr. President, that is a terrible policy in any political debate, and it is clearly a policy that is so discriminatory as to run afoul of the equal protection clause of the 14th amendment. And, Mr. President, this discrimination doesn't even stop there in distinguishing between a communication paid for by a labor union or the Christian Coalition with one paid for by the facilities of the television station and network. Oh, no. The prohibitions do apply to a

television, or a radio station, or a network owned or controlled by a political party, a political committee, or a candidate.

So, Mr. President, we have the spectacle of all of these requirements being applied to a radio station or a television station owned by a candidate, but not applied to the National Broadcasting Company and, say, Tom Brokaw, the company owned by General Electric. So a corporation can purchase a television station or a network and do whatever it wants in politics. But a candidate can't and a political party can't.

Mr. President, how can that possibly, under any circumstances, be valid under the equal protection clause? How does that grant due process to candidates, political parties, or to any other organization, except for a corporate owner of a television station, a radio station, or a network?

The Senator from Maine also deals with the NAACP case and says, well, yes, the Supreme Court has ruled rather expressly that you cannot require a group expressing its point of view on a political subject to list its membership. She says every rule has its exceptions and there are certain kinds of organizations where that should be the case, but there are other kinds where it should not.

Last June, in testimony I think, on a bill like this, top officials of two organizations, Public Citizen and the Sierra Club Foundation, refused to expose the identities of their members.

''As I am sure you are aware, citizens have a first amendment right to form organizations to advance their common goals without fear of investigation or harassment,'' Public Citizen President Joan Claybrook told GNS.

We respect our members' rights to freely and privately associate with others who share their beliefs, and we do not reveal their identities. We will not violate their trust simply to satisfy the curiosity of Congress or even the press.

Evidently, the sponsors of this amendment feel that they need pay no attention to that proposition. But I look through the NAACP case without finding the slightest hint that the Supreme Court will oblige the sponsors of this amendment. The Supreme Court in that case said:

Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association, as this Court has more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly. . . . It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the ''liberty'' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech. . . . It is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious, or cultural matters . . . . In the domain of these indispensable liberties, whether of speech, press, or association, the decisions of this Court recognize that abridgement of such rights, even though unintended, may inevitably follow from varied forms of governmental action.

The Court has recognized the vital relationship between freedom to associate and privacy in one's associations. When referring to the varied forms of governmental action that might interfere with freedom of assembly, it said, ''A requirement that those in adherence of particular religious faiths or political parties wear identifying armbands is obviously of this nature. To compel the disclosure of membership in an organization engaged in the advocacy of particular beliefs is of the same order. Inviolability of privacy in group association may, in many circumstances, be indispensable to the preservation of freedom of association.''

(Ms. COLLINS assumed the Chair.)

Mr. GORTON. Now, Madam President, that is not a statement of the Supreme Court of the United States that is going to admit exceptions and say, oh, well, we really didn't mean it in a political race, we really didn't mean it in connection with an advocacy organization like the Christian Coalition or the labor unions; though, perhaps, we did mean it with respect to television networks. They will not do that.

Madam President, with respect to this attempt to limit freedom of speech, the views of the American Civil Liberties Union are particularly eloquent, and I do want to share just a handful of them at this point on this specific amendment.

We are writing today . . . to set forth our views on an amendment to that bill dealing with controls on issue advocacy which is being sponsored by Senators SNOWE and JEFFORDS. Although that proposal has been characterized as a compromise measure which would replace certain of the more egregious features of the comparable provisions of McCain-Feingold, the Snowe-Jeffords amendment still embodies the kind of unprecedented restraint on issue advocacy that violates bedrock First Amendment principles.

They go on eloquently to discuss exactly this proposition.

They say, ''The Court''—referring to the Supreme Court—''fashioned the express advocacy doctrine to safeguard issue advocacy from campaign finance controls, even though such advocacy might influence the outcome of an election. The doctrine provides a bright-line objective test that protects political speech and association by focusing solely on the content of the speaker's words, not on the motive in the speaker's mind or the impact on the speaker's audience, or the proximity to an election.''

Madam President, this proposal is blatantly unconstitutional. It is overwhelmingly discriminatory among organizations engaged in identical activity. It is overwhelmingly discriminatory in treating the forum or the particular medium by which a group advocates its views differently depending solely on the sponsor's views on the effectiveness of that particular medium in influencing the outcome of an election. It discriminates between a commercial corporation ownership of a television or radio medium and a political ownership of the same medium.

Madam President, it is exactly these prohibitions that the first amendment of the United States to the Constitution of the United States was designed to prohibit. And, of all forms of speech, the first amendment was aimed primarily at political speech. Here we have an attempt not only to ration political speech but to discriminate against certain forms of political speech and in favor of other forms of political speech, thus accomplishing the goal of violating not only the first amendment but the 14th amendment as well.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Madam President, I will yield time to the Senator from Michigan. I just want to make a couple of points in response to the Senator from Washington and to Senator JEFFORDS.

Mr. LEVIN. I wonder if I might ask unanimous consent that immediately after the Senator from Maine is finished with her remarks I be recognized for 20 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. SNOWE. The time off I yield to the Senator.

The PRESIDING OFFICER. Is that acceptable to the Senator from Maine?

Ms. SNOWE. With one exception: We would like to respond to the Senator from Washington briefly and Senator JEFFORDS briefly. We both have made our remarks. I want to yield to the Senator from Michigan 20 minutes.

Mr. LEVIN. Madam President, I ask unanimous consent that after the Senators from Maine and Vermont are finished with their responses to the Senator from Washington, I be recognized for 20 minutes and that the time be taken from the time of the Senator from Maine.

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

The Senator from Maine.

Ms. SNOWE. Thank you, Madam President.

Madam President, in response to what the Senator from Washington mentioned in terms of our amendment and the constitutional questions, it is interesting to note that his arguments suggest that in fact he prefers a broader amendment, which I think is interesting.

So I would certainly ask the Senator from Washington if he could tell us where in the Constitution it is impermissible to draw these distinctions and to draw these lines? The Constitution doesn't require us to address every problem. It certainly allows us to address some of the problems. And we know where some of the problems develop in campaigns today. The problems develop in the amount of money that is placed in television and radio advertising. That is what we are attempting to address.

So I think it is interesting that the Senator from Washington is talking about printed materials, newspapers, and direct mail. In fact, we are saying that isn't the source of the problem in these campaigns. The source of the problem is where you have $150 million being spent in television advertising by groups that do not have to disclose their donors That is all we are requiring—disclosure.

That is the thrust of our amendment. We are entitled to draw those distinctions. It would not be unconstitutional. We don't need to find something in the Constitution to justify every policy decision that we make.

Mr. JEFFORDS. Will the Senator from Maine yield on that point?

Ms. SNOWE. I am glad to yield to the Senator from Vermont.

Mr. JEFFORDS. I have known my good friend from Washington for 30 years, I guess. He is a master of the facts. Let us take a look at one of the glaring examples of that in his dissertation.

He takes a case involving the NAACP during the 1950s, when we had huge racial unrest, and the Supreme Court, in examining the case to expose all of the members of the NAACP in the South, said, when you have a paramount interest here of protecting people from bodily harm, then there is no way that you can require them to expose their membership so that you can go beat them up. This is a paraphrase.

In Buckley—someone raised that issue in this case—it said no. We are talking about different rights. We are talking about the rights of the public and the sacred right of casting a vote to know all of the information that can be available to them when they make decisions. That is a vital right, a sacred right. So that right overcomes any concern about releasing the names. You have to know. The voting public can't make decisions if they hear all of this coming out of the air at them and they do not know who said it.

So I don't think there is any question. But that is just an example of the erudite on constitutional law running through all of this, because I think this is clearly a situation where it is not in violation of the Constitution.

Ms. SNOWE. I thank Senator JEFFORDS for those comments. He is entirely correct on that issue. Obviously, there were legitimate fears of bodily harm and economic retribution in the 1950s in Alabama. That is what that case was all about. The court recognized that concern, and exceptions can be made, and have been made.

In fact, in response to the issue that was raised by the Senator from Washington and the Senator from Kentucky, several legal experts—Burt Neuborne, from New York University School of Law; Mr. Ornstein, of the American Enterprise Institute; Dan Ortiz, University of Virginia School of Law; and Josh Rosenkranz, from the New York University School of Law and the Brennan Center—wrote a response to these concerns.

These are legal and constitutional scholars in response to some of the groups suggesting that somehow they would fear the same reprisal. They said:

> These groups, like any other group, may be entitled to an exemption from electioneering disclosure laws if they can demonstrate a reasonable probability that compelling disclosure will subject its members to threats, harassment, or reprisal; but the need for these kinds of limited exceptions certainly do not make general disclosure rules contained in the Snowe-Jeffords amendment unconstitutional.

So, yes, exceptions can be made without making a broad ruling with respect to the constitutionality of any legislation that we might pass here.

To further buttress this point in terms of anonymity of donors, the courts have indicated in the past that there is no generalized right to anonymity. The Senator from Vermont mentioned the Buckley case upheld that.

Another case that has been identified here is McIntyre v. Ohio Elections. Justice Scalia said:

> The question relevant to our decision is whether a right to anonymity is such a prominent value in our constitutional system that even protection of the electoral process cannot be purchased at its expense.

The answer is clearly no.

He went on to say:

> Must a parade permit, for example, be issued to a group that refuses to provide its identity, or that agrees to do so only under assurance that the identity will not be made public? Must a government periodical that has a ''letters to the editor'' column disavow the policy that most newspapers have against the publication of anonymous letters? . . . Must a municipal ''public access'' cable channel permit anonymous (and masked) performers? The silliness that follows upon a generalized right to anonymous speech has no end.

Scalia went on to say that not only is it not a right, disclosure can be helpful in curbing ''mudslinging'' and ''character assassination'' and improving our elections.

So the point of it all is that disclosure is in our public interest. It is the public's right to know.

That is essentially the thrust of the Snowe-Jeffords amendment—to require disclosure of major donors over $500. It is in all of our interest to have such a requirement.

Now I yield to the Senator from Michigan 20 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first, let me commend the Senators from Maine and Vermont for their leadership. This amendment will strengthen the chances of this bill passing and, indeed, in many ways strengthen the bill itself. I lost track of the number of times this body has debated a need for campaign finance reform and was presented with reasonable bipartisan efforts and, yet, failed to get the job done. This is an issue which will not go away, and it is an issue which should not go away.

Soft money contributions of hundreds of thousands of dollars, indeed, of millions of dollars, have made the contribution limits in Federal election laws meaningless. Both the Republican and Democratic National Committees, national parties, solicited and spent soft money and used it to develop so-called ''issue ads'' which are clearly designed to support or defeat specific candidates. These soft money and issue ad loopholes are used to transfer millions of dollars to outside organizations to conduct allegedly independent election-related activities that are, in fact, benefiting parties and candidates. These soft money and issue ad loopholes are used by tax-exempt organizations to spend millions of dollars from unknown sources on candidate attack ads to influence election outcomes.

The reality of our campaign finance system simply cannot be avoided. Soft money has blown the lid off contribution limits in our campaign finance system. Soft money is the 800-pound gorilla sitting right in the middle of this debate.

Just look at Roger Tamraz, a contributor to both political parties. He is a bipartisan symbol of what is wrong with this system. He served as a Republican Eagle in the 1980s during the Republican administrations, and a Democratic Managing Trustee in the 1990s during Democratic administrations. Tamraz was unabashed in admitting that his political contributions were made for the purpose of buying access to candidates and officeholders, and he showed us in stark terms the all too common product of the current campaign finance system—using soft money to buy access.

Despite condemnation by the committee and the media of Tamraz' activities, when he was asked at the hearing to reflect upon his $300,000 contribution in 1996, Tamraz said, ''I think next time I will give $600,000.''

Now he was taunting us. He was flaunting the fact that he had given $300,000, indicating that it's perfectly legal and you folks like it that way or else you would change it. That's what Tamraz told us. And the truth of the matter is, he was right. It is a sad truth. We can change it if we want to change it. And the next time he will give $600,000 or $1 million to do the same thing, to buy access to candidates and to officeholders.

Most of the 1996 excesses involved activities that were legal, and they all centered around that 800-pound gorilla, soft money. Virtually all the foreign contributions that concerned the committee that just held hearings involved soft money. Virtually every offer of access to the White House or the Capitol or the President or to Members of the Senate or the House involved contributions of soft money. Virtually every instance of questionable conduct in the committee's investigation involved the solicitation or use of soft money.

The opponents want to pretend this monster doesn't exist, but it is sitting

right in the middle of this debate. It is not going to be removed until we address it.

The bipartisan McCain-Feingold bill would do an awful lot to repair this system. It is not a new bill. It has been before this body for years now and it has received sustained scrutiny from Members on both sides of the aisle.

The truth is that the soft money loophole exists as long as we in Congress allow it to exist. The issue advocacy loophole exists because we in Congress allow it to exist. Tax-exempt organizations spend millions televising candidate attack ads days before an election without disclosing who they are or where they got their funds, because we in Congress allow it.

It is time to stop pointing fingers at others and take responsibility for our share of the blame for this system. We alone write the laws. Congress alone can shut down the loopholes and reinvigorate the Federal election laws.

When the Federal Election Campaign Act was first enacted 20 years ago in response to the Watergate scandal, Congress enacted a comprehensive system of laws including contribution limits and full disclosure of all campaign contributions. The requirements are still on the books, at least in form. Individuals are not supposed to give more than $1,000 to a candidate per election. Corporations and unions are barred from contributing to any candidate without going through a political action committee. Campaign contributions and expenditures have to be disclosed.

At the time that these laws were enacted, many people fought against those laws, claiming that they were an unconstitutional restriction on first amendment rights to free speech and free association. And the law's opponents, including the ACLU, took their case to the Supreme Court.

The ACLU is sometimes right and the ACLU is sometimes wrong, but they are always eloquent. And the reason they are always eloquent is that the first amendment is eloquent. But so are clean elections an eloquent idea. So are elections which are free and clean and democratic an eloquent idea.

So the Supreme Court, in Buckley, had to weigh the ACLU opposition to the campaign contribution limits against the need for elections which were free and clean, both of corruption and the appearance of corruption—both. And the ACLU lost that issue in Buckley.

It is frequently forgotten around here that there was an attack on the campaign contribution limits, which are now the law, that attack was led by the ACLU in the Buckley case, and the ACLU lost. The Supreme Court in Buckley upheld contribution limits and disclosure limits. It upheld them despite the eloquence of the ACLU in opposition to those limits in Buckley.

Now, this is what the Supreme Court said in Buckley:

> It is unnecessary to look beyond the Act's primary purpose—to limit the actuality and appearance of corruption resulting from large individual financial contributions—in order to find a constitutionally sufficient justification for the $1,000 contribution limitation. Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign. . . . To the extent that large contributions are given to secure political quid pro quo's from current potential office holders, the integrity of our system of representative democracy is undermined.

And then the Supreme Court said the following in Buckley:

> Of almost equal concern is . . . the impact of the appearance of corruption, stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions.

And the Court went on:

> Congress could legitimately conclude that the avoidance of the appearance of improper influence is also critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.

So the Supreme Court weighed the free speech arguments of the opponents of campaign contribution limits and weighed that against the argument about the need to have elections which are free and clean, and to avoid the appearance of corruption. And they decided in Buckley that we, Congress, ''could legitimately conclude that the avoidance of the appearance of improper influence is critical if confidence in the system of representative government is not to be eroded to a disastrous extent.''

The same Court upheld tough disclosure requirements, effectively prohibiting anonymous or secret contributions to candidates and parties, despite arguments in Buckley that disclosure collides with first amendment rights of free speech and free association. The Court in Buckley said the following:

> Compelled disclosure has the potential for substantially infringing on the exercise of first amendment rights. But we have acknowledged that there are governmental interests sufficiently important to outweigh the possibility of infringement, particularly when the free functioning of our national institutions is involved. The governmental interests sought to be vindicated by the disclosure requirements are of this magnitude.

So, despite the arguments of opponents of contribution limits and opponents of disclosure who base their arguments on first amendment concerns, the Supreme Court in Buckley said you can limit contributions and you can require disclosure because the governmental interests sought to be vindicated, the free functioning of our national institutions, is involved. And Congress can consider that. They used a balancing test, and that is the test that they would use when we pass McCain-Feingold.

Now, relative to the question of the so-called magic words test on issue ads, it is true that two circuits have said that the Supreme Court has ruled that only if certain magic words are present can you then limit those ads to being paid for by regulated contributions. But another circuit, the ninth circuit, in the Furgatch case, has held that this list of magic words referred to so frequently here ''does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate.''

And of equal importance to the fact that the circuits are divided on the question of what constitutes issue advocacy and what constitutes candidate advocacy is the fact that the Federal Election Commission just recently, on a bipartisan basis, reaffirmed its commitment to a broader test that goes beyond the magic words test to unmask ads that use the guise of issue ads to advocate the election or defeat of a Federal candidate.

The Supreme Court has not yet ruled on whether the FEC regulation is constitutional. But when you have at least one circuit and the FEC saying that you can have a broader test than the ones that have been adopted in the other circuits, there is a division of authority here which means that at least there is a reasonable chance that the Supreme Court will affirm the FEC regulation.

I wonder how much time I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes and 27 seconds.

Mr. LEVIN. I thank the Chair.

Relative to the Snowe-Jeffords amendment, this amendment strikes an acceptable balance between the need to protect the integrity of our electoral process and the need to protect the rights to free speech. It would address issue ad abuse by creating a new category of electioneering ads, defined as ads that refer to a clearly identified candidate up for election and which are broadcast on the regulated media of television or radio close in time before an election.

Now, why radio and television? The answer is that the Supreme Court itself has held that, due to the fact that these media, radio and television, are regulated, are licensed, and that the spectrum is limited, you can regulate these media in ways in which you cannot regulate newspapers or the printed word. The Supreme Court has ruled that there is a difference between Government regulating licensed media and unlicensed media, and where Government issues a license—gives out a license of great value for public media—it can indeed regulate the media in a reasonable way, ways it can't possibly even think of regulating newspapers or other print media, which are not regulated media.

Indeed, the FCC has regulations on what can be said on radio and television. There are rules against obscenity on radio and television. There are rules about the numbers of commercials and the types of commercials on children's television. There are all kinds of rules for the regulated media of television and radio which do not exist relative to newspapers. So, it is not an uncommon distinction. It is a

distinction which has been affirmed by the Supreme Court and it is not the effectiveness which is so much the issue, it is the fact that they are regulated, licensed media which, in my judgment at least, represents a significant difference.

The Snowe-Jeffords amendment would impose a limited set of contribution limits and disclosure requirements on commercials on these licensed media. No corporate or union funds could be used to pay for them. Donors who provide more than $500 would have to be disclosed. These limits are well within the bounds of the contribution limits and disclosure requirements which have been upheld in Buckley as a constitutional means for protecting the integrity of our electoral process.

Madam President, this is not the first time that loopholes have eroded the effectiveness of a set of laws. This happens all the time. The election laws are just the latest example. We saw that true with lobbying disclosure. We saw that true with gift bans. You adopt a set of rules and then people who want to try to evade those rules or push the envelope find loopholes. And then Congress has a responsibility to come along to try to close these loopholes in order to carry out the original intent of the statute.

The question is whether or not we are going to do this now with the campaign contribution laws. We passed a law saying there is a $1,000 contribution limit to a campaign and now there is really no limit on how much you can contribute. All you have to do is give your millions to a party and have the party, then, spend the money on ads which are indistinguishable from ads attacking or supporting candidates. These ads are indistinguishable. You can put up two ads next to each other, ask any reasonable person, ''Do you see the difference between this candidate support ad and this issue ad?'' and people will look at those ads and say, ''There is no difference at all.''

We saw that in committee hearings, which the Presiding Officer and I and others participated in, in the Thompson committee, where we put up side by side a so-called candidate ad and an issue ad, with three words difference, one of which had to be paid for with limited funds and the other one which could be paid for with soft money or unregulated funds, and we had expert witnesses, including two former Members of this body, Senator Kassebaum and Vice President Mondale, who could see no distinction in those ads. And there is none.

So we now have a farce. We have a sham. The campaign contribution limits, for all intents and purposes, do not exist. There is no $1,000 limit on giving money to a candidate. Just give $1 million to the candidate's party, have that party put a so-called issue ad on in that candidate's election, and it is indistinguishable from the so-called candidate support ad which has to be paid for with regulated funds.

The question is whether we are going to do anything about it. The time for shedding crocodile tears about the 1996 campaign funding raising is over. We ought to wipe away these tears from our eyes and see clearly what the American people see.

Over 80 percent of them, according to a recent Los Angeles Times poll, believe the campaign fundraising system needs to be reformed; 78 percent of the American people think we ought to limit the role of soft money. A majority of this body wants to limit it. We saw that in the vote yesterday.

The question now is whether or not the majority will of this body and the majority will of the American people are going to be carried out, and that is where we are.

I hope that the chief sponsors—I am one of them, but I hope that the key named sponsors of this amendment will stick to their position and will insist that we finally be able to have an up-or-down vote on the enactment of McCain-Feingold.

Last year, the Senate took up the issue of campaign finance reform, but never got past superficial gamesmanship.

The misnamed Paycheck Protection Act, as their version of campaign finance reform, was offered last year to the McCain-Feingold as a killer amendment that singled out unions in an effort to punish them for their participation in the 1996 elections, perhaps even for the last victory won on the minimum wage. The amendment was not even limited to campaigns—it sought to defund unions and stop them from spending money on any political activity, including for example lobbying the Senate to enact another minimum wage increase. The purpose of the amendment wasn't to change the law, but to kill the bill—and that's what it did.

This year, the same legislation was offered by the Republican leadership as their version of campaign finance reform. It is a killer bill—not intended for enactment but to kill campaign finance reform.

A way around that killer legislation has been found by Senator SNOWE, Senator JEFFORDS, Senator FEINGOLD, Senator MCCAIN, myself and others working on a bipartisan basis. Hopefully, the Snowe-Jeffords amendment will prevent campaign finance reform from being derailed again.

Campaign finance reform is an issue that could convert a dedicated optimist into a doomsayer. But it is not doomsday yet. We have a bipartisan bill that provides the key reforms. We have a bipartisan coalition willing to defeat last year's killer amendment. We have an election around the corner in which our constituents can let opponents of reform know what they think of their opposition.

So let's turn off the crocodile tears about the 1996 elections. Let's stop complaining about weak enforcement of the election laws, when the wording of those laws makes them virtually unenforceable. Let's stop feigning shock at the law's loopholes, while allowing them to continue. It is time to enact campaign finance reform. That is our legislative responsibility and our civic responsibility.

Madam President, I would like to ask my friend from Maine about one of the changes that her amendment would make to the McCain-Feingold campaign finance reform legislation, to make it clear for the record the reason for that change.

Ms. SNOWE. I would be happy to respond to my friend from Michigan for that purpose.

Mr. LEVIN. I thank the Senator. The Snowe-Jeffords amendment, of which I am a cosponsor, proposes removing from the McCain-Feingold legislation all of Section 201, a section which would have codified several legal tests for determining when an expenditure expressly advocates the election or defeat of a candidate. The reason for striking those provisions is not because you or any of the other cosponsors of the Snowe-Jeffords amendment do not want to stop candidate attack ads that pretend to be issue ads, but because you are willing to leave that battle for the courts, is that right?

Ms. SNOWE. My friend from Michigan is correct. Stopping issue ad abuse is critical to meaningful campaign finance reform. But distinguishing candidate ads from issue ads based on ad content is the Supreme Court's approach in Buckley versus Valeo; it is an approach that the courts are now examining; and I am willing to defer to the courts at this point.

Mr. LEVIN. The courts have divided on whether the Buckley test, which includes providing so-called ''magic words'' which make an ad subject to the federal election laws, is the only way to determine when an ad is covered, or whether, as the Ninth Circuit decided in the Furgatch case, the Buckley magic words do not ''exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate.'' Just a week or so ago, the Federal Election Commission reaffirmed its commitment to a broader test—one that goes beyond the magic words. I urged FEC to take that position, and I think it's the right one to take. Am I correct that it is not the Senator's intention or the intention of any of the cosponsors of the Snowe-Jeffords amendment to send a message critical of the FEC's position?

Ms. SNOWE. That is correct—our amendment is not intended to convey any criticism of the FEC. The Buckley magic words test is a very narrow one, and has proven completely ineffective in stopping phony issue ads that attack candidates. My amendment offers a new approach to this problem, by creating a new category of ''electronic ads'' that name candidates in broadcasts close in time to an election. But my amendment does not foreclose or

criticize other approaches to the problem. The FEC and the courts must continue to wrestle with clarifying when ads advocate the election or defeat of a candidate, and I fully support that effort. In fact, it is because the courts are still wrestling with the constitutional issues that makes me comfortable with waiting awhile longer before we legislate.

Mr. LEVIN. The Snowe-Jeffords amendment does not, then, imply any disagreement with the FEC, the Ninth Circuit or any of the rest of us who believe that the magic words test is not enough to stop candidate attack ads masquerading as issue ads, and that such a narrow test is not constitutionally required.

Ms. SNOWE. That is correct. The Snowe-Jeffords amendment is fully consistent with the view that the Furgatch decision and the FEC regulation may be a constitutional approach for detecting ads that pretend to discuss issues, but are really attacks on candidates. If that's where the Supreme Court ends up, I will be glad to see it, but it will be a separate approach from the Snowe-Jeffords amendment's treatment of broadcast ads that name candidates just before an election.

Mr. JEFFORDS. I join in the remarks of my friend from Maine.

Mr. LEVIN. I thank both Senators for that clarification.

I thank, again, the leaders of this effort to reform a system that is long overdue for reform. I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, Senator LEVIN and I had a discussion about the Furgatch case back in October. I am going to talk a good deal about the Furgatch case a little later.

My good friend and colleague Senator ENZI from Wyoming is here and would like to speak. I yield him whatever time he may need.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Thank you, Madam President.

Madam President, I rise in opposition to the amendment that is on the floor and to the McCain-Feingold substitute on campaign finance. Rather than ''reform'' the way that campaigns are financed, this substitute would infringe on the first amendment rights of millions of American citizens and place enormous burdens on candidates running for office.

While the McCain-Feingold substitute claims to ''clean up'' the elections, it does so by placing unconstitutional restrictions on citizens' ability to participate in the political process. For the past few days, we have heard Members of the Senate bemoan the fact that various citizens groups and individuals have taken out ads criticizing them during their elections. I have to admit that I can sympathize with my colleagues who have been the object of often pointed and critical campaign ads. In fact, during my last campaign, some ads were aired against me that were downright false. That is why I support truth in advertising, but this isn't truth in advertising. At the same time, I believe that in a free society it is essential that citizens have the right to articulate their positions on issues and candidates in the public forum.

The first amendment to our Constitution was drafted to ensure that future generations would have the right to engage in public political discourse that is vigorous and unfettered. Throughout even the darkest chapters of our Nation's history, our first amendment has provided an essential protection against inclinations to tyranny.

Just a moment ago, the Senator from Michigan mentioned loopholes that we are plugging up. One of the things that always disturbs me about legislation, while legislation is being designed, loopholes are being thought out, loopholes nobody intends to disclose until after they have an opportunity to use them.

I suggest to you that this piece of legislation and the amendment before us is subject to loopholes. There are people who have already decided how they can get around it. These are not the ethical people. These are the unethical ones. That is unenforced responsibility, that is what unethical activity is. It is also what ethical responsibility is, unenforced responsibility. You can't make somebody who intends to be bad be good, not if they intend to be.

What we do by placing some of these restrictions on people is say to those who are willing to conform to the rules that they have limitations and those who don't have, don't have limitations. ''Oh, well, we will build in penalties, we will make this tough, we will take away the right of those people who intend to follow rules the opportunity to address an issue while it is timely, an issue that really concerns them,'' and an issue in this day and age may cost more than they can give to that candidate. We will take that right away from them. But the person who isn't worried about being punished after the fact will go ahead and do exactly what they have been doing all the time. So we are going to put in place a rule that takes away a constitutional right, adds additional burden, builds bureaucracy and takes away the freedom of speech. We are doing it in the name of making contests fairer. But, again, there are people out there thinking of the loopholes as we speak, and there are a lot of them in this.

The Supreme Court has consistently interpreted the first amendment to protect the right of individual citizens and organizations to express their views through issue advocacy. The Court has maintained for over two decades that individuals and organizations do not fall within the restrictions of the Federal election code simply by engaging in this advocacy. No time limits, no disclosures, they just do not fall within the restrictions of the Federal election code simply by engaging in advocacy.

Issue advocacy includes the right to promote any candidate for office and his views as long as the communication does not ''in express terms advocate the election or defeat of a clearly identified candidate.'' As long as independent communication does not cross the bright line of expressly advocating the election or defeat of a candidate, individuals and groups are free to spend as much as they want promoting or criticizing a candidate and his or her views. While these holdings may not always be welcome to those of us running in campaigns, they represent a logical outgrowth of the first amendment's historic protection of core political speech.

Madam President, this amendment, which parades under the guise of reform, would violate these clear first amendment protections. The amendment impermissibly expands the definition of express advocacy to cover a whole host of communications by independent organizations. The McCain-Feingold amendment attempts to expand bright-line tests for issue advocacy to include communications which, in context, advocate election or defeat of a given candidate. Are we comfortable with giving a Federal regulatory agency the power to determine what constitutes acceptable political speech?

The substitute gives expansive new powers to the Federal Election Commission. This is one Federal agency which has abused the power it already has to regulate Federal elections. Just last year, the Fourth Circuit Court of Appeals strongly criticized the Federal Election Commission for its unsupportable action against the Christian Action Network. The network's only crime was engaging in protected political speech.

The Court of Appeals required the FEC to pay the network's attorney's fees and court costs since the FEC's prosecution had been unjustified. Congress should not condone flagrant administrative abuses by giving the FEC expanded new powers and responsibilities.

What we have talked about for a year and a half while I have been here is the inability to really look into situations that appear to be pretty flagrant. Now we want to expand their right, after they have not been able to do the job and have enforced their actions in court actions that have been decidedly abusive, we want to give them more power.

The McCain-Feingold substitute also includes within its new definition of express advocacy any communication that refers to one or more clearly identified candidates within 60 calendar days preceding an election. These provisions would allow the speech police

to regulate core political speech during the most crucial part of the election cycle. The amendment that is on the floor right now also talks about that most crucial part of the election cycle.

They would also place an economic burden on thousands of small radio and television stations which carry these ads. I don't think we in Washington should be placing any more restrictions on America's small businesses. Our Founding Fathers drafted the first amendment to protect against attempts such as these to prohibit free citizens from entering into public discourse on issues that greatly affect them.

I cannot support legislation that stifles free speech of American citizens and gives expanded new powers to the Federal bureaucracy. For these reasons, I must oppose the McCain-Feingold substitute and the current amendment. I ask my colleagues to join me in paying tribute to the first amendment and opposing the McCain-Feingold substitute and this amendment and any other amendment that unconstitutionally restricts the rights of citizens to participate in the democratic process. I thank the Chair, and I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Madam President, I thank my good friend from Wyoming for his important contribution to this debate. He obviously understands the issue well, and I don't say that because he clearly shares my own biases on this subject. I thank my good friend from Wyoming.

Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has approximately 1 hour and 28 minutes remaining.

Mr. MCCONNELL. Madam President, there has been a lot of discussion about what some have called sham issue advocacy. Among the most appalling spectacles we have witnessed on the Senate floor in recent years is that of Senators standing around casting judgment on whether particular ads by citizens groups transgress some notions of what is appropriate.

Sham issue advocacy is the reformer's favorite pejorative term of art for first amendment protected speech which those pushing the regulatory scheme in McCain-Feingold and the Snowe substitute do not regard as legitimate. They say it is sham speech because—brace yourself—it might actually affect an election. Well, by all means.

We are admonished that any communication by a private citizen or group that might have any impact on a Federal election should be regulated by the Federal Government, should be reported to the Federal Election Commission. The citizens who gather together to pay for it to exercise their constitutional right of association ought to be disclosed to the Federal Government, so the argument goes, so that they may be judged.

Many in the media beat the drums for Government regulation of this so-called sham issue advocacy. Roll Call last month actually had the audacity to besiege the Congress to get this speech—now listen to this—to get this speech under control. Of course, if you really want to have influence, if you really want to affect the course of an election to favor certain candidates over others, repeal certain legislation or certain issues and you are wealthy, you can always buy a newspaper or become a newspaper editor, write editorials, headlines, stories.

A lot of people would like to get those sham editorials under control. I thought about that from time to time over the years, but the first amendment would not allow it, and I don't know of anyone advocating it, certainly not Roll Call.

Fortunately for the media, they benefit from a provision in the Federal Elections Campaign Act, I might call it a loophole, that exempts their issue advocacy, their express advocacy, and only theirs, from the definition of expenditure.

The presumption underlying the notion that issue advocacy needs to be gotten under control is a remarkably arrogant one, or perhaps, in some instances, an ignorant one. The premise is that the politicians, all of us, own these elections and, therefore, politicians must control them, and politicians must not be drowned out by all this other independent speech issue advocacy by private citizens and groups.

Good heavens, the politicians may wish to keep the race on a particular issue or two or perhaps they rather not talk about legislative issues at all. Perhaps they prefer to keep the emphasis on personality, resume or some other nonissue qualities.

And there could be some citizen group with all their ''sham'' issue advocacy spoiling the election, messing the election up, fussing the election up with issues, for goodness sake—with issues. A group of citizens may feel strongly that character is an issue, one that should be injected into a particular race, and so they broadcast, through paid ads, some misdeed of a candidate because it is relevant to character. Reformers write such communications off as ''negative'' and somehow unbecoming in a democracy.

They do this without the candidate's permission. The temerity of these folks presuming they have a constitutional right to participate in elections, to weigh in on issues, to influence public opinion. Private citizens and groups interjecting themselves into American elections? How dare they do that. What do they think this is? A democracy?

A so-called compromise is being shopped around—actually it is the one we are considering—it is a compromise insofar as it seeks to pick up some additional Republicans, enough to invoke cloture at some point down the road. Its proponents claim it addresses the constitutional shortcomings of McCain-Feingold. Its authors have created a new label, a sort of new category of speech that exists nowhere save for the talking points here on the floor. They rephrase ''sham'' issue advocacy, calling it instead ''electioneering.''

Electioneering. What sinister overtones this term must evidently hold to reformers. This is positively subversive stuff, this ''electioneering.'' It warrants, in the reformer view, Federal regulation. Those who contribute to it should, we are told, be disclosed to the Federal Government.

We are advised by proponents of McCain-Feingold and the Snowe-Jeffords substitute or addition, that this ''sham'' issue advocacy, this ''electioneering'' is a new phenomenon, a new scourge which must be routed out, regulated, and disclosed to a Federal agency, the FEC.

Here is a news flash: Issue advocacy—''sham'' or otherwise—is neither novel nor ripe for Federal regulation. The legal minds at the Brennan Center who are building the case for McCain-Feingold and the Snowe-Jeffords proposal do not like the Buckley case. They do not respect the Buckley case. And their mission is to overturn the Buckley case.

Their theory—really a desperate hope, actually—is that the Court will look at 20 years of election activities since the Buckley decision and decide things differently, even obliterate the ''bright-line'' standard, the ''express advocacy'' tripwire.

More likely is that the Court will go the other way toward my view and that of those who think the first amendment that passed back before 1800 is America's premier political reform—not the Federal Election Campaign Act of 1974.

The Court is not going to look at the proliferation of issue advocacy and say, ''Whoa, we need to get that under control.'' No. I think the Court is going to say, ''We told you so.''

The Court, in Buckley two decades ago, anticipated that which the reformers now identify as a horrible ''loophole,'' which has recently opened up somehow and must be closed.

In Buckley, the Court anticipated exactly what we are discussing this afternoon. It said in that case:

> It would naively underestimate the integrity and resourcefulness of persons and groups desiring to buy influence to believe that they would have much difficulty devising expenditures that skirted the restriction on express advocacy of election or defeat but nevertheless benefited the candidate's campaign.

The Court was emphatic in Buckley that issue advocacy—''sham'' or otherwise—was at the core, the very core, of the first amendment. To regulate it in any way is unconstitutional, even a ''reform'' so seemingly innocuous as ''disclosure'' of donors.

In NAACP v. Button, in 1963, which was quoted in Buckley, the Court said:

Because First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity.

The Court went on to say in Buckley:

. . . the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application.

So the Court anticipated exactly what has happened.

Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions.

The Court said in Buckley:

Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest.

The Court went on the say:

[W]hether words intended and designed to fall short of invitation would miss that mark is a question both of intent and effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning.

Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim.

The Court went on:

The constitutional deficiencies described in Thomas v. Collins can be avoided only by reading [the 1974 independent expenditure provision regarding advocacy of election or defeat] as limited [very limited] to communications that include explicit words of advocacy of election or defeat of a candidate. . .

. . . in order to preserve the provision against invalidation or vagueness grounds, [it] must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office.

So, Madam President, the Court understood that an issue advocacy was very much to be, to some viewers or listeners, indistinguishable from express advocacy that they said the first amendment requires its protection.

So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, [the Court said] they are free [I repeat, free] to spend as much as they want to promote the candidate and his views. The exacting interpretation of the statutory language necessary to avoid unconstitutional vagueness thus undermines the limitations's effectiveness as a loophole-closing provision . . .

. . . yet no societal interest would be served by a loophole-closing provision . . .

So summing up Buckley's observations about issue advocacy, they anticipated this. They wanted people to have wide latitude to discuss the issues or the pros and cons of candidates for office, up to and including proximity to an election. And they wanted them to be able to do that without having to file with the Federal Election Commission or to conduct their speech with hard-money dollars.

The Supreme Court reiterated the explicit words requirement for a determination of express advocacy in the 1986 Massachusetts Citizens for Life case—citing, again, footnote 52 as a guide. And here is what they said:

Buckley adopted the ''express advocacy'' requirement to distinguish discussion of issues and candidates from more pointed exhortations to vote for particular persons. We therefore concluded in that case that a finding of ''express advocacy'' depended upon the use of language such as ''vote for,'' ''elect,'' ''support,'' etc.

Now, those who advocate McCain-Feingold and the Snowe-Jeffords proposal, which involve regulatory regimes, have precious few court cases upon which to base their arguments. Most prominent among these is the ninth circuit's Furgatch decision, dating back to 1987, which my colleague from Michigan, Senator LEVIN, made reference to a few moments ago. Frankly, it is a mighty slim reference. The Furgatch limb upon which their issue advocacy regulation case rests is a pretty weak limb.

While Furgatch is not my favorite decision, it is certainly not the blank check for reformers who seek to shut down issue advocacy either. Furgatch was an express advocacy case. It hinged on the content of the communication at issue—words, explicit terms—just as the Supreme Court required in Buckley and reiterated in Massachusetts Citizens for Life.

The words in Furgatch were not those contained in Buckley's footnote 52. Indeed, no one—least of all the Supreme Court—ever intended that the list, typically referred to as ''footnote 52'' was exhaustive. That would defy common sense.

Desperate for even the thinnest constitutional gruel upon which to base their regulatory zeal to extend their reach to everyone who dares to utter a political word in this country, the FEC leapt at Furgatch and will not let it go. FEC lawyers misread it, misrepresent it, and are rewarded with loss after loss after loss in the courts.

In last year's fourth circuit decision, which Senator ENZI referred to, ordering the FEC to pay one of its victims, the Christian Action Network's attorney's fees, the ''Furgatch-as-a-blank-check-for-issue-advocacy-regulation'' fantasy, was thoroughly dissected, debunked and dispensed with.

The court in the Christian Action Network case puts Furgatch in the proper perspective.

And let me read some portions of the Christian Action Network case.

On the authority of Buckley v. Valeo and FEC v. Massachusetts Citizens for Life, the district court dismissed the FEC's action against the Network for failure to state a claim upon which relief could be granted, holding that, as ''issue advocacy intended to inform the public about political issues germane to the 1992 presidential election,'' the advertisements were ''fully protected as 'political speech' under the First Amendment.''

Further on in the case, Madam President, the Court said:

Because the position taken by the FEC in this litigation was foreclosed by clear, well-established Supreme Court caselaw, and it is apparent from the Commission's selective quotation from and citation to those authorities that the agency was so aware, we conclude that the Commission's position, if not assumed in bad faith, was at least not ''substantially justified''. . .

Seven years later, and less than a month following the Court's decision in MCFL, the Ninth Circuit in FEC v. Furgatch, could not have been clearer that it, too, shared this understanding of the Court's decision in Buckley. Although the court declined to ''strictly limit'' express advocacy to the ''magic words'' of Buckley's footnote 52 because that footnote's list does ''not exhaust the capacity of the English language to expressly advocate election or defeat of a candidate,'' curiously, the Ninth Circuit never cited or discussed the Supreme Court's opinion in MCFL, notwithstanding that MCFL was argued in the Supreme Court three months prior to the decision in Furgatch and decided by the Court almost a month prior to the Court of Appeals decision. The Ninth Circuit does discuss the First Circuit's opinion in MCFL, but without noting that certiorari had been granted to review the case. Thus, the Furgatch court relied upon Buckley alone, without the reaffirmation provided by the Court in MCFL, for its conclusion that explicit ''words'' or ''language'' of advocacy are required if the Federal Election Campaign Act is to be constitutionally enforced.

The entire premise of the court's analysis was that words of advocacy such as those recited in footnote 52 were required to support Commission jurisdiction over a given corporate expenditure.

* * * * *

The Court explained that individual words or sentences of the message cannot be considered in isolation, but, rather, must be considered together with the other words and sentences that appear in the communication, in determining whether the message is one of election advocacy:

* * * * *

Then, although noting how ''[w]ords derive their meaning from what the speaker intends and what the reader understands,'' the court declined to place too much importance on intent because ''to fathom [the speaker's] mental state would distract [the court] unnecessarily from the speech itself.'' And, finally, although the Court refused to foreclose resort to contextual considerations external to the words themselves, it explained that external context must necessarily be an ''ancillary'' consideration because it is ''peripheral to the words themselves,'' and it pointedly noted that such ''context cannot supply a meaning that is incompatible with, or simply unrelated to, the clear import of the words.''

Having established that the emphasis must always be on the literal words of the communication, with little if any weight accorded external contextual factors, the court proceeded to outline what it considered to be ''a more comprehensive approach to the delimitation of 'express advocacy.'" In so doing, the court repeatedly emphasized that the message of candidacy advocacy must appear in the speech, in the words, of the communication if the expenditure of corporate funds for that communication is to be prohibited:

The court's almost exclusive focus on ''speech,'' and specifically ''speech'' defined as the literal words or text of the communication, could not have been clearer. . . .

This standard can be broken into three main components. First, even if it is not presented in the clearest, most explicit language, speech is ''express'' for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning. Second, speech may only be termed ''advocacy'' if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act. Finally, it must be clear what action is advocated. Speech cannot be ''express advocacy of the election or defeat of a clearly identified candidate'' when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other [kind of] action.

We emphasize that if any reasonable alternative reading of speech can be suggested, it cannot be express advocacy subject to the Act's disclosure requirements.

It is plain that the FEC has simply selected certain words and phrases from Furgatch that give the FEC the broadest possible authority to regulate political speech and ignored those portions of Furgatch quoted above, focusing on the words and text of the message. The ninth circuit did not use other soft language when describing the framework within which the express advocacy determination is to be made. Madam President, let me just say the case is replete with refutation of the Furgatch decision. Clearly, the Furgatch decision is not controlling when it comes to reaching a decision about the appropriateness of the language in the Snowe-Jeffords proposal.

Madam President, I ask unanimous consent the excerpts of this case that I was going to cite be printed in the RECORD.

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

EXCERPTS

434(c) so as to prevent speech that is clearly intended to affect the outcome of a federal election from escaping, either fortuitously or by design, the coverage of the Act,'' *id.* at 862. Under the facts of the case, these broader observations were obviously *dicta*.

* * * * *

. . . to the extent that they do represent an intentional departure by the Ninth Circuit from the standard set forth by the Supreme Court in *Buckley* and *MCFL*, they were just that.

* * * * *

Against this overwhelming weight of (and, in the case of the Supreme Court decisions, dispositive) authority, the FEC argued before the district court and before us the concededly ''novel'' position, . . . that, even though the Christian Action Network's advertisements did not include any explicit words or language advocating Governor Clinton's defeat, the expenditure of corporate funds for these advertisements nonetheless violated section 441b because, considered as a whole with the imagery, music, film footage, and voice intonations, the advertisements' nonprescriptive language unmistakably conveyed a message expressly advocating the defeat of Governor Clinton. That is, the FEC argued the position that ''no words of advocacy are necessary to expressly advocate the election of a candidate,'' . . .

* * * * *

Stripped of its circumlocution, the FEC's argument was (and is) that the determination of whether a given communication constitutes ''express advocacy'' depends upon all of the circumstances, internal and external to the communication, and could reasonably be considered to bear upon the recipient's interpretation of the message. The right to engage in political speech would turn on an interpretation of the ''imagery'' employed by the speaker. . . . It would depend upon the perceived ''charge'' of the ''rhetoric'' used . . . and upon the timing of the communication . . . The right would be contingent upon one's mere identity or association, as the following exchange between the court and FEC counsel reveals.

''The Court: And [the advertisement is] only bad if you believe that the voters disagree with the message about homosexuality there. For those voters who agree with the message, why is it a negative ad?

''Mr. Kolker: Well, I think, I think it's clear to a reasonable person that the Christian Action Network thinks these things are bad . . . I think that the ardent gay rights activist would view this ad as a message from the Christian Action Network to vote against Clinton. That they believe his views on homosexuals are wrong. . . .

''The Court: That's only if you bring to the table an understanding of what the Christian Action Network is:

* * * * *

''Mr. Kolker: It's a self-defined group using the label Christian Action.''

The FEC thus argues that ''[w]hen included as part of the message, the speaker's identity becomes part of the communication itself, and what matters is not what the viewer or the courts will infer about the speaker's intent, but what a reasonable person, informed about the speaker's identity (and thus potential biases and passions), understands the communication to mean.''

. . . Under certain circumstances, as the following exchange shows, the right could even be withdrawn merely because the speaker expresses disagreement with a candidate over a particular issue:

''Mr. Kolker: . . . If all you're doing is mentioning an issue to say that their candidate's position on it is wrong, it is not a real discussion of the issue, the focus of the ad is the candidate——

''The Court: —So you can't link the candidate with the issue, that's what——

''Mr. Kolker: No, I think you can but not if all you're doing is saying the candidate believes X and X is the wrong position. . . .

* * * * *

''Mr. Kolker: [I]t's clear from the ad that the way that final [rhetorical] question [in the television ad] forcefully is spoken, that from the speaker's perspective, it's the wrong vision. And what I'm saying is the candidate has a position, he's wrong on the position. There's no real issue discussion. It's just an attack on the candidate.'' Oral Arg. Trans. at 15–16.

To quote the following passage, in which the FEC articulates some of the multitude of factors that would be considered under its interpretation in determining whether a given communication was prohibited, is to appreciate the breadth of power that the FEC would appropriate to itself under its definition of ''express advocacy'':

''[E]xpress electoral advocacy [can] consist[] not of words alone, but of the combined message of words and dramatic moving images, sounds, and other non-verbal cues such as film editing, photographic techniques, and music, involving highly charged rhetoric and provocative images which, taken as a whole, sen[d] an unmistakable message to oppose [a specific candidate].''

Opp. Mem. at 8. This is little more than an argument that the FEC will know ''express advocacy'' when it sees it.

C.

The FEC's enforcement action against the Christian Action Network in this case brings into relief the extent to which, under the FEC's interpretation of ''express advocacy,'' political speech would become hostage to the vicissitudes of the Commission, because, although a viewer could interpret the Network's video as election advocacy of the defeat of Governor Clinton, another viewer could just as readily interpret the video as issue advocacy on the question of homosexual rights. Indeed, the commercial and advertisements that the FEC here contend fall squarely within its regulatory purview are precisely the kinds of issue advocacy that the Supreme Court sought to protect in *Buckley* and *MCFL*; and the FEC's interpretation of these advertisements is exactly that contemplated by the Court when it warned of the constitutional pitfalls in subjecting a speaker's message to the unpredictability of audience interpretation, . . .

* * * * *

Yet, the FEC would have us confer power upon it to regulate these advertisements because, in its assessment, ''[t]o the ordinary viewer in 1992, the CAN video unmistakably encourages voters to defeat Bill Clinton. The video communicates the following: A group explicitly aligning itself with Christian, heterosexual, and traditional family values graphically depicts a specific presidential candidate supporting homosexual men vividly asserting their sexual preferences; the message attacks Clinton's moral judgment and alleged policy agenda; those positions involve steps that only a federal elected official could take; the message is delivered to viewers who live in states where Governor Clinton has no contemporaneous authority to set policy; the message is televised shortly before the presidential election; and the message employs powerful symbolism and persuasive devices unique to the medium of video. . . . The video admittedly contains no literal phrase such as ''Defeat Bill Clinton.'' But it contains a special kind of charged rhetoric and symbolism that exhorts more forcefully and unambiguously than mere words.''

Appellant's Br. at 37–38. Or, because, in the words of the ''expert'' whom the FEC retained to assist it in its action against the Christian Action Network.

''[T]his 30 second television spot expressly advocated the defeat of candidates Clinton and Gore in the upcoming presidential general election. It did so by employing the techniques of audio voice-overs, music, visual text, visual images, color, codewords, and editing. In their totality, these techniques said voters should defeat Clinton and Gore because these candidates favor extremist homosexuals and extremist homosexuals are bad for America.''

* * * * *

. . . the FEC's position was based not only ''on a misreading of the Ninth Circuit's decision in *Furgatah*,'' but also on a ''profound misreading'' of the Supreme Court's decision in both *Buckley* and *MCFL*.

From the foregoing discussion of *Buckley* and *MCFL*, it is indisputable that the Supreme Court limited the FEC's regulatory authority to expenditures which, through explicit words, advocate the election or defeat of a specifically identified candidate. In the portion of *Buckley* in which the Court addresses the overbreadth of the Federal Election Campaign Act and adopts its limiting construction of section 608(e)(1)'s term ''relative to,'' the Court does not even use the phrase ''express advocacy,'' upon the purported ''ambiguity'' of which the FEC builds its diffuse definition. In this most important portion of the opinion, *cf.* DNC Br. at 5, the

Court *only* refers to ''explicit words of advocacy,'' ''express terms'' and ''express words of advocacy.'' *See Buckley*, 424 U.S. at 43–44. It is not until the Court interprets the statutory term ''expenditure'' in section 434(e) to include the same limitation as in section 608(e)(1), forty pages later in the opinion, that the Court even uses the phrase ''express advocacy,'' *see id.* at 80. But even there, the Court confirms through footnote 108's cross-reference to footnote 52, in which the Court lists the kinds of words that would warrant exercise of the FEC's regulatory authority, that it meant by the phrase ''express advocacy'' nothing more or less than ''express words of advocacy.'' *In other words, the Court itself in Buckley confirmed that it intended the phrase ''express advocacy'' simply as a shorthand for the ''explicit words of advocacy of election or defeat'' ''of a clearly identified candidate for federal office,'' which it had held earlier in the opinion were required in order to save the Act from constitutional infirmity.*

Were this alone not sufficient to establish that the Court meant by ''express advocacy'' ''express words of advocacy,'' then the Court's subsequent discussion in *MCFL* removes all doubt. There, because it was interpreting the statutory term ''expenditure,'' the Court cited to *Buckley*'s discussion of section 434(e), rather than to that case's discussion of section 608(e)(1), and used the shorthand phrase ''express advocacy.'' *See MCFL*, 479 U.S. at 248–49. The Court then went on to define ''express advocacy,'' again through citation to its footnote 52 in *Buckley*, to mean ''express words of advocacy.'' *See id.* at 249 (citing *Buckley*, 424 U.S. at 44 n.52). It even stated that in *Buckley* it had concluded ''that a finding of 'express advocacy' depend[s] upon the use of *language* such as 'vote for,' 'elect,' 'support,' etc.'' *MCFL*, 479 U.S. at 249 (citing *Buckley*, 424 U.S. at 44 n.52) (emphasis added).

The FEC is fully aware that the Supreme Court has required explicit words of advocacy as a condition to the Commission's exercise of power, as evidenced by its own dissembling before this court.

* * * * *

The FEC argues throughout its submissions that the Supreme Court ''never suggested that communications can constitute express advocacy only if they include specific words from a special list.'' Appellant's Br. at 23. This is true, but it is a red-herring. Most certainly, the Court never said this. But, just as certainly, the Court never suggested that communications with no words of advocacy at all can nonetheless be considered ''express advocacy.'' In fact, as we show, it actually held precisely the opposite.

* * * * *

The agency even goes so far as to quote the very sentence from page 80 of *Buckley* in which the Court uses the phrase ''express advocacy'' and defines that phrase in the sentence's footnote 108 to mean ''express words of advocacy,''

* * * * *

The FEC resorts to the same slight-of-hand in its discussion of the Ninth Circuit's decision in *Furgatch*. According to the FEC, the court of appeals in that case said that ''courts must take care to avoid an unnecessarily narrow application of express advocacy to prevent 'eviscerating the Federal Election Campaign Act.'" Appellant's Br. at 18. In fact, what the Ninth Circuit said was that ''[a] test requiring the magic words 'elect,' 'support,' etc., or their nearly perfect synonyms for a finding of express advocacy would preserve the First Amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act.'' 807 F.2d at 863. In light of our discussion herein, the difference is of enormous significance.

* * * * *

That the Commission knows well the Court's holdings in *Buckley* and *MCFL* is further confirmed by the agency's subsequent action in *Furgatch*, which we referenced *supra* at 8–11. Because *Furgatch*, despite its narrow holding, does include broad *dicta* which can be read (or misread) to support the FEC's expansive view of its authority, the agency vigorously opposed *certiorari* in the case. Wishing to have the opinion preserved intact, the Commission in its submissions there, in contrast to its submissions before this court, quoted *Buckley* as ''requir[ing] 'explicit words of advocacy of election or defeat of a candidate.'" . . . The Commission even took the position that *Furgatch* did, as we noted above, interpret the Federal Election Campaign Act's corporate disclosure statutes as ''narrowly limited to communications containing *language* 'susceptible to no other reasonable interpretation but as an exhortation to vote,'"

. . . Moreover, the FEC argued to the Supreme Court that *Furgatch* was fully consistent with *Buckley* and *MCFL* precisely because the opinion focused on the specific language of Furgatch's advertisement and concluded that express advocacy existed only because the advertisement ''explicitly exhorted'' voters to defeat then-President Carter. Thus, there is no doubt the Commission understands that its position that no words of advocacy are required in order to support its jurisdiction runs directly counter to Supreme Court precedent.

* * * * *

. . . the Supreme Court has unambiguously held that the First Amendment forbids the regulation of our political speech under such indeterminate standards. ''Explicit words of advocacy of election or defeat of a candidate,'' ''express words of advocacy,'' the Court has held, are the constitutional minima. To allow the government's power to be brought to bear on less, would effectively be to dispossess corporate citizens of their fundamental right to engage in the very kind of political issue advocacy the First Amendment was intended to protect—as this case well confirms.

Mr. MCCONNELL. I yield the floor.

Ms. SNOWE. Madam President, I am delighted to yield 20 minutes to my colleague from Wisconsin, Senator FEINGOLD. I want to commend him for his perseverance and tenacity to ensuring that campaign finance reform reached the floor.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Thank you, Mr. President. I thank the Senator from Maine.

Let me first say that it was an interesting comment by the Senator from Kentucky that those of us trying to pass campaign finance reform don't like Buckley v. Valeo. I don't have strong feelings on liking or not liking Supreme Court cases. I just consider them the law of the land.

In this case, instead of taking the route that some people would like me and others to take of supporting a constitutional amendment to achieve campaign finance reform, something I vigorously opposed, I have instead, working with Senator MCCAIN and others, chosen to find a way to pass a bill that is within the Court's rulings and holdings in Buckley v. Valeo.

So I happen to think that is the controlling law. And the suggestion that somehow we don't consider that to be a valid case is simply wrong. Our efforts for 3 years have consistently been to craft a bill that the United States Supreme Court would say is constitutional in every respect. In fact, the Senator from Kentucky, after years of trying to suggest that the voluntary spending limits and the soft money ban are unconstitutional, now is only focusing on suggesting that a redefinition of phony issue ads is somehow unconstitutional. I think that is not at all an established proposition. I might add, I think our efforts here on this bill, with the help of the Snowe-Jeffords amendment, are getting stronger. Every day we are getting a little stronger on this bill, and it is a good feeling.

So it is my pleasure to rise today to speak in support of the amendment that the distinguished Senators from Maine and Vermont have offered. It reminds me of the tremendous help that the Presiding Officer, the other Senator from Maine, gave us when she had some ideas about how we could improve our bill. This is how you get a good bill. People with good ideas come together and gradually it gets improved, you gain support, until the point where it becomes obvious not only that a majority of the body supports the bill, which we have already achieved, but obviously it is in the interests of the people of this country that we simply get on with the business of the country and pass it. So I am a cosponsor of that amendment that has been offered, along with Senators LEVIN and LIEBERMAN on our side of the aisle and Senators MCCAIN, THOMPSON, COLLINS and CHAFEE on the Republican side.

When the debate on campaign finance reform reached a stalemate last fall, Senators SNOWE and JEFFORDS indicated they did intend to continue through the winter months looking for a solution to the deadlock. Those were not idle words. They were true to their word.

The Snowe-Jeffords amendment that has taken shape over the past 2 weeks is a sincere effort to address the two primary sticking points that have caused our efforts to be delayed: alleged first amendment concerns with the provisions of our bill dealing with issue advocacy and express advocacy, and the use of corporate and union treasury money for what amount to campaign attack advertisements in the closing days of the campaign.

Let me talk for a moment how the Snowe-Jeffords amendment navigates the difficult political and constitutional shoals that face us in this debate.

The first thing the amendment does is more clearly define a category of communications in the law. We call them electioneering communications.

These electioneering communications are communications that meet three tests: First, they are made through the broadcast media, radio and television, including satellite and cable. Second, they refer to a clearly identified official candidate—in other words, they show the face or speak the name of the candidate. And third, they appear within 60 days of a general election or 30 days of a primary in which that candidate is running.

The Snowe-Jeffords amendment provides that for-profit corporations and labor unions cannot make electioneering communications using their treasury funds. If they want to run TV ads mentioning candidates close to the election, they must use voluntary contributions to their political action committees. We firmly believe that this approach will withstand constitutional scrutiny because corporations and unions have for a very long time been barred from spending money directly on Federal elections.

The Senator from Kentucky suggested we lack case law for these propositions, but the Supreme Court upheld the ban on corporate spending in the Austin v. Michigan Chamber of Commerce case. Mr. President, it is noted that a Michigan regulation that prohibited corporations from making independent expenditures from treasury funds prevented ''corruption in the public arena: the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas.'' According to the Court, the Michigan regulation ''ensured that the expenditures reflect actual public support for the political ideas espoused by the corporations.''

We are merely saying through this amendment that actual public support, shown by voluntary contributions to a PAC, must be present when corporations and unions want to run ads mentioning candidates near in time to an election.

The Snowe-Jeffords amendment goes on to permit spending on these kinds of ads by nonprofit corporations, if they are registered as 501(c)(4) advocacy groups, and other unincorporated groups and individuals. The rules about corporations and unions do not apply in the same way to these groups, but the amendment, but it makes one requirement. It requires disclosure of the groups' large donors whose funds are used to place the ads once the total spending of the group on the electioneering communications reaches $10,000. It only applies if the total spending over a total amount of $10,000.

A few things should be noted about the disclosure requirement that entities other than unions and for-profit corporations are subject to if they engage in these kinds of electioneering communications. The disclosure required here is not burdensome; it simply requires a group placing an ad to report the spending to the FEC within 24 hours, and to provide the name of the group, or of any other group that exercises control over its activities, and of the custodian of records of the group, and finally of the amount of each disbursement and the person to whom the money was paid.

Second, this disclosure requirement is triggered by the spending of $10,000 or more on these kinds of ads. If a small group that spends only a few thousand on radio spots wants to do that, and they stay under $10,000, they will never have to report a thing. There is no new requirement there.

Third, the disclosure of contributors required is really quite limited. It does not require all contributors of all amounts to be disclosed. Only large donors who contribute more than $500 must be identified, and they have to be identified only by name and address. And a group that received donations from a wide variety of purposes, including some corporate or labor or treasury money, can set up a separate bank account to which only individuals can contribute, pay for the ads out of that account, and then they only have to disclose only the large donors whose money is put in that account. So any individual who doesn't want to be disclosed can easily ask that the group not spend his or her money on that kind of activity.

The net result will be that the public will learn through this amendment who the people are who are giving large contributions to groups to try to influence elections. If a group is merely a shell for a few wealthy donors, as we suspect that many of the groups who ran the nastiest ads in 1996 were, then we will know who these big money supporters are and we will be in a lot better position to assess their real agenda. On the other hand, if an established group with a large membership of small contributors under $500 wishes to engage in this kind of activity, it doesn't have to disclose any of its contributors under this amendment because it can pay for the ads freely from small donor money routed to the special bank account for individual donors.

Mr. President, I believe these disclosure provisions will pass constitutional muster. But the Senator from Kentucky and also the Senator from Washington earlier in the debate today have argued that even these reasonable disclosure requirements somehow violate the Constitution, and they cite the case of NAACP v. Alabama from 1958. That is a very important case in the history of our country and the history of the first amendment, and one with which I fully agree, but the conclusion that the Senator from Kentucky draws from it with respect to the Snowe-Jeffords amendment is simply wrong.

At the height of the civil rights struggle, the State of Alabama obtained a judicial order for the NAACP to produce its membership lists, and fined it $100,000 for failing to comply. The NAACP challenged that order and argued that the first amendment rights of its members to freely associate to advance their common beliefs would be violated by the forced disclosure of their membership lists. They pointed out many instances where the revealing of the identities of its members exposed them to economic reprisals, loss of unemployment, and even threats of physical coercion. The Court held that the State had not demonstrated a sufficient interest in obtaining these lists that would justify the deterrent effect on the members of the NAACP exercising their rights of association.

Now, Mr. President, everyone in this body should know that the Snowe amendment is totally different from what the State of Alabama tried to do in the NAACP case. The Snowe amendment doesn't ask for any membership lists. The Senator from Washington stood up and read quotes about how the NAACP case doesn't allow a requirement that a group disclose its membership list, but the Snowe amendment doesn't do anything of the kind. It is a simple red herring with regard to what we are asking in the Snowe amendment. All the Snowe amendment does is ask for is the very limited disclosure of the names and addresses of large contributors to a specific bank account used for the single purpose of paying for certain kinds of electioneering communications.

So, Mr. President, contrary to the claim that this is somehow like the NAACP case, most membership groups won't have to disclose anything if they receive sufficient small donations to cover their expenditures on these types of communications. And even if contributors want to give more, they don't have to be identified, as long as their money is not used for the kinds of ads that would be subject to this kind of disclosure.

Finally, the disclosure requirement can be avoided altogether by crafting an ad that does not specifically refer to a candidate during the short window of time right before an election. This is nothing like asking the NAACP or the NRA or anyone else to divulge their complete membership lists. This is a false analogy.

Mr. President, the Supreme Court has shown much more willingness to uphold disclosure requirements in connection with election spending than the Senator from Kentucky has been willing to recognize so far in this debate. In Citizens Against Rent Control v. the City of Berkeley, a 1981 case, for example, the Court struck down a limit on contributions to committees formed to support or oppose ballot a measure. But the court, Mr. President, noted specifically:

> The integrity of the political system will be adequately protected if contributors are identified in a public filing revealing the amounts contributed; if it is thought wise, legislation can outlaw anonymous contributions.

Mr. President, it is worth noting that the opinion in that case was by Chief

Justice Warren Burger and the vote was 8–1. The only dissenter, Justice White, thought the limits themselves on contributions should be upheld. So with regard to this issue, it was essentially unanimous.

In U.S. v. Harriss, the Court upheld disclosure requirements for lobbyists, despite the alleged chilling effect that those requirements might have on the right to petition the Government. Of course, the Buckley Court itself, which the Senator from Kentucky frequently refers to, upheld disclosure requirements for groups who make independent expenditures.

Now, of course, the Court will have to analyze the Snowe amendment when it gets there and the type of communications that trigger it and determine if they pass constitutional muster. I will not proclaim that there is no argument to be made at all that this provision is unconstitutional. Of course there is, and I am sure groups like the National Right to Life Committee will make it. But to say that there is no chance that this provision will be upheld, as the Senator from Kentucky has said, is just not right. There is ample and substantial constitutional justification and precedent for this provision.

As the Brennan Center for Justice wrote in its letter analyzing the Snowe-Jeffords amendment:

> Disclosure rules do not restrict speech significantly. Disclosure rules do not limit the information that is conveyed to the electorate. To the contrary, they increase the flow of information. For that reason, the Supreme Court has made clear that rules requiring disclosure are subject to less exacting constitutional strictures than direct prohibitions on spending . . .. There is no constitutional bar to expanding the disclosure rules to provide accurate information to voters about the sponsors of ads indisputably designed to influence their votes.

Mr. President, it is also important to note that the Snowe-Jeffords amendment contains provisions designed to prevent the laundering of corporate and union money through nonprofits. Groups that wish to engage in this particular kind of advocacy must ensure that only the contributions of individual donors are used for the expenditures.

Because the prohibition in the Snowe-Jeffords amendment is limited to unions and corporations spending money from their treasuries on these kinds of ads, many of the concerns that opponents of McCain-Feingold voiced about the effect of the bill on speech by citizens groups are eliminated. Keep that in mind. One of the things people claimed was the real problem of McCain-Feingold—there has been sort of a shifting bottom line of what the real problem is—but that portion has been modified in Snowe-Jeffords.

Senators who oppose this amendment must be willing to stand on two positions now that I think are both unsupportable. First, Mr. President, those who still oppose McCain-Feingold, if it is amended by Snowe-Jeffords, must defend the rights of unions and corporations using treasury money—not citizens groups like the National Right to Life Committee or the Christian Coalition or the Sierra Club—to run essentially campaign advertisements that dodge the Federal election laws by not using the magic words ''vote for'' or ''vote against'' or to finance those ads through other groups. So that is the conclusion: Corporations and unions, apparently, should just be allowed to do this freely, despite the almost unanimous complaints by Members of the Senate with regard to this question.

Secondly, those who are still holding out, even though they represent a minority of the Senate, in terms of supporting McCain-Feingold as it will be amended, argue that the public is not entitled to know, in the case of advocacy groups that run these ads close to an election, what the identities of these people are. They say that they should not be known to those who are about to vote. Many opponents of McCain-Feingold have trumpeted the virtues of full disclosure and say that is what we need—disclosure; not McCain-Feingold. I have, at times, doubted how serious they were about disclosure because they would never acknowledge the important advances our bill provides with regard to disclosure.

Now, when we vote on the Snowe-Jeffords amendment, we will see how sincere the opponents of this bill are about the importance of disclosure, because the Snowe-Jeffords amendment requires nothing more of advocacy groups than full disclosure. In fact, it requires a lot less because the groups only have to make these disclosures if they run these ads close to an election and if they spend more than $10,000 on those electioneering communications.

Mr. President, our agreement on the Snowe-Jeffords amendment means that a clear majority of this Senate supports bipartisan campaign finance reform. Further, we will vote as a block to defeat any ''poison pill'' offered by opponents. This agreement puts the onus of killing reform, if that is what happens, back where it belongs—on those who would put a partisan attack on unions over the greater good of abolishing soft money.

I urge my other colleagues on the Republican side to join this effort and recognize, as Senators SNOWE and JEFFORDS have done, along with Senators THOMPSON, COLLINS, SPECTER, and the original author, Senator MCCAIN, before them, and that a strong majority of the American people understands, that the McCain-Feingold bill is a balanced, reasonable, and fair step toward reform and that we can achieve that reform if we put our heads together and work out our differences.

Once again, Senator MCCAIN and I are more than willing to talk to anyone who sincerely wants reform or to talk about changes to our bill that will bring us closer to the 60 votes we need to get past the filibuster that opponents have promised. The fruitful negotiations that have produced the Snowe-Jeffords amendment have shown that we are serious about passing McCain-Feingold this year.

Mr. President, with that renewed invitation, I yield the floor.

Mr. MCCONNELL. Mr. President, I yield such time as he may need to Senator GRAMS from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, throughout Minnesota's history, its residents have been considered among America's most civic-minded citizens, who are interested in public affairs and concerned about how government decision-making affects their daily lives. I have been well-served by the counsel of thousands of Minnesotans who have expressed concerns about high taxes, balancing the budget, and, most recently, U.S. military involvement in Iraq.

During the 105th Congress, I have also heard from many Minnesotans who are concerned over the reports of alleged illegal or improper campaign contributions to the Democratic National Committee and White House during the 1996 campaign cycle. These reports have raised the perception among some Americans that access and votes can be bought in Washington and that the system for financing our federal campaigns is corrupt and ''broken.''

As the Senate considers campaign finance reform legislation, I am not surprised that many constituents have contacted me about this issue—but out of great concern for its potential impact upon their First Amendment right of free speech guaranteed by the U.S. Constitution. Regrettably, the consideration of the McCain-Feingold amendment is not the first time that Congress appears to have misinterpreted the will of the people.

Mr. President, I recently received a letter from President Clinton concerning the McCain-Feingold legislation. In his letter, the President urged my support for this measure because it would ''make our democracy work better for all Americans.'' Many of my colleagues received a similar letter last fall from the President in which he encouraged Congress to work with him and ''restore the public trust'' by supporting the modified McCain-Feingold bill.

As someone who has heard first-hand of the public's growing mistrust of their government, I strongly agree with the President's belief that the people's trust in their government should be restored and their participation in our democracy encouraged. However, I respectfully disagree with the President's recommended method for achieving these goals—through passage of new campaign finance laws.

I believe the people's faith in our democracy can be restored through greater enforcement of our existing laws, rather than passage of new laws. Congress should also require frequent and

fair disclosure of every contribution, and allow all Americans to participate in the political process. These measures, not new limits or government controls, will restore the public trust and allow Americans to participate in our democracy.

Most importantly, Congress should ensure that one of our country's most fundamental freedoms, the right to speak freely and openly in our society, is preserved for future generations of Americans. I believe Congress should focus its attention on preserving the First Amendment, which has always been the basis for active citizen participation in our political process.

The First Amendment ensures that, among other things, average Americans can participate in the democratic process through publicly disclosed contributions to campaigns of their choice. It also allows Americans to freely draft letters to the editor, distribute campaign literature, and participate in rallies and get-out-the-vote drives. Minnesota has a long history of its citizens becoming engaged in many of these activities during each election cycle.

Mr. President, we had a lengthy and spirited debate last fall over the McCain-Feingold legislation, in which many of our colleagues on both sides of the issue participated. The Senate wisely voted to reject this attempt to direct attention away from the reports of alleged illegal or improper campaign contributions during the 1996 campaign cycle. In taking this action, the Senate sent a message to the electorate that it will work to preserve the rights of Americans to participate in the democratic process and restore the public's trust in their government.

Despite this clear message sent by the Senate, and although many Americans continue to express opposition to ''reform'' efforts such as the McCain-Feingold bill, the President and some of my colleagues forced Congress, through various delaying tactics, to spend valuable legislative time revisiting this issue again this year.

Mr. President, as I noted last year, proponents of the modified McCain-Feingold bill should be commended for excluding provisions intended to limit candidates spending, requirements for reduced broadcasting time, and the ban on political action committees. However, this measure continues to suppress the rights of Americans to communicate their ideas and express their views. Ultimately, it will control, rather than encourage, greater participation in the democratic process.

And as a couple from Hastings, Minnesota recently wrote to me about the pending McCain-Feingold bill, ''It would be used as a tool to silence all criticism and disagreement by opponents of whatever government regime is in power in Washington at a particular time.''

First, the McCain-Feingold proposal continues to be premised upon the belief that there is too much money spent on American elections. If we accept this assumption, then Congress has decided to assert questionable authority to suppress the rights of Americans to become involved in the political process and make their voices heard. In fact, the belief that there is government justification for regulating the costs of political campaigns was rejected by the Supreme Court in the landmark case of Buckley versus Valeo.

Second, the McCain-Feingold proposal again includes a new and expanded statutory definition for ''express advocacy'' that would place additional restrictions on advocacy groups' political communications.

As my colleagues know, the Supreme Court established in Buckley a ''bright line'' test for protected speech which stated that a political communication must expressly advocate the election or defeat of a clearly identified candidate using such key words as ''vote for'' ''elect'' or ''vote against'' before it would be subject to federal regulation.

Third, the McCain-Feingold amendment places new restrictions upon the ability of national parties to support state and local party activities. Rather than pursue a suspect expansion of government control of national parties, we should recognize that political parties enjoy the same rights as individuals to participate in the democratic process.

For nearly two decades, political parties have been allowed to raise money for party-building and similar activities without limits on the size of contributions.

Additionally, the Supreme Court decision in Colorado Republican Federal Campaign Committee v. FEC, in which the Court found that Congress may not limit independent expenditures by political parties, makes it questionable whether these restrictions would be constitutional.

Finally, the McCain-Feingold amendment does not adequately protect the right of Americans to participate in the democratic process without fear of coercion.

Despite the Supreme Court decision in Communications Workers of America v. Beck almost ten years ago, millions of Americans still have portions of their paychecks taken and used for political purposes for which they may disagree, without their knowledge or consent.

I believe forcing an individual to make compulsory campaign contributions is contrary to our constitutional form of government and the First Amendment freedoms we enjoy as citizens.

For these reasons, I support the Majority Leader's decision to offer S. 1663, the ''Paycheck Protection Act,'' as the underlying bill.

This will allow individuals to regain control of their paychecks, avoid coercion, and exercise their political freedoms.

And unlike the Beck provision contained within the McCain-Feingold legislation, it would apply to all dues-paying employees. It would also reduce unnecessary burdens placed upon employees by requiring an employer to receive an individual's written permission before using his or her dues for political purposes.

Mr. President, there has been some discussion that amendments may be offered to reach a compromise between those who support the McCain-Feingold legislation and others who support greater enforcement of our existing laws.

While I believe compromise is an important part of legislating, I do not believe the Constitution should be compromised simply to give the public the impression that we are reacting to their concerns over allegations of campaign finance irregularities and illegal fundraising.

I believe the American people deserve a full accounting and will receive a full accounting of allegations of campaign finance law violations in the 1996 campaign cycle. However, we should not forget that the public's mistrust of their elected officials has not grown from a lack of laws, but from the activities of those who may have broken our existing laws.

Congress must not use violations of existing law to restrict political speech and participation by those who abide by current law. It is our responsibility to help safeguard the free speech rights of Americans and their ability to participate in the democracy which they have helped to create.

Thank you very much.

Mr. President, I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the distinguished Senator from Minnesota. I listened carefully to his comments, and they were right on the mark. I appreciate his support and contribution to this debate.

Mr. President, I see the distinguished Senator from Kansas on the floor.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 57 minutes and 47 seconds.

Mr. MCCONNELL. I will not yield a specific amount of time. I will just yield time to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I have spoken to this issue before. Before I made very clear my respect and admiration for the distinguished Senator from Kentucky as a stalwart defender of something we call free speech. I want to thank him again for his stalwart efforts. It seems to me that we have been focusing on this debate over and over and over again on perception as opposed to what really is at stake.

I can't imagine what I can add to this today under the circumstances, and go on and on and on ad nauseam, to a certain extent, and I don't mean to purger

anybody's intent or their feelings about this, or even intimate that this is not an important issue.

I would like to repeat a couple of things that I said before. At that time I quoted Thomas Paine in Common Sense. It wasn't Common Cause. It was Common Sense. Thomas Paine said, ''Tyranny, like Hell, is not easily conquered.'' And I was speaking to a resolution that would have defined free speech. We considered it certainly earlier in the session.

I then went on and gave quite a few quotes from American history and people that everybody respects about the value of free speech. I talked a little bit about the infamous Alien and Sedition acts. That was mentioned by Senator GORTON, the distinguished Senator from Washington. I think it has application in this legislation. I said at the time that those acts were passed by a young country that had adopted but didn't fully appreciate the first amendment rights of free speech. They were passed because the Government did not like what some of its citizens were saying about politics, politicians, and Government.

And, goodness knows, we have heard awful sorts of comments in regard to this debate on both sides about the fact that people really do not appreciate some of the criticism that we get in this business. The Government was worried, of course, about national security. But it is instructive to note that the Government's attempt to limit free speech is like walking in a swamp, and we are, in fact, walking toward a swamp in regard to the bill that we are considering. Your good intentions are tugged and pulled from all sides. Abigail Adams, for example, urged the passage of the acts to deal with Benjamin Franklin Bache, an editor who had referred to her husband as ''old, querulous, bald''—well, she had something there—''blind, crippled, toothless Adams.'' I don't think anybody would appreciate that. Bache was arrested, but died before he could be prosecuted, according to historians Jean Folkerts and Dwight Teeter.

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. My goodness, that might have some modern-day application.

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, it seems to me, in regard to this discussion as he drew the connection between free speech and elections.

Listen to Madison:

> 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 the efficacy of this right, depends on the knowledge of the comparative merits and the 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 and also political speech. That is the essence of the philosophy advanced by great philosophers like John Milton, John Locke, and John Stuart Mill. If they were here to take part in this debate, they probably couldn't or wouldn't believe it. The concept of a marketplace of ideas is based on unfettered speech and thought.

One of America's greatest jurists, Louis Brandeis, warned us to be ''most on guard to protect liberty when government's purposes are beneficial . . . the greatest dangers to liberty lurk''—lurk, lurk—''in insidious encroachment by men of zeal, well-meaning but without understanding.''

Advocates of this resolution want us to believe the need for Congress to limit campaign spending is so great that first amendment rights are secondary. Further, they argue that limits on campaign spending are really not limits on speech at all. We have gone over and over and over again, back and forth, on the Buckley decision and the Supreme Court.

> A restriction on the amount of money a person or group can spend on a 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 our mass society requires the expenditure of money. 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 other mass media for news and information have made these expensive modes of communication indispensable instruments of effective political speech.

In Kansas, I tell my esteemed colleague from Kentucky, a full-page advertisement in the Topeka Daily Capital cost $4,400. One 30-second TV ad to reach across the State costs more than $33,000. I know. I was in a Senate race, obviously. Even speech via the Internet, or the Postal Service, requires the expenditure of resources.

If we adopt this kind of legislation, and it is ratified—or, that was the earlier resolution. Obviously, this wouldn't have to be ratified by the States. What will you tell the business owner who wishes to petition his government for redress of grievances, to criticize a campaign of PAT ROBERTS, SAM BROWNBACK, or MITCH MCCONNELL, or to urge election of another candidate? Will we see that free political speech is only a half-page advertisement? Because I think the limit is $10,000. We wouldn't spend $10,050. Maybe $9,000 is OK. But we say free speech only applies to 15 seconds at the TV station. Who is going to administer all of this? The FEC? Really. We can't even get decisions on a timely basis.

The thought occurs to me, come to think of it, that the distinguished Secretary of Agriculture, Dan Glickman, a good friend and colleague of mine—was it 4 or 6 years ago? I think it was 6 years ago, or maybe 8 years ago. He had an opponent who was very ''brain noisy.'' That is probably not the right way to put it—very ''vigorous'' in his campaign. And a local cable distributor, a local cable TV company, didn't like the way Dan voted on an issue directly affecting his future. It was a telecom issue in the House. Every hour on the hour he just gave him unmitigated grief about it, including a lot of other things that had nothing to do with the legislation. I don't know whether Dan filed the inquiry, or the charge, or the complaint with the FEC after that election, or whatever, but, clearly, this was out of bounds. The FEC in its usual, expeditious manner, I think about 2 or 3 months ago, finally got around to a 6- or 8-year-old case, and made no decision.

So this leads me to question the distinguished Senator. Who is the first amendment for? To be more accurate, if Congress were to act on the principle of the first amendment uniformity, which the proponents of this legislation would do, it would not discriminate against the political speech of some speakers in favor of others. First amendment uniformity would mean that John Q. Public gets the same treatment as the highly paid, vastly influential Joe Anchorman, or the cable operator, or the TV anchorman or the editorialist, or the radio editorialist, or the publisher, or the editor of a newspaper? It might guide campaign ''reform'' legislation if the following resolution were adopted:

> Whereas the First Amendment to the Constitution of the United States says in pertinent part that ''Congress shall make no law abridging the freedom of speech, or of the press,'' and
>
> Whereas the First Amendment makes no distinction between the freedom of speech and the freedom of the press,
>
> Now Therefore Be It Resolved that no campaign reform proposal shall be enacted that treats Joe Anchorman's political speech more favorably than John Q. Public's.

This obviously is not a draft resolution that I think the supporters of the legislation would adopt. But, is the first amendment for everyone equally, or some persons or institutions entitled to special treatment for their political speech? Is John Q. Public entitled to the same first amendment treatment as Joe Anchorman, or is Mr. Anchorman entitled to special treatment because he delivers the news?

Here is the question I have for the distinguished Senator: What happens if John Q. Public wants to express issue advocacy and then says he is John Q. Anchorman? Say somebody solicits a

group of people from a list of migrant workers, the American Farm Bureau, Kansas Wheat Growers, the wheat growers of, say, North Dakota, or of Common Cause, or the tobacco growers of Kentucky. I know that is, I guess, politically incorrect. Obviously, they couldn't start a newspaper. It might go up in smoke. It might be regulated by the FDA.

But, having said that, say that they sell the stock at $100 a crack, $1,000, and they start a newspaper. My dad was an old newspaperman. I am an old newspaperman. I am a journalist. That is what it says in the bio when you read about ROBERTS; that he is an unemployed newspaperman. So, to start a newspaper, all you needed was a hat rack and a hat. A newspaper? No. Not a newspaper. You could print—and a typewriter. Those are the old days—and a subscription list. You don't even need, if you have the money, an advertisement. Well, you don't need a hat rack anymore. You don't need a hat. You don't need a typewriter. You do need a subscription list. If you know some nice ladies that work in an offset shop, you can have your own newspaper. Say you have a bunch of thousand-dollar contributors and you want to start your own newspaper. The Common Cause Daily News is published every week in Kansas. That is a newspaper. They are not affected by this legislation. I want to know, what is a newspaper anyway? What is the definition of a newspaper? Volume, 1, 2, 3, 4, and they started it for 6 months. What about an editorial announcer on a TV station? What about the situation with Dan Glickman who had no redress? I am not saying whether Dan was right or wrong. By the way, that race did not affect the current incumbent who didn't defeat Mr. Glickman. I think not everybody in the world gets the chance to be a Secretary as a consequence. But Dan is enjoying that and doing an outstanding job.

What is a newspaper? Where are the loopholes? Where does John Q. Public become John Q. Anchorman? How do we distinguish?

Mr. MCCONNELL. I say to my friend from Kansas that the example he cited, a cable owner expressing himself without limit about the relevant merits of former Congressman Glickman, would be entirely exempt from anything we are considering here today and entirely current law.

Let me read a short provision. This is from the Federal Election Campaign Act of 1974.

> The term ''expenditure'' does not include a news story, commentary, or editorial—which is what was happening on that cable station—or editorial distributed for the facilities of any broadcasting station, newspaper, magazine, or other periodical, or publication unless such facilities are owned or controlled by political party, or political committee, or candidate.

So, I say to my friend from Kansas, to the extent that proposals like Snowe-Jeffords put groups in a position where they would have to disclose significant numbers of their membership and/or donors as a precondition for criticizing or expressing themselves in proximity to an election, the perfect outlet would be to go into the newspaper business.

I am not suggesting that we put restrictions on newspapers. I don't want to put restrictions on citizens, which is what this debate is all about today. But the first amendment applies to everybody, not just to the press. We get the impression reading the editorials on this issue across the country that the first amendment is the sole province of the press. In fact, the courts have been quite clear about this; it applies to all of us.

So I would say my friend has put his finger right here on a good way around this growing regulatory environment that is being proposed. Just go into the newspaper business and you are free of it all. You can go out and trash whomever you want. You are not going to have to be regulated by the FEC or anyone else. Have at it.

And my guess is there would be a proliferation of so-called newspapers under this.

Mr. ROBERTS. We are going to have a lot of newspapers. We are going to have a lot of commentators. We are going to have a lot, under the Snowe-Jeffords amendment, of ''news stories, commentaries and stories distributed under the facilities of any broadcasting station [that] are exempt from its reporting requirements.''

What about the Internet? What about the Internet? Does the distinguished Senator have a view in that regard?

The reason I ask is, just today, like every Senator, you know, you check the Internet and you check your e-mail and all of that. On the Internet, on somebody's web page, there was sort of a semi-newspaper making commentary about one of our colleagues. It indicated down the road anybody but that individual should be supported in the next election. That is pretty express advocacy, it seems to me. They had some issue tied to it. It was interesting.

I am just wondering. As a matter of fact, a lot of people who started newspapers—I don't know if they call them newspapers but they call them, certainly, free and protected speech under the first amendment on the Internet. Who is going to—how are we going to police that? Would the distinguished Senator have a view on that?

Mr. MCCONNELL. I don't have a clue and I think the courts will be wrestling with that.

I say to my friend from Kansas, you know that GE owns NBC, Westinghouse owns CBS, and Disney owns ABC.

Mr. ROBERTS. Oh, my goodness.

Mr. MCCONNELL. Talk about corporate involvement in the political process. Those three corporations presumably have a good deal more speech than all the rest of us.

Mr. ROBERTS. That could conceivably cause some of the supporters of this legislation to change their minds. Because just yesterday the coauthor of the major spending bill indicated if you just took a look at the legislative agenda of those who are dealing with express advocacy or soft money, you would see that the people who vote for that agenda are bought and paid for in regards to that specific agenda.

Obviously, if a person has a different agenda from those who support this bill and it's a little different—whether it be big labor or labor or, say, many of the nonprofits as opposed to, say, the Chamber of Commerce or whatever—why, that is certainly different.

I am wondering if they now understand that since the major broadcast networks are owned by corporations, that this should not apply to them. I mean, that's dreadful, to really figure out that the major broadcasters are corporate entities. Why, we can't give them free speech. My goodness, it has to be pure as wind-driven snow, as described by these other groups you see, because the legislative agenda would be different.

That was amazing to me, absolutely amazing, that if you support the top five issues of Common Cause on one hand, why, that's fine and we want to certainly encourage that free flow of information. But if you supported the Chamber of Commerce, which may or may not agree with Common Cause, that's different and your vote was bought and paid for, even to the point that if you support this legislation, it will result in lower food costs, lower gas prices, better farm income—I don't know—better health care, protecting the environment.

What do we have here? I'll tell you what we have. We have censorship by agenda of the particular group that either favors or does not favor this legislation. I maintain there is not any Senator here who is bought or paid for by that kind of contribution. I don't know anybody here who would do that. That is a very specious commentary; self-serving, condescending, elitist.

I worry about free speech. I am an old newspaper man. My family started a newspaper, the second oldest in the State of Kansas, the Oskaloosa Independent, based on abolition. My great grandfather, John W. Roberts, came to Kansas to make it a free State. I firmly believe in the first amendment and free speech.

This legislation, well-intended, strikes at free speech. It doesn't define what is and is not a newspaper. We are dealing with the same issue that the Founding Fathers spoke to with the Alien and Sedition Act. Senator GORTON is right; it is not a stretch.

As you can see, I get a little worked up about this. But I think it is a point that every editorialist in every newspaper who thinks they are on cloud nine and protected should stop and consider.

I thank the distinguished Senator from Kentucky for being a protector of free speech.

I yield the floor.

Several Senators addressed the Chair.

Mr. MCCONNELL. I thank the distinguished Senator from Kansas for his important contribution. What he is talking about here is precisely this, that the first amendment applies to everybody, not just to the press, and any misguided effort to make it more difficult for citizens to band together and express themselves without limitation, even though it may be in the neighborhood or proximity of an election, is not going to be upheld by the courts of the United States. So I thank the Senator very much for his contribution.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 37 minutes and 10 seconds.

Mr. MCCONNELL. I reserve the remainder of my time.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Maine.

Ms. SNOWE. I would now like to yield to my friend from North Dakota, Senator DORGAN, 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from North Dakota.

Mr. DORGAN. Mr. President, I gather that the previous discussion was about the Snowe-Jeffords amendment, but it was very difficult to connect. I gathered from the discussion that at least one Member came out in favor of free speech and the first amendment of the Constitution. Perhaps two Members did. I expect we could sign up the other 98. But that has as much relationship to the Snowe-Jeffords amendment as discussing how to make an apple pie. It doesn't have any relationship at all.

This is not about free speech. This is not about free speech at all. This is about disclosure, and the question propounded by the Senator from Maine with her amendment is, why are we afraid of disclosure? Why not ask people who want to interfere with and invest in Federal elections that they disclose who they are and how much money they are investing in Federal elections? That is what the question is.

So then I ask those of you who are opposed to this, what are you afraid of? Why not disclose it? What is wrong with disclosure? This amendment doesn't say you can't contribute, you can't raise soft money, you can't do issue advocacy. It doesn't say that at all. It says you must disclose who you are and what you are spending. What is wrong with that?

Yesterday I mentioned that Mark Twain was once asked to join in a debate. He said, ''Fine, as long as I can take the opposing side.'' They said, ''We didn't tell you what the subject was.'' He said, ''It doesn't matter. The negative side doesn't require any preparation.''

We are on the floor of the Senate, proposing to reform the campaign finance system in this country because it is broken and needs fixing. Those who think it is not broken, look at the record. Look at the statistics. Look at the data.

Let me show a chart that describes an interesting comparison, the number of voters versus the number of dollars in American politics. The number of dollars goes up and the voting participation goes down in this country. You think there is not something wrong with this system? I mentioned yesterday that soft money, a problem that is dealt with in the McCain-Feingold bill and also in the amendment that is before us today—soft money is the political equivalent of a Swiss bank. Soft money is the mechanism by which you create secrecy for contributions, unlimited quantity, that come into campaigns to interfere with Federal elections. It has become the legal form of cheating in American politics.

The amendment before us says let us require disclosure, let us require disclosure in certain circumstances. The underlying bill says let us ban soft money in other circumstances, but it has nothing to do with free speech. Nothing.

Let me read a couple of things, if I might. Here is a so-called issue ad from a group that was formed very close to an election. This ad ran 2 weeks before a general election. It was paid for from a $1.7 million pot of money, almost all of it raised 3 weeks before the election. It came from eight deposits. Eight deposits created a $1.7 million pot of money spent in the last couple of weeks before the election. Here is what they said: ''Can we trust candidate X?'' They used the name. Let me say Thompson, just hypothetically. ''Can we trust candidate Thompson? The ad says Thompson ''has been criticized as inefficient and disorganized by the county auditor,'' and that he was ''accused of Medicare fraud by a home health care worker from his family business. Call Thompson and tell him to support ethics in government.''

That is an issue ad? It's not an issue ad. This is an ad designed specifically to defeat candidate Thompson, paid for by a $1.7 million pot of money collected in eight deposits from secret donors. I ask those who stand up and say things are just fine on campaign finance reform, do you support this? Is this a legal form of cheating you think is fine in campaign finance reform? Does anybody here stand up and support this? Anybody? I guess not.

So, another one: $700,000 from a wealthy individual who calls up a 501(c)(4) organization and says, ''I want to spend $700,000.'' But he doesn't want any fingerprints on it, so he calls up the political equivalent of the Swiss bank and says, ''I want secrecy.'' And $700,000 magically disappears into in a political Swiss bank and then the ads go out. The ads run just weeks before an election, targeted to defeat candidates, called ''issue ads.'' Not issue ads, cheating; $700,000 from one person designed to try to defeat candidates and get around Federal election rules.

Mr. President, $1.8 million was formed by a group that was formed on paper in October 1996. One wealthy donor gave $100,000 to buy negative ads attacking one specific Congressman in the closing weeks of the campaign; 12 deposits put together $1.8 million to be used for these so-called issue ads that represent the form of political cheating that is going on in this country.

Again, it is the political equivalent of the Swiss bank: Put together soft money in large quantities, go out and target and try to defeat people, call them issue ads, and essentially get around the Federal election laws.

Do you think this is the way the system ought to work? Do you think this is just fine? If you think this is fine, then I guess you ought to try to defeat campaign finance reform. And some are trying to do that. I don't question their motives or honesty. They, I think, honestly believe the system is fine, that this is about money being speech. If you have more money, you have freer speech, apparently. And some people have more money than others, so, I guess they apparently are better able to speak in this country.

But that is not what the Constitution is about. At least in this system we have said that there ought to be reasonable restrictions and regulations on the financing of Federal elections. And if you believe that these examples are examples that just fit well within the frame of what we think a reasonable campaign finance system is, then you are about a century behind where we ought to be.

We have already made a decision in this country. We don't want people with $2 million to hide behind a veil of secrecy and say, ''By the way, with my $2 million I want to go out and find these two candidates and I want to undercut them with $2 million worth of advertisements and I don't want my fingerprints on it. I don't want anybody ever to know that I did it, but I want to defeat these two candidates.'' Until these smart campaign lawyers came up with these loopholes, Federal law said you can't do that. But the soft money loophole says there is a new way around these laws, and that is what is creating, I think, the disrespect for the current campaign finance system that requires us to take action here in the Congress. No, not to abridge free speech, but to require, as this amendment does, full disclosure.

Let one Member of the Senate stand up and tell me an answer to this question. Why are we afraid of full disclosure? Do we want to protect the person who took $700,000 and wrote a check and says, ''I want to defeat this person and that person and I don't want my fingerprints on it''? Is that why we oppose full disclosure?

What on Earth would be wrong with requiring full disclosure in the circumstances described by Senator SNOWE and Senator JEFFORDS? Who can stand up on the floor of the Senate and say that is a step in the wrong direction?

It seems to me it is a giant step in the right direction. For this Congress to do nothing, as some on this Senate floor want us to do, I think would be a travesty. Anyone who looks at this system understands the system is broken. Soft money is growing by leaps and bounds. The first 6 months of this year tripled the first 6 months of 2 cycles ago.

Soft money is growing by leaps and bounds, and everyone knows that it is the way around the current campaign finance system. Some say, incidentally, there is not enough money in politics. They have a right to say that. I understand that. They are so dead wrong. There is too much money in politics, and what this amendment and what the underlying bill does is to say, let us decide that there needs to be some rational approach to putting back together again a set of rules on financing Federal elections that give people some confidence that these are elections and not auctions.

Again, the political equivalent of the Swiss bank in American politics is exactly what Senator SNOWE and Senator JEFFORDS are attempting to deal with in this amendment.

Would I have written this amendment differently? Yes, I would have. I think they left out a couple of things, and I would have written it differently. I support this amendment, because I want this Congress to pass campaign finance reform, and this is a step to allow us to get to a vote to do that.

I come here today happy to support the effort that Senator SNOWE and Senator JEFFORDS have made on the floor of the Senate. I have listened to their debate. They have been forceful and persuasive.

Frankly, I am surprised to come and listen to a discussion about the first amendment, free speech. It has nothing to do with free speech. Come and trade recipes, come and ruminate about baseball. It has as much to do about this amendment as the discussion of free speech a moment ago. Nothing Senator SNOWE is proposing and nothing in the underlying bill, in my judgment, impinges free speech.

I think those who have proposed the McCain-Feingold bill and those who propose this amendment do this country a service by saying the current system is broken and we can do a better job in creating rules of campaign finance that will give people in this country more confidence in this system.

I thank very much the Senator from Maine for providing me this time. I hope very much the Senate will not only support her amendment, but we will go on from that point and pass the underlying bill. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mr. McCONNELL. I yield the Senator from Pennsylvania 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, first, I commend the job that the Senator from Kentucky, Senator MCCONNELL, has done this year on this debate, today on this debate, and for his stalwart defense of the first amendment.

Let me make a couple of comments about the Snowe-Jeffords amendment and then move on to more general debate.

First, let me say about my colleague Senator SNOWE, she is constantly here in the U.S. Senate trying to find areas to bring people together to try to solve problems and issues that she has concerns about. She has worked tirelessly, I know, on this and on a variety of other issues to try to find common ground and make things work. I commend her in her effort. I don't agree with the approach she has taken, but I think it is a sincere and honest attempt to meet what she perceives is a great problem in this country. We just happen to disagree on what the problem is, and, thereby, the solution she perceives doesn't meet up with what I see as the problem. We see a different problem.

The Senator from North Dakota, maybe unwittingly, said something which I think is exactly the way those who want to restrict the first amendment—to restrict speech—see speech, as other than speech of the candidate. He said, and I am fairly sure I wrote it down at the time, he said, ''Those who want to interfere with Federal elections.'' I just found that remarkable. ''Those who want to interfere with Federal elections,'' as if the election between me and the guy or lady I am running against is really just the two of us and anybody else who wants to speak is interfering with our election: How dare you interfere with my election. Really, that is what this is all about.

If I was just concerned about me and my election, I would vote for the Snowe-Jeffords amendment. It is a great thing for me, because what it says is the labor unions, who are going to be salivating to run nasty ads against me in my election, can't do so. That would be a wonderful break for me. And the other groups that want to get together and run nasty, horrible things about me—and I am sure they can find nasty, horrible things to say about everybody in this Chamber—can't do so. That is a wonderful thing for me.

I would like this to apply to the newspapers and everybody else so nobody can criticize me and I can get up and say what I want and the other guy can say what he or she wants. That is fine; it is just the two of us. But that is not the way democracy works, nor should it work that way.

I think the problem this amendment tries to address is a nonexistent problem. The problem is, as the Senator from North Dakota eloquently said, that they believe there are too many people interfering with our elections. I don't believe there are too many people. I think that is part of the public discourse. It is something I don't like. When my kids see a nasty thing about their daddy on television, I don't like them to see it. Their mom doesn't like to see it. My parents don't like to see it. But I am going to defend on the floor of the U.S. Senate to my dying day the right to say it, because that is how democracy works best.

When plenty of people interfere with the election, the more people we can get to interfere the better, because the public is then heard. It is not always pleasant, not always to my advantage, certainly, but it is important to be heard.

So I stand up today and say, yes, labor unions should be able to run ads, they should be able to run ads right up until the day of the election and voice for their members who voluntarily contribute to their PAC their concerns about issues and their concerns about the candidates for election. It is their right to do so. In fact, I believe it is their obligation to do so.

On the broader issue of the McCain-Feingold bill or the Snowe-Jeffords amendment and others, what they try to do is put up roadblocks. What this reminds me of is a tax bill. You say, ''How does this remind you of a tax bill?'' Do you know what it does when Congress passes a tax bill? What it does is employ a lot of lawyers and accountants to figure out ways to try to beat the bill, because this is what it is about. We put up little roadblocks here and there to catch money to fill in the cracks to fill our coffers. That is how the tax bills work, to try to plug these loopholes or get rid of this subsidy, or whatever, that was ''unintended.''

That is pretty much what they are saying. These were ''unintended things.'' We didn't want all this speech out there, so we just need to plug the loopholes. By plugging the loopholes, all you do is put a lot of smart people to work figuring out how to beat it. That is how soft money was created. Soft money was created because we have a limit on how much money you can give directly to a candidate.

In Pennsylvania, we have Governor races and attorneys general races, statewide races. There is no soft money in Pennsylvania. You don't need soft money in Pennsylvania. If you want to contribute to a candidate, you can give any amount you want. It is reported, everybody knows about it, but there is no need to give money to XYZ organization to indirectly spend the money on something to benefit the candidate. You can give it directly to the candidate.

The reason soft money has grown in importance is because we have a limit of $1,000 per person in each election cycle set 25 years ago. I can tell you some have suggested inflation has tripled during that timeframe. I can tell you campaigns have probably gone up tenfold or more in expense during that

timeframe, and we have kept the contribution limit the same, thus the need for some way around the system. The original campaign finance reform put barriers in place, and so smart people figured out how to get around the barriers.

We can stand up here and say, ''Oh, well, we need to plug this loophole and we need to stop here.'' All we are going to do is create some other legal fiction out there to walk their way around it, in so doing, hiding from the public people's participation in the process.

The greatest campaign finance reform we can do is dramatically increase the limits on contributions. Do you want to solve in great measure soft money? Do you want to solve independent expenditures and all those other things? Dramatically increase at least three or fourfold the amount an individual can give directly to the candidate, increase the disclosure of that amount so it has to be much more prompt than it is today, and I will tell you what you are going to do. Soft money will be a thing of the past. Oh, there will still be some around here and there, but it will not be the big factor that everybody thinks it is now, because the money will go directly to the candidate. I guarantee it. That is where they want it to go now, but it can't go there, so they find the loophole. I guarantee you, if you plug one loophole, another one will come along, if, in fact, the Court allows you to plug the loophole in the first place, which I don't believe it will.

So we have well-intentioned people here who see this as a problem of money, too much money. I hear this when I go back home: ''Don't Members of Congress spend all this time raising money?'' I might be wrong, maybe Senator MCCONNELL has a number on this, maybe we have taken a survey within the Senate, but I would bet that roughly half the Members of the U.S. Senate don't pick up the phone and raise money as a rule. Maybe Members won't pick up the phone and raise money. They hire people to do that.

I occasionally pick up the phone and raise money. I probably do so more than most. Usually, I am not raising it for me; I am trying to raise it for other folks back home who need help or other Senators running in other places, and I try to help them out. But I will tell you, if it takes at most a half hour out of the week—at most a half an hour out of the week—that is a busy week on average for me raising money. If you find that to be too much time on the phone raising money, I would beg to differ with you. I can think of lots of things I can do for a half hour a week that is a greater waste of time than raising money on a telephone, that I could use my time more productively.

Again, we sort of prop up these straw figures and say, ''Here is the problem, here is the problem; there is too much money.''

I think democracy is important, I think what we do here is important, and I think people should have a right to express their opinion. Yes, people can go out on the street corner and talk all they want, but if nobody hears them, that really isn't very effective speech.

I don't think we should put any limits on people being able to take out a newspaper ad or to sign onto an Internet provider and post something up on a bulletin board somewhere saying, ''RICK SANTORUM voted the wrong way on this, and you folks who are concerned about [whatever issue] should know this.'' I think that is fine. I don't like it, but I think it is fine.

It is essential—it is essential—for us to be accountable to the people. What we are trying to do with all these restrictions and all these limits is isolate the people. I hear this talk that this is not about speech; this is about power. I agree. There is no comment—I heard it yesterday—there is no comment I agree with more. You are right; this is about power. It is where the power is going to rest, in the citizens of the United States, or the power is going to rest right here or in the boardrooms of NBC, ABC and all the other affiliates and newspapers and media outlets around the country, because that is where the power is going to go if things like McCain-Feingold and other measures pass.

They are going to go out—this great sucking sound; that is a common thing we hear now—it is going to come out of your ability to speak and right into the corporate boardrooms that own media outlets.

Senator ROBERTS was absolutely right, the reason the media is foursquare behind this is because when they shut you up, their voice becomes more important. It is as simple as that. If you can't speak, what they write in their newspapers becomes much more important, because it is one of fewer things out there. It is not overstating the fact, the case, that this debate is central to democracy in this country, and that those who, well-intentioned as they are, want to solve the money problem, it is not by muzzling people in the process. Give people the right to speak and democracy will be just fine.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, I ask unanimous consent that 5 minutes be added to Senator SNOWE's time and 5 minutes to my time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I now am very pleased to be able to yield 4 minutes to the Senator from Arizona, who has been a leader on this issue, and because of his leadership and commitment to campaign finance reform, we are here today debating this issue and hopefully advancing it.

Mr. MCCAIN. Mr. President, let me begin by thanking the senior Senator from Maine for all her tireless work to craft and garner support for this amendment and one that deserves the Senate's support and one that improves the underlying language in the McCain-Feingold amendment. On that basis alone, the fact that this amendment improves the underlying language, I hope that all my colleagues will support it.

The amendment has been summarized many times. I will summarize it very simply. It expands current law that bans direct participation by corporations and unions in elections. Specifically, it prohibits corporate and union funds from being used in broadcast electioneering that mentions a candidate's name or uses his or her likeness within 60 days of an election.

And the second aspect of it, of course, as we know, is disclosure. The Snowe-Jeffords amendment places no—I repeat—no restrictions on independent groups spending money to advocate their cause. It does however mandate that they disclose their contributors.

Mr. President, it is beyond my ability to reason why anyone would oppose disclosure. As mandated by law, I, and each and every one of my colleagues, discloses to the FEC the names and amounts of our contributors. Why should others who engage in electioneering not engage in such similar actions?

I have no desire to hide who gives to my campaign. In fact, I am proud to make public such information. And I am equally proud to stand up and support, through my actions and in some cases contributions, the causes that I believe in.

For example, Mr. President, I have a hundred percent pro-life voting record. Some of my colleagues feel strongly on the other side of this subject. But I am willing to stand here and defend my position because I believe it is the right thing to do. And I am happy to have pro-life groups identify me as a supporter of this cause. There is no reason to hide and to not disclose such support. Therefore, I cannot fathom why some interest groups would fight the disclosure amendment. What are they afraid of?

Again, Mr. President, I strongly support the efforts of Senator SNOWE and Senator JEFFORDS. I hope that later today this amendment will not be tabled and we can move forward to adopt both this amendment and the majority leader's amendment on restricting the FCC from overstepping its authority by mandating free broadcast time and move forward on this bill. Both amendments are good and worthy of support.

Yesterday, I asked if it would be possible to move both amendments independently. I have been engaged in talks on this matter and hope we can soon resolve the problem. I will continue to fight to see this bill move forward. As daunting as that battle may be, we will continue to fight to pass needed necessary campaign finance reform.

Again, Mr. President, I want to thank Senator SNOWE, who has worked tirelessly to try to craft a proposal that will bridge some of the differences that we have. I am grateful for all of her efforts.

Mr. President, I yield back to Senator SNOWE the balance of my time.

The PRESIDING OFFICER. Who yields time?

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I am now very pleased to yield to Senator LIEBERMAN, who has been very helpful in drafting the Snowe-Jeffords amendment as well. I yield him 3 minutes.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and thank my friend from Maine, and thank her particularly along with Senator JEFFORDS for their extraordinary progressive action in trying to find common ground and for constituting what is now clearly a bipartisan majority of the Senate in favor of campaign finance reform.

It may be blocked by the filibuster rules, but there is a majority here that recognizes the gravity of the challenge to America's democracy posed by the current absence of any real regulation of campaign spending in our country and campaign contributions and wants to do something about it. I support the Snowe-Jeffords proposal. I want to approach it from this point of view.

Mr. President, we all know that beauty is in the eye of the beholder. I would say here, having listened to this debate, that the beauty of the first amendment is also clearly in the eye of the beholder because the first amendment has been used in this debate to oppose measures that are being designed to avoid evasion of laws that have been upheld as constitutional. Let me be very specific and brief.

The law says that an individual cannot give more than $2,000 to a campaign. Some might say that is an abridgement of free speech, but it has been upheld as constitutional by the Supreme Court in Buckley.

The law says that corporations and unions cannot contribute from their treasuries for political purposes to affect elections. Some might say that was an abridgement, a violation of their free speech, but that has been upheld as constitutional.

But what has happened? Soft money, issue ads, which are clearly ads for or against candidates have been used to evade those clearly constitutional restrictions on contributions to political campaigns. And so we have to do something about it. It will not be a violation of the first amendment. The current ability of parties and outside groups to disguise candidate-focused electioneering ads as issue ads undermines these longstanding and important Federal elections policies.

A study by the Annenberg Public Policy Center found that in 1996, 29 groups spent as much as $150 million on what the groups called issue ads, but which the Annenberg study leaves little doubt were mostly aimed at electing or defeating particular candidates. Mr. President, $150 million, that is approximately one-third of the total spent for all ads by all candidates. That study found that over 85 percent of those so-called issue ads mentioned a candidate by name, almost 60 percent used a candidate's picture and, worst of all, more than 40 percent of those were pure attack ads.

Let us pass Snowe-Jeffords which is clearly constitutional and will stop these evasions of laws limiting contributions to campaigns that have been upheld as constitutional.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I now yield 4 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I support the Snowe-Jeffords amendment.

Under the Snowe-Jeffords amendment, labor unions and corporations would be prohibited from spending soft money—what is soft money? That is the unregulated and unreported money that falls outside of current law—on advertising that mentions the name of a candidate in the 60-day period before an election.

Now, labor unions and corporations would be permitted—some say, ''Oh, you are muzzling the labor unions and corporations;'' well, that is just not so—they can use their PAC dollars, so-called hard money, on electioneering ads or express advocacy.

So there is no muzzling of any of these organizations. No restrictions are placed on the first amendment rights of organizations either. That is another point that has been raised here on the floor. Organizations still will be permitted to run ads that directly advocate for the election or defeat of a candidate. Electioneering ads discuss a candidate's record in relation to issues and they still will be able to run pure issue ads.

Under Snowe-Jeffords, the only change is these organizations will be required to file disclosure statements. I do not see how anybody around here can be against disclosure. Disclosure statements will let the electorate know who is paying for what ads. I think that is what the public ought to know. How can that be objectionable? It is disheartening for me to hear other Senators object to disclosure. In my view, disclosure is at the very heart of reform.

Last year, I filed an amendment that would have required even broader disclosure requirements. My amendment would have required all entities who mention the name of a candidate during the calendar year of the election to file a disclosure statement with the FEC.

The Snowe-Jeffords amendment is a more modest approach. It simply requires entities to disclose their large donors and their spending during the 60 days before the election.

Again, let me say, Mr. President, I find it very difficult to understand why anybody would object to the disclosure. If these organizations engage in issue advocacy rather than electioneering, that is, the ad discusses an issue without mentioning a candidate, they now have to disclose either their members or their spending.

Now, the paramount goals of any true effort to reform the system of financing elections for Federal office must be to reduce the influence of special money on elected officials and to level the playing field between incumbents and challengers.

Although the proposals before us may not be the final resolution of these problems, they provide a better starting point than we have had in previous years.

As far as I am concerned, Mr. President, the most important problem to be addressed by campaign finance reform is one that barely existed a few years ago. Not too many years ago many of us were here debating election process and election reforms. What were we talking about? We were talking about PACs, about political action committees. How much should they be able to contribute? Was $5,000 right or wrong per election?

Those are things we debated. We worried that these PAC contributions might appear to give special interests too much influence. But the soft money explosion made those amounts seem like pocket change. I believe that if all else fails we must deal with the soft money problem.

As I said, Mr. President, once again the Senate is debating the question of how to reform the manner in which elections for federal office are financed. This year, progress has been made on the issue, and the Snowe-Jeffords amendment is an illustration of that progress.

Senators SNOWE and JEFFORDS have worked closely with experts in constitutional law to develop an amendment that would greatly improve the underlying McCain-Feingold bill. This amendment, which I am pleased to cosponsor, eliminates the vagueness and overstretching of the McCain-Feingold bill with regard to the treatment of bogus issue ads.

The Snowe-Jeffords amendment creates a new category under the Federal Election Campaign Act called ''electioneering.'' This is a carefully defined category that pertains to the abundance of soft money spending by unions, corporations, and non-profits that was so proliferous in the 1996 elections. The Snowe-Jeffords amendment would not prevent these groups from letting their voices be heard. It simply

would require them to adhere to the spirit of the law.

There certainly is little effort to adhere to the spirit of the law. That's what the hearings before the Senate Governmental Affairs Committee were all about. Week after week witnesses appeared and defended blatantly inappropriate behavior by pointing out that the law didn't quite cover their particular activity. The standard operating procedure in elections these days is circumventing the letter of the law. We are here to try to tighten up current law to make it harder for unions, corporations, and others to circumvent the law.

Under Snowe-Jeffords, labor unions and corporations would be prohibited from spending soft money—that is the unregulated and unreported money that falls outside of current law—on advertising that mentions the name of a candidate in the 60 day period before an election. Labor unions and corporations would be permitted to use their PAC dollars, or hard money, on electioneering ads or on express advocacy. There is no muzzling of those organizations.

No restrictions are placed on the First Amendment rights of organizations either. Organizations still will be permitted to run ads that directly advocate for the election or defeat of a candidate; electioneering ads that discuss a candidate's record in relation to issues; and they will still be able to run pure issue ads. Under Snowe-Jeffords the only change is that these organizations will be required to file disclosure statements. Disclosure statements will let the electorate know who is paying for what ads. How can that be objectionable? I have been quite disheartened to hear other Senators object to disclosure.

In my view, disclosure is at the very heart of reform. Last year, I filed an amendment that would have required even broader disclosure requirements. My amendment would have required all entities, who mention the name of a candidate during the calendar year of the election, to file disclosure statements with the Federal Election Commission. The Snowe-Jeffords amendment is a more modest approach to disclosure. It simply requires entities to disclose their large donors and their spending during the sixty days prior to the election.

If these organizations engage in issue advocacy, rather than electioneering—that is, the ad discusses an issue without mentioning a candidate—they need not disclose either their spending or their members.

The paramount goals of any true effort to reform the system of financing elections for federal office must be to reduce the influence of special interest money on elected officials and to level the playing field between incumbents and challengers. Although the proposals before us may not be the final resolution to the problems that afflict the current system of campaign fundraising, they provide a better starting point than we have had in previous years.

As far as I am concerned, the most important problem to be addressed by campaign finance reform is one that barely existed a few years ago, the explosion of soft money in the process. Not too many years ago, many of us were here debating whether PACs, political action committees, should be able to contribute $5,000 per candidate, per election. We worried that these PAC contributions might appear to give special interests too much influence. But the soft money explosion has made those amounts seem like pocket change. I believe that if all else fails, we must deal with the soft money problem. Just to make clear what soft money is: it is funds spent to influence an election that fall outside of current law. Spending on bogus issue ads—ads that are defined under Snowe-Jeffords as electioneering—is soft money. The Senate has the opportunity to make these important changes in the current fundraising system by approving the Snowe-Jeffords amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. How much time is remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 29 minutes.

Mr. MCCONNELL. I yield to the distinguished Senator from New Mexico 6 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if you would remind me when I have used 3 minutes.

Mr. President, I do not recall the exact day but sometime in the not too distant past the Senate was asked to vote on an amendment by the distinguished Senator, FRITZ HOLLINGS. Now I am referring to an amendment that would have amended the Constitution of the United States and permitted Congress to control campaign expenditures. Obviously the Constitution of the United States does not give us the latitude to control expenditures in campaigns that we are involved in, or that House Members, the President and the Vice President are involved in.

I ask the distinguished manager of the bill, how many votes did the Hollings amendment get?

Mr. MCCONNELL. I say to my friend from New Mexico, he got 38 votes. It would have taken 67, but at least it was honest. It indicated that you had to amend the first amendment to do the job.

Mr. DOMENICI. So 38 Senators—excuse my voice. I have a bad cold of some type. And to those listening, it is PETE DOMENICI even though it does not sound like me. So 38 Senators had the guts to vote on the real issue, and the real issue is that the Constitution of the United States has a great big amendment that guarantees freedom of speech.

I did not use to understand how the right of freedom of speech was related to campaign expenditures until I read a few of the United States Supreme Court decisions. And I am very pleased that they got the message. The Court understood when it first ruled that you could not limit an individual who wanted to spend his own money on a campaign. You could not limit the amount of money he spent because that money was his freedom of speech. That is what he used it for.

And I equate it here on the floor, and ask the question, what do we apply, in the largest and greatest sense, freedom of speech to in America? We apply it to the media of America. We have freedom of speech, but really when you look at it, it is the freedom of the newspapers, the radios, the televisions, the editorial writers, the column writers, all of whom have this absolute freedom to get involved in our campaigns.

That is why the Supreme Court said that spending money on your own campaign is exercising your freedom of speech. If four newspapers in a candidate's State are writing editorials against him, he ought to be able to spend his money even if he bought a piece of the paper and said this is my editorial, and paid for it with his own money.

Now, what is wrong with the bill before us today—not necessarily the amendment of the distinguished Senator from Maine, who has worked very hard on this, she called me, we talked about it. It is a good idea, but essentially the bill itself is so flawed in terms of the analogy I am using with reference to the right and freedom of speech and the right and freedom to spend money to get your message across, that it is at odds with the decisions of the Supreme Court.

I don't think there is a chance that the underlying bill comes even close to establishing some balance that would in some way change the Supreme Court's mind about the exercise of this freedom and this right. They have essentially said it is not vested in only a newspaper or a TV station or an anchorman or an editorial writer or letters to the editor. They have also said that right is vested in many, many entities who may want to spend money to get their message across—be it criticism or something that is positive about a candidate.

I want to thank the distinguished Senator from Kentucky for his stalwart presentations on the floor which have gone to the heart of the issue, the issue being before we jump into abridging freedom of speech we better very much know what we are doing and not speculate and guess about it. And, yes, the Supreme Court has done an excellent job of saying they will be the gatekeeper on this. I think without that we

would be trying to tell everybody how to run campaigns and the American people would end up saying, isn't that something? They are telling all of us they know how to run their campaigns and they are ordering us around in their own campaigns. So I think that is the flip side of this.

Ms. SNOWE. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Maine has 5 minutes remaining on her side; the Senator from Kentucky has 21 minutes and 16 seconds.

Ms. SNOWE. I reserve the balance of the time.

Mr. MCCONNELL. I yield 5 minutes to the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, I spoke yesterday on campaign finance reform and I stand today certainly in opposition to the Snowe-Jeffords amendment. It does not address the problem. I don't think the problem exists. The courts have said we don't have jurisdiction over it. We ought to leave it at that.

Mr. MCCONNELL. How much time remains on our side?

The PRESIDING OFFICER. The Senator from Kentucky has 19 minutes and 20 seconds.

Mr. KOHL. Mr. President, I rise in favor of the Snowe amendment. First, I wish to commend the Senator from Maine for her efforts to craft a compromise on this issue. If everyone entered this debate with her spirit of negotiation and patience, I think we would surely be able to come to a final resolution of this matter.

I favor the Snowe amendment at this time because I feel it is the best compromise available to possibly pass the McCain-Feingold campaign finance reform bill. As an original cosponsor of that legislation, I favor S.25 as presented yesterday by Senator MCCAIN. I believe the section related to independent expenditures is well-crafted, would go a long way in improving our electoral system, and meets the difficult constitutional standards for this issue.

However, it is clear that the McCain-Feingold bill does not have the necessary votes to end the filibuster. By altering the section of the bill dealing with independent expenditures, we would have a compromise which has the potential of passing the Senate. I would prefer the language as crafted by Senators MCCAIN and FEINGOLD, but it is clear we cannot pass the bill in that form. Therefore, adding the Snowe amendment at least offers hope that campaign finance reform can be passed in this session.

I also wish to add that my support for this amendment is conditional on its inclusion in a broader package of campaign finance reform. Any reform proposal must be designed to be fair and balanced. Taken separately, or added to other legislation that does not address other important campaign finance issues, the Snowe amendment would not have the desired impact on the electoral process.

If we pass the Snowe amendment, and the underlying McCain-Feingold bill, we will have made a great stride toward reforming our campaign finance laws, and offer the American public some hope that Congress is taking their concerns on this matter very seriously.

Mr. McCONNELL. I suggest the absence of a quorum and I will have the time charged to my time.

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.

Mr. McCONNELL. Mr. President, I was graciously letting my time run during that quorum call. I think we may have inadvertently taken away the 10 minutes prior to the military construction bill. I would like to reconstruct that time. The chairman of the Appropriations Committee is here.

Mr. President, I ask unanimous consent that the chairman of the Appropriations Committee be recognized for 5 minutes prior to the military construction vote and that Senator BYRD, or his designee, be entitled to 5 minutes prior to the military construction vote as well.

The PRESIDING OFFICER. Does the Senator wish that the time for the vote on military construction veto override also be postponed by 10 minutes, accordingly?

Mr. STEVENS. Mr. President, the time is set at 6 p.m., is it not?

The PRESIDING OFFICER. That is correct. In the absence of a change in the time for the vote, the vote would take precedence over any additional amount of time.

Mr. STEVENS. We are talking about the 10 minutes before 6 p.m.

Mr. McCONNELL. Does the military construction vote come first, before the Snowe-Jeffords?

The PRESIDING OFFICER. Yes.

Mr. McCONNELL. Maybe this would solve the problem. I ask unanimous consent that there be 10 minutes prior to the Snowe-Jeffords vote, equally divided between Senator SNOWE and myself.

The PRESIDING OFFICER. Does the Senator intend to insert that time between the two votes?

Mr. McCONNELL. Yes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. 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.

Mr. McCONNELL. Mr. President, I understand that the Senator from Maine would rather speak now than between votes. Therefore, Mr. President, let me try one more time.

I ask unanimous consent that the distinguished chairman of the Appropriations Committee have——

Mr. STEVENS. Mr. President, we seek to preserve the time as it is currently allocated for the next 10 minutes before the vote on the MilCon bill.

Mr. McCONNELL. How much time does the chairman of the Appropriations Committee wish?

Mr. STEVENS. Ten minutes.

Mr. McCONNELL. Mr. President, I don't think there is a solution to the concern of the Senator from Maine. It appears that if the chairman of the Appropriations Committee would like the time remaining before the 6 o'clock vote—well, I'm open to any suggestion.

UNANIMOUS CONSENT AGREEMENT

Ms. SNOWE. Mr. President, I ask unanimous consent to move the vote on MilCon to 6:10 p.m. so that we can complete the debate before the votes begin.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

CANCELLATION DISAPPROVAL ACT—VETO

The Senate continued with the consideration of the veto message.

Mr. STEVENS. Mr. President, it is my understanding that Senator BYRD will not speak during the time that he had reserved, but Senator KEMPTHORNE would like to speak. How much time does the Senator from Idaho need?

Mr. KEMPTHORNE. About 4 minutes.

Mr. STEVENS. Mr. President, I yield 4 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, I thank the chairman of the Appropriations Committee. I rise with regard to the issue of the military construction veto override. I rise in support of overriding the President's veto of the military construction budget.

Mr. President, I am one of those who supported the concept of the line-item veto. I still do. But when I voted for that, I certainly did not abdicate my rights and authority, if I disagreed with a Presidential line-item veto, to come back and speak against that veto and cast my vote. If, in fact, two-thirds of the Members of this body, along with two-thirds of the Members of the House, vote to override, it would be successful.

Here is an example of two projects that were in the military construction budget which the President vetoed. Both projects were intended to support the combat requirements of the 366th Composite Wing based at Mountain Home Air Force Base.

A recent letter to me from Secretary of Defense Bill Cohen described the

critical role played by the 366th Composite Wing: ''As one of the first units to deploy to a problem area, it has the responsibility to neutralize enemy forces. It must maintain peak readiness to respond rapidly and effectively to diverse situations and conflicts.''

In an ironic twist of fate, the 366th was doing its mission on deployment in the Persian Gulf when the President took inaccurate information, provided by the Air Force, and vetoed two projects intended to support the combat effectiveness of this unit.

President Clinton used his line-item veto pen to delete $9.2 million for an avionics facility for the B–1 bombers and $3.7 million for squadron operations facility for an F–15 squadron.

In his veto statement, the President claimed the vetoed construction projects could not be started in fiscal year 1998 because there was no design work on the proposed projects. This assertion has now been proven false by a letter from the Deputy Secretary of Defense John Hamre, which now acknowledges that the Department of Defense provided inaccurate data about the status of design work.

With respect to the two projects at Mountain Home Air Force Base, the outdated Air Force data provided to the White House listed both projects at zero percent design when in fact, as now verified by Air Force, both projects are in fact over 35 percent designed. Moreover, before any of these projects could be included in the FY 1998 Defense Authorization bill, the services were required to certify that each of the projects could be initiated in FY 1998 and that is what they did, without exception.

As my colleagues know, the Department of Defense puts together a future years defense plan which projects the DOD budget six years into the future. Regarding the two projects at Mountain Home, I note that the Avionics Facility is contained in the Air Force's 1999 budget and the F–15 Squadron Operations Facility is contained in the service's 2000 budget.

As the President ponders the use of the line item veto, I think there needs to be a dialogue with the legislative branch. If there had been dialogue, we might have been able to point out the faulty data being used by the White House.

Early this year Congress and the President reached an historic agreement to balance the budget and increase defense spending above the President's request. Congress went through its normal deliberative process and we used the additional defense dollars to move forward funding for projects on the service's unfunded requirements lists. Indeed, the B–1 Avionics Facility was one of the top ten unfunded military construction projects identified by the Air Force. In addition, the funds were within the budget caps agreed to by the Congress and the President.

President Clinton has made a mistake regarding his use of the line item veto authority on the military construction appropriations bill. The Office of Management and Budget and the Deputy Secretary of Defense acknowledged the President used outdated and inaccurate data to make his decisions. The Senate should give the President another opportunity to do the right thing and pass the pending disapproval legislation.

Let me thank the Chairman of the Senate Appropriations Committee, Senator STEVENS, and the Ranking Member, Senator BYRD for their quick and decisive action to bring this important legislation to the Senate floor.

Mr. President, the point is that we have a line-item veto by the President of the United States based upon inaccurate information provided by the U.S. Air Force. The Air Force has come forward and they have provided the documentation and the letters, and it is to help the military of the United States, such as the 366th Composite Wing, which is one of the groups that will respond upon a moment's notice. I think that we have seen in the last 2 weeks the critical nature of this world and how we may call upon the men and women in uniform to go into harm's way on behalf of the United States of America. And here we are somehow considering that we will not override a Presidential veto that was based upon inaccurate information.

I urge all of my colleagues to vote to override the President's line-item veto and to support the men and women in uniform. If there is any time in recent history that we see how critical it is to support our men and women in uniform, it is now, as we still have this buildup in the gulf and we still don't know what the resolution there will be to this international thug named Saddam Hussein, who still doesn't know and doesn't get the message. So, again, let's support our troops and override the Presidential line-item veto.

I ask unanimous consent that two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, October 21, 1997.

Hon. DIRK KEMPTHORNE,
U.S. Senate, Washington, DC.

DEAR DIRK: Thank you for your letter of September 8, 1997. I want to assure you nothing has changed regarding my enthusiasm for the Enhanced Training in Idaho (ETI) initiative.

The 366th Wing at Mountain Home Air Force Base (AFB) is an important component of our military capability. As one of the first units to deploy to a problem area, it has the responsibility to neutralize enemy forces. It must maintain peak readiness to respond rapidly and effectively to diverse situations and conflicts.

ETI balances realistic local training with careful consideration of environmental, cultural, and economic concerns. The elements of the ETI proposal, though designed to minimize environmental impacts, will simulate real world scenarios and allow the aircrews to plan and practice complex missions. In addition to providing realistic training, ETI's close proximity to Mountain Home AFB also will enable the Air Force to convert time currently spent in transit into actual training time. Thus, the ETI proposal allows Air Force crews to use limited flight training hours more efficiently.

I continue to give the ETI process my full support. It will provide our commanders with realistic training opportunities locally, while ensuring potential impacts to natural, cultural, social, and economic resources are identified, and where possible, cooperatively resolved. Your strong support for the ETI initiative is very important to us, and you may rely upon my continued interest and commitment.

I trust this information is useful.

Sincerely,

BILL.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, October 29, 1997.

Hon. TED STEVENS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the Administration used three criteria to decide whether to use the line-item veto on individual projects in the 1998 Military Construction bill: the project was not requested in the President's 1998 budget; it would not substantially improve the quality of life of military service members and their families; and it would not likely begin construction in 1998 because the Defense Department reported to the Office of Management and Budget (OMB) that no design work has been done on it.

With regard to the last criteria—the question of design work—questions have arisen about the Defense Department data underlying the project selections. Each of the military services was asked to evaluate the design status of projects in the Military Construction bill. The Defense Department forwarded that information, without change, to OMB. I have enclosed copies of the analysis in question.

It now appears some of the Defense Department data sent to OMB may have been outdated. The Defense Department will work with Congress as quickly as possible to correct any errors that may have occurred as a result of the outdated data.

Sincerely,

JOHN J. HAMRE.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, the Senate is going to vote soon on the override of the President's veto to H.R. 2631, the bill disapproving the line-item vetoes of projects contained in the fiscal year 1998 military construction bill. I am here as chairman of the Appropriations Committee to urge all Members to vote in favor of the override of the President's veto in this matter.

Let me begin by congratulating Senators BURNS and MURRAY for their leadership in handling the military construction bill and the line-item veto process over the past few months.

At no time has the discussion on this military construction bill and the line-item veto been marked by partisan rancor. These two members of our subcommittee, Senators BURNS and MURRAY, and our full committee have proceeded in a completely bipartisan fashion to deal with this bill and the line-item process. As Senator BURNS noted in his comments earlier today, this debate and vote provide the first test of the line-item veto process enacted by the Congress.

As chairman of the conference that presented the final version of the line-item veto bill to the Senate, I am pleased that the procedures established in that bill have worked.

I regret that we must act to override the President's veto of this disapproval bill. In a hearing before our committee and in numerous public statements, administration officials conceded that errors were made in handling the military construction bill. During a time of intense pressure on our defense budget, there could be no consideration of foregoing these critical projects that are necessary to support our military efforts.

Override of the President's veto restores 38 projects, totaling $287 million, for this fiscal year 1998. All of these projects have been defined as necessary by the Armed Forces and are executable during this fiscal year.

Subsequent to the President's action on the military construction bill, the administration took a very different approach to the remaining 12 appropriations bills for fiscal year 1998. I do believe that the confrontation that has occurred over this bill has refined the process for dealing with the line-item veto. While I do not support the President's decision with regard to many of the specific line-item vetoes he presented to Congress with regard to the 1998 bills, our committee did not hold any hearings or report disapproval bills on any of the other line-item veto messages. We did not challenge the President's decision on any line-item veto on any bill other than this military construction bill, although, again, I will say, as chairman, I disagreed with many. For 1998, the President transmitted 81 line-item vetoes of specific appropriations totaling $483.4 million.

In my judgment, the line-item veto has proven to be a useful and appropriate tool for any President to reconsider spending matters passed by the Congress.

Consideration of this bill, however, and this override will demonstrate the effectiveness of the process created by the bill that created the line-item veto. We definitely prepared a process to overturn a Presidential veto of a disapproval bill, and that is what we are dealing with now. We passed the original bill, the President line-item vetoed it, we passed a disapproval bill, and he vetoed that. This is a process to overturn that veto of our bill whereby the Congress decided to literally overturn his veto.

I again regret that the President chose to veto this measure. I think he did so on the basis of misunderstanding or upon misinformation presented to him. As I said in the beginning, the criteria used by the White House, as applied to these projects, just did not fit. This was not a proper veto of the items in this military construction bill.

I am here to urge all Members to vote to override the veto on this bill, restore the funding for these projects that are urgently needed for military construction, and validate the process that the line-item veto bill presented to the Congress and make it work. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

PAYCHECK PROTECTION ACT

The Senate continued with the consideration of the bill.

Mr. MCCONNELL. Mr. President, are we now on the Jeffords-Snowe time?

The PRESIDING OFFICER. The Senator is correct. At this point, 5 minutes are left on each side, according to the previous unanimous consent agreement.

Mr. MCCONNELL. Mr. President, the Snowe-Jeffords amendment, while I am sure it is well-intentioned, isn't consistent with the first amendment. The American Civil Liberties Union, America's experts on the first amendment, say that it falls short of the free speech requirements of the U.S. Supreme Court in the first amendment.

The proponents of this proposal seem to me to be dismayed at all of this speech out there polluting our democracy and our campaigns. The presumption underlying that, of course, is that we as candidates somehow ought to be able to control elections, as if only our voices should be heard.

The proponents say what we need to do is get all of this speech under control. And the way you do that, of course, is you make the speech accountable to the Government through the Federal Election Commission. They say, ''Well, it is just disclosure. All we are asking is just disclosure.'' The U.S. Supreme Court in the case of NAACP v. Alabama made it abundantly clear that you could not require of the group its membership list or its donations to be handed over to the Government as a condition for engaging in public discourse.

So clearly, Mr. President, this measure would not pass muster.

With regard to nonprofits, the amendment puts all manner of new controls on them if they are so audacious as to mention any of our names near an election.

Finally, Mr. President, it punishes private citizens who have a constitutional right to support causes popular and controversial without being subject to Federal regulation.

So, let me just sum it up.

There isn't any question—and I am sure proponents of this amendment wouldn't deny it—they wouldn't be offering the amendment at all if it were not designed to make it more difficult for groups to criticize all of us in proximity to an election.

Mr. President, I confess I don't like it. I wish it didn't happen. Even some of those groups that come in in support of us we frequently think make things worse and botch the job. But the Court has been rather clear—crystal clear—that the candidates don't control all of the discourse. We certainly don't control what the newspapers are writing about us in the last few days of an election. And we certainly can't control what groups may say about us to our displeasure in proximity to an election.

Democracy is sort of a messy thing. It is sort of a messy thing. The speech police don't get to control how everybody participates in our elections. It may frustrate us. But that is the price for a healthy democracy.

So, Mr. President, at the end of the discussion I will make a motion to table the Snowe-Jeffords amendment, and I hope the motion to table will be approved.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I am delighted to be able to yield a minute to my colleague from the State of Maine who has been a leader on campaign finance reform.

Ms. COLLINS. Mr. President, thank you.

Mr. President, I rise today to urge my colleagues to support the compromise amendment offered by our distinguished colleague, the senior Senator from Maine, and the Senator from Vermont.

Mr. President, I am confident that the original language in the McCain-Feingold bill relating to the issue ads would have withstood constitutional scrutiny. But the careful work of the Senator from Maine and the Senator from Vermont certainly removes any doubt on that score. They have done an artful job in crafting this language, and I hope it will receive the support of every Senator.

Thank you, Mr. President.

Ms. SNOWE. Mr. President, I now yield a minute to my colleague from Vermont, Senator JEFFORDS. I want to express my appreciation to him for all the work he has done on this amendment and his leadership on that as well.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Vermont is recognized.

Mr. JEFFORDS. Madam President, there is an adage in the legal debate that when the facts and the law are not in your favor you tend to shout loudly and improperly about irrelevant principles of free speech.

The opposition has done a masterful job on that. The issue is simple. In an election, does the public have the right to have disclosed in a timely fashion who is paying for an attack ad attacking a candidate? It is a matter of right to the voter and the election process. It is a matter of fairness to the attack candidate. More correctly stated, does the attacker have a constitutional right not to disclose who they are? The answer is a clear no. The public yes, the attacker no.

Ms. SNOWE. Madam President, first of all, I express my appreciation to my colleague, Senator JEFFORDS, for all of his efforts, and to all of my colleagues who have supported this endeavor.

First of all, Madam President, I ask unanimous consent to have printed in

the RECORD a letter from Public Citizen. I know my friend, the Senator from Kentucky, quoted portions of their letter opposing disclosure. But they have distributed a letter in support of the limited disclosure in the Snowe-Jeffords amendment.

In fact, they said, ''Opponents of reforms assert that they would violate freedom of speech. But what they are really protecting is the freedom to spend unlimited dollars to corrupt our democratic process.''

They support our amendment.

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

PUBLIC CITIZEN,
Washington, DC, February 25, 1998.

Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.

DEAR SENATOR SNOWE: I understand that certain statements made by Public Citizen President Joan Claybrook, in a May 23, 1997 letter, have been cited as reasons to oppose your amendment to the McCain-Feingold bill dealing with disclosure requirements for organizations engaged in certain electioneering communications 60 days prior to a general election and 30 days before a primary election. Specifically, your amendment would require the disclosure of large donors to groups that make expenditures of more than $10,000 for radio and TV electioneering communications from other than PAC money. Let me set the record straight.

Ms. Claybrook's comments were made in response to a media request that Public Citizen disclose the names and donations of all its supporters. Public Citizen, like most membership organizations, does not provide this information, consistent with its members' expectation of privacy and the Supreme Court's case law that citizens have a protected freedom of association that government may not infringe, absent a strong reason to mandate disclosure. However, regarding non-profit groups such as Public Citizen, Congress has mandated that certain disclosures be made, and Public Citizen complies with those obligations.

Public Citizen's position is fully consistent with our support for your amendment, which is very limited in scope and seeks to mandate disclosure of large donors to organizations that use these large donations to pay for certain electioneering communications. Enactment of a law mandating disclosure in this limited circumstance concerning federal elections would also put prospective large donors on notice ahead of time and let them make their own judgments. These circumstances are far different from the situation Ms. Claybrook was describing in her letter, where requests for disclosure are made by third parties to satisfy their curiosity, and donors to the organization have no reason to believe in advance that their names might be disclosed.

Public Citizen applauds your efforts to work with Senators McCain and Feingold and other colleagues to achieve significant progress towards campaign financing reform. Opponents of reforms assert that they would violate freedom of speech. But what they are really protecting is the freedom to spend unlimited dollars to corrupt our democratic process. About $150 million, half of it soft money, was spent by political parties, business and union groups, and other interests on phony ''issue ads'' during the last cycle. The real purpose of these ads was to assist or attack political candidates. All of this money was spent outside the limitations of federal law, which already allows the rich and powerful to disproportionately influence our democracy.

Phony ''issue ads'' written by clever consultants to evade legal limitations on contributions to political candidates are a betrayal rather than a triumph of free speech. The whole idea of freedom of speech is to contribute to a reasoned debate among equal participants. Unfettered political contributions by the wealthy destroy that equality. Huge contributions end up drowning out the voices of the majority of Americans.

Sincerely,

FRANK CLEMENTE,
Director.

Ms. SNOWE. Madam President, before we vote on the motion to table the Snowe-Jeffords amendment I want to thank Senator JEFFORDS for his tremendous work and leadership on this issue, as well as the cosponsors of the amendment—Senators LEVIN, LIEBERMAN, MCCAIN, FEINGOLD, CHAFEE, COLLINS, and THOMPSON—for their invaluable comments and support.

We have had a good debate on this amendment this afternoon, but we have also heard a great many misconceptions. So before we vote, I want to once again speak to the importance of this amendment, what it really does and doesn't do, and why the American people are counting on us to pass it.

Madam President, the Supreme Court has made clear that, for constitutional purposes, electioneering is different from other speech. And the Supreme Court has also never held that there is only a single, constitutionally permissible route a legislature may take when it defines ''electioneering'' to be regulated or reported. To the contrary, Congress has the power to enact a statute that defines electioneering in a more nuanced manner, as long as its definition adequately addresses the vagueness and overbreadth concerns expressed by the court.

This compromise amendment carves out, in a clear and narrow way, a new category of electioneering that meets the Court's criteria. It draws a bright line between issue advocacy—which we don't want to infringe—and electioneering by laying out specific criteria that must be met in order to trigger the requirements of our amendment.

Medium: The ad must be broadcast on radio or television.

Timing: The ad must be aired shortly before an election—within 60 days before a general election or 30 days before a primary.

Candidate Specific: The ad must mention a candidate's name or identify the candidate clearly.

Targeting: The ad must be targeted at voters in the candidate's state.

Threshold: The sponsor of the ad must spend more than $10,000 on such electioneering ads in the calendar year.

If and only if a broadcast communication meets all of these criteria do the following rules apply:

First, the electioneering ad cannot be paid for directly or indirectly by funds from a business corporation or labor union. Advocacy groups could not use such funds to run electioneering ads. They could however, engage in unlimited electioneering ads using individual, voluntary funds. This provision builds on nearly a century of law and Supreme Court cases that restrict the use of union and corporate treasury money in politics. It is balanced in that it treats corporations and unions equally, and it gets at part of the problem of these entities using member dues and shareholder monies without their consent.

Second, the sponsor of an electioneering ad must disclose the amount spent and the identity of contributors who donated more than $500 toward the ad. This is entirely in keeping with the Supreme Court's Buckley decision, which stated that ''the governmental interests that justify disclosure of election-related spending are considerably broader and more powerful than those justifying prohibitions or restrictions on election-related spending.'' Indeed, the Court put forward a threshold of $200 in terms of contributions candidates need to disclose—our amendment's threshold is more than double that.

We don't prohibit advocacy groups from disseminating electioneering communications. We don't prohibit such groups from accepting union or corporation money. We don't require such groups to create PACs or separate entities. We don't address voter guides, pamphlets, or any other print media.

We don't affect groups' ability to urge grassroots contacts with lawmakers. We don't have invasive disclosure rules that require the disclosure of entire membership lists. We don't require the disclosure of the text of any ads. We don't even say that corporation or union leaders can't engage in political speech—just that they do it through a voluntarily, individually funded PAC.

That's it, Madam President—that's our amendment. A simple, straightforward, reasonable, constitutional, brightly drawn line between issue advocacy and electioneering that only applies 30 days before a primary and 60 days before an election, if a candidate is identified, and only if more than $10,000 is spent.

But you don't have to just take my word for it. The approach was developed by noted experts and reformers including Norm Ornstein of the American Enterprise Institute, Dan Ortiz at the University of Virginia School of Law, Josh Rosenkranz at the Brennan Center for Justice at NYU and others.

And their approach has also been endorsed by Professor Thomas Baker, Texas Tech University School of Law; Professor Paul Kurtz, University of Georgia Law School; Professor William Cohen, Stanford Law School; Professor Harold Maier, Vanderbilt Law School; Professor Abner Mikva, University of Chicago; Professor Robert Aromson, University of Washington School of

Law; Professor Ralph Stein, Pace University School of Law; Professor Robert Benson, Loyola Law School; Professor Elwood Hain, Whittier Law School; Professor Ann Freedman, Rutgers Law School, and Professor William Rich, Washburn University School of Law.

Why? Why are all of these prominent scholars in agreement with this approach? Because it represents a common sense, middle ground approach around which the Senate can coalesce. That's the heart of compromise—some feel the amendment doesn't go far enough, some wouldn't go as far. But this amendment would take substantial steps toward providing accountability in an exploding and currently unaccountable area of campaigning, and it would take steps toward abating some of the valid concerns raised about the use of union dues and shareholder monies for political purposes.

Madam President, we've come to the bottom line here. Either we vote to keep the system as it is—either we vote to continue to allow hundreds of millions of dollars to be spent to influence federal elections without one dime having to be disclosed—or we take a tangible, incremental step toward addressing these abuses.

A vote against this amendment is a vote against disclosure—and a vote for secrecy. A vote against this amendment is a vote against the public's right to know who is pouring millions into influencing our elections, and a vote for keeping America in the dark. A vote against this amendment is a vote against putting electioneering ads back into the hands of individuals and a vote for the involuntary use of union dues and shareholder monies for blatant political ads.

Madam President, groups spent $150 million or more—we don't know because there is no accountability for these ads—to influence the 1996 elections. That's about one-third of what all federal candidates spent on advertising. This is a massive force invading our system of elections in this country, flying under the radar screen of disclosure or any other accountability. And it's only going to get worse.

All we are saying is, let's have some disclosure for these ads, let's give the public information they need in order to make informed decisions, and let's fund these ads with voluntary, individual contributions. That's not an infringement on free speech. That is bringing the facts about elections in America out of the shadows and into the light of debate and discourse.

I hope my colleagues will join me in supporting this sensible, incremental approach that will advance the ball for campaign reform. Because frankly, if you can't support this—if you can't support disclosure—I don't know what kind of reform you can support. And the American people will be watching. The American people will be watching, and they will remember who is truly interested in working to restore America's faith in their elections—and they will remember, too, who are the doorkeepers of the status quo.

I again thank Senators JEFFORDS, MCCAIN, FEINGOLD, as well as all of my distinguished colleagues who have joined me in this effort. We are in the majority in this body and I hope after the tabling vote we will be able to have a true up-or-down vote on our amendment.

Madam President, and Members of the Senate, in the final analysis, what the Snowe-Jeffords amendment is all about is disclosure. We have heard a lot of issues here today. We have heard a lot about Supreme Court cases and constitutionality and infringement on the first amendment rights of freedom of speech.

There is nothing in the Snowe-Jeffords amendment that will restrict freedom of speech. Anybody, anytime, can run any ad. The question is whether or not the public will have the right to know who is sponsoring and financing those ads. Even then the threshold is high for disclosure—$500 or more in donation.

I suspect that when Congress was debating the sunshine laws and the right-to-know laws and opening up all of the meetings in the U.S. Congress that we had pretty much the very same debate.

A vote against the Snowe-Jeffords amendment is a vote for secrecy. A vote against the Snowe-Jeffords amendment is a vote for the lack of accountability. We don't want to be the doorkeepers of the status quo for a system that has been shrouded in secrecy by the very fact that we have $150 million spent in elections. In this last election, not one dime has been disclosed. Not one dime. We have heard about editorials and newspaper and the print media being excluded. Does anybody think for one moment that that is where the money is put? Absolutely not.

We have $550 million total that goes into candidate advertising. And a third of that is not disclosed. That is the issue.

It is whether or not you are for secrecy, or the public's right to know who is supporting those ads. That is what it is all about.

We have heard about issue advocacy. I think the body should look at what we are talking about. We are talking about issue advocacy versus stealth advocacy.

I ask unanimous consent for additional minute.

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

Ms. SNOWE. An issue ad that talks about the issues doesn't identify a candidate.

This chart demonstrates the stealth advocacy that we are talking about that is not disclosed—that talks about individual candidates 60 days before election. And this one would run 60 days before the election naming the candidate. It says, he is just another Washington politician. He has taken over $250,000 from corporate special interest groups. He listens to them but he is not listening to us anymore.

No one knows who sponsored that ad. That is what this is all about—whether or not the public will have the right to know who is financing these ads.

The PRESIDING OFFICER. The Senator from Kentucky has 1 minute and 46 seconds remaining.

Mr. MCCONNELL. I yield the remainder of my time, and I move to table the Snowe-Jeffords amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

CANCELLATION DISAPPROVAL ACT—VETO

The Senate continued with the consideration of the veto message to accompany H.R. 2631.

The PRESIDING OFFICER. Under the previous order, the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''aye.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 78, nays 20, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—78

Akaka	Enzi	McConnell
Allard	Faircloth	Mikulski
Baucus	Feinstein	Moseley-Braun
Bennett	Ford	Moynihan
Biden	Frist	Murkowski
Bingaman	Glenn	Murray
Bond	Gorton	Nickles
Boxer	Graham	Reed
Breaux	Gregg	Reid
Brownback	Hagel	Roberts
Bryan	Hatch	Rockefeller
Burns	Helms	Roth
Byrd	Hollings	Santorum
Campbell	Hutchison	Sarbanes
Chafee	Inhofe	Sessions
Cleland	Inouye	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Kempthorne	Smith (OR)
Conrad	Kerry	Snowe
Coverdell	Lautenberg	Specter
Craig	Leahy	Stevens
D'Amato	Levin	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Dorgan	Lugar	Torricelli
Durbin	Mack	Warner

NAYS—20

Abraham	Gramm	Kyl
Ashcroft	Grams	Landrieu
Bumpers	Grassley	McCain
Coats	Hutchinson	Robb
Daschle	Johnson	Wellstone
Dodd	Kerrey	Wyden
Feingold	Kohl	

NOT VOTING—2

Harkin Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 78, the nays are 20. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

PAYCHECK PROTECTION ACT

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 1647

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment offered by the Senator from Maine. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from California (Mrs. FEINSTEIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''no.''

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—47

Abraham	Faircloth	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brownback	Grassley	Roberts
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Coverdell	Hutchinson	Smith (OR)
Craig	Hutchison	Stevens
D'Amato	Inhofe	Thomas
DeWine	Kempthorne	Thurmond
Domenici	Kyl	Warner
Enzi	Lott	

NAYS—50

Akaka	Feingold	Mikulski
Baucus	Ford	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Jeffords	Robb
Bumpers	Johnson	Rockefeller
Byrd	Kerrey	Roth
Chafee	Kerry	Sarbanes
Cleland	Kohl	Snowe
Collins	Landrieu	Specter
Conrad	Lautenberg	Thompson
Daschle	Leahy	Torricelli
Dodd	Levin	Wellstone
Dorgan	Lieberman	Wyden
Durbin	McCain	

NOT VOTING—3

Feinstein Harkin Kennedy

The motion to lay on the table the amendment (No. 1647) was rejected.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1648 WITHDRAWN

Mr. LOTT. Mr. President, I now withdraw amendment No. 1648.

The PRESIDING OFFICER (Mr. STEVENS). The Senator has that right. The amendment is withdrawn.

Amendment No. 1648 was withdrawn.

AMENDMENT NO. 1647

Mr. LOTT. I ask unanimous consent the Senate now proceed to the question with respect to the Snowe amendment.

The PRESIDING OFFICER. The question is on agreeing to the Snowe amendment.

The amendment (No. 1647) was agreed to.

AMENDMENT NO. 1674 TO AMENDMENT NO. 1646, AS AMENDED

(Purpose: To prohibit new welfare for politicians)

Mr. LOTT. I now ask unanimous consent it be in order for me to send an amendment to the desk to the pending McCain amendment.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1674 to amendment No. 1646, as amended.

Mr. LOTT. I ask that reading of the amendment be dispensed with.

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

The text of the amendment is as follows:

SECTION 600. ELECTIONEERING COMMUNICATIONS.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available to the Federal Communications Commission may be expended to impose or enforce any requirement or obligation with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligation is specifically and expressly authorized by title III of the Communication Act of 1934.

SECTION 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

Mr. LOTT. I now 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.

AMENDMENT NO. 1675 TO AMENDMENT NO. 1674

(Purpose: To prohibit new welfare for politicians)

Mr. LOTT. I ask unanimous consent it be in order now for me to send an amendment to the desk.

Mr. DASCHLE. Reserving the right to object, would the majority leader be able to describe the first amendment and the second amendment?

Mr. LOTT. Thank you for making that inquiry. Let me explain it to the Members.

What we have done here is to accept the Snowe amendment as was offered and debated this afternoon to the McCain amendment. Her amendment was a second-degree amendment to the McCain-Feingold amendment. That was accepted.

We now propose to go to a vote on the McCain-Feingold amendment, as amended. It would be a motion to table.

Mr. DASCHLE. So the majority leader has offered two amendments to the pending amendment?

Mr. LOTT. Both FEC language amendments.

What is pending is McCain-Feingold, as amended by Snowe. We would have a vote on that, as amended.

Mr. DASCHLE. I thank you for the explanation.

Mr. McCAIN. Reserving the right to object, I will not object. I believe this is a good thing to have the Snowe-Jeffords amendment incorporated in McCain-Feingold. I appreciate the majority leader doing that.

Mr. LOTT. Mr. President, I send the second amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1675 to amendment No. 1674.

The text of the amendment is as follows:

600. ELECTIONEERING COMMUNICATIONS.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available to the Federal Communications Commission may be expended to impose or enforce any requirement or obligation with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligation is specifically and expressly authorized by title III of the Communication Act of 1934.

(b) EFFECTIVE DATE.—This section shall take effect ten days after enactment of this Act.

SECTION 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

Mr. DASCHLE. Parliamentary inquiry. There are still some questions as to what we are about to vote on. Let me state it, and I would appreciate it if the Presiding Officer could clarify whether or not my understanding is correct.

We are about to vote on tabling the McCain-Feingold amendment as modified by the Snowe amendment; is that correct?

Mr. LOTT. That is correct. That is amendment No. 1646.

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. MCCONNELL. Mr. President, I move to table the amendment number 1646, and 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 on agreeing to the motion to table the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—48

Abraham	Faircloth	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brownback	Grassley	Roberts
Burns	Gregg	Roth
Campbell	Hagel	Santorum
Coats	Hatch	Sessions
Cochran	Helms	Shelby
Coverdell	Hutchinson	Smith (NH)
Craig	Hutchison	Smith (OR)
D'Amato	Inhofe	Stevens
DeWine	Kempthorne	Thomas
Domenici	Kyl	Thurmond
Enzi	Lott	Warner

NAYS—50

Akaka	Feingold	McCain
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Breaux	Hollings	Reed
Bryan	Jeffords	Reid
Bumpers	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee	Kerrey	Sarbanes
Cleland	Kerry	Snowe
Collins	Kohl	Specter
Conrad	Landrieu	Thompson
Daschle	Lautenberg	Torricelli
Dodd	Leahy	Wellstone
Dorgan	Levin	Wyden
Durbin	Lieberman	

NOT VOTING—2

Harkin	Inouye

The motion to lay on the table the amendment (No. 1646), as amended, was rejected.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

COMBATING WEAPONS OF MASS DESTRUCTION

Mr. BIDEN. Mr. President, with the end of the Cold War, the terrible threat of nuclear holocaust has been substantially reduced. But the world is far from trouble-free. The threat of the 90's, perhaps to become the threat of the coming decade, is that posed by weapons of mass destruction in the hands of lesser powers—like Iraq or Iran—or even terrorist groups.

My esteemed colleague, the senior Senator from Indiana, has written a sobering article in today's issue of The Hill. His conclusion is one to which we should all pay attention:

Absent congressional support of a U.S. response to this threat as focused, serious and vigorous as America's Cold War strategy, Americans may have every reason to anticipate domestic or international acts of nuclear, chemical and biological terrorism against American targets before another decade is out.

The Nunn-Lugar and related programs that help countries in the former Soviet Union to guard against diversion of material or technology relating to weapons of mass destruction are an important defense against such terrorism. Last year, I was pleased to co-sponsor Senator LUGAR's amendment that restored full funding to these programs. This year, we would all be well advised to seek opportunities to expand these programs, as recommended in a study last year by the National Research Council, an arm of the National Academy of Sciences.

I commend Senator LUGAR's article to my colleagues and ask unanimous consent that its text be printed in the RECORD.

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

[From The Hill, Feb. 25, 1998]

THE THREAT OF WEAPONS OF MASS DESTRUCTION

(By Senator Richard G. Lugar)

Last week the American people were reminded that terrorism is not just somebody else's problem. Two men were arrested by the FBI in Nevada on suspicion of possessing a biological agent believed to be anthrax. News reports suggested that the suspects were members of the Aryan Nation, and rumors abounded that they planned to attack a large metropolitan area.

This is but the latest instance in a growing series of incidents in which weapons of mass destruction have been linked to terrorist plots.

Terrorists of today do not need a Manhattan Project to construct weapons of mass terror.

Local law enforcement and the FBI responded quickly and efficiently to the potential threat in Nevada. But this episode begs the question: What would have happened if we had not detected this threat? What were the origins of this material? In this case, the source appears to have been an American laboratory. But the origins could just as well have been foreign.

On the day the suspects were arrested in Nevada, the news media reported on a Russian-made form of deadly anthrax bacteria that is resistant to penicillin and all current vaccines. If true, this creates the risk that individual Russian biologists might illicitly sell samples of their work to rogue nations, such as Iraq. The U.S. military is concerned that such an untreatable strain, if it exists, could show up in Iraq during any military action in the Persian Gulf.

At home, the terms under which American firms and laboratories can sell such materials need to be tightened. One of the suspects arrested in Nevada had pleaded guilty to fraud after he was accused of illegally obtaining bubonic plague bacteria from an American laboratory.

The Nevada incident demonstrates that the threat is real and that we must be prepared. Preparation must take the form of help to locate ''first responders''—the firemen, police, emergency management teams, and medical personnel who will be on the front lines if deterrence and prevention of such incidents fail.

That is why the 1996 Nunn-Lugar-Domenici ''Defense Against Weapons of Mass Destruction'' legislation directed the professionals from the Department of Defense, Federal Bureau of Investigation, Federal Emergency Management Agency and other executive agencies to join in a partnership with local emergency professionals in cities across the country. To date, 14 metropolitan areas have received training to deal with these potential threats. The Pentagon intends to supply training and equipment to 120 cities across the country over the next five years.

Preparations at home, however, are insufficient, because the most dangerous sources of proliferation are abroad where the threats are more complex and the solutions more complicated. There are three main lines of defense against the proliferation of weapons and materials of mass destruction. Individually, each is insufficient; together, they help to form the policy fabric of an integrated defense-in-depth. The first is preventing proliferation at the sources abroad. The second is deterring and interdicting the flow of illicit trade in these weapons and materials. The third line of defense is preparing domestically for a crisis.

As a consequence of the collapse of the Soviet totalitarian command and control society, a vast potential supermarket of weapons and materials of mass destruction has become increasingly accessible. Religious sects, organized crime and terrorist organizations can now attempt to buy or steal what they previously had to produce on their own. The available technology allows a small number of conspirators to threaten large populations, something heretofore achievable only by nation-states.

In attempting to fashion a response to this threat, it is common sense to attempt to deal with the threat posed by weapons of mass destruction at as great a distance from our borders as possible.

The Nunn-Lugar program at the Department of Defense, along with its companion programs at the Department of Energy, are the tools the United States is employing to reduce this threat at the source, the former Soviet Union.

The program seeks to secure weapons-usable materials that are at risk of falling into the wrong hands. Unfortunately, much still remains poorly secured.

Americans are still threatened by weapons of mass destruction. In the United States we are not adequately equipped to manage the crisis posed by the threatened use of such weapons or to manage the consequences of their use against civilian populations, whether weapons production is foreign or local.

The real question, is whether there exists sufficient political will in Congress to devote the requisite resources not only to domestic preparedness but to the first two lines of defense—namely, prevention and deterrence. Only by shoring up the lines of defense abroad can we hope to prepare successfully for the threat at home.

Absent congressional support of a U.S. response to this threat as focused, serious and vigorous as America's Cold War strategy, Americans may have every reason to anticipate domestic or international acts of nuclear, chemical and biological terrorism against American targets before another decade is out.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING FEBRUARY 20

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending February 20, the U.S. imported 6,167,000 barrels of oil each day, 1,083,000 barrels less than the 7,250,000 imported each day during the same week a year ago.

While this is one of the rare weeks when Americans imported slightly less oil than a year ago, Americans relied on foreign oil for 49.3 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 6,167,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, February 24, 1998, the Federal debt stood at $5,522,503,241,725.24 (Five trillion, five hundred twenty-two billion, five hundred three million, two hundred forty-one thousand, seven hundred twenty-five dollars and twenty-four cents).

One year ago, February 24, 1997, the Federal debt stood at $5,340,989,000,000 (Five trillion, three hundred forty billion, nine hundred eighty-nine million).

Five years ago, February 24, 1993, the Federal debt stood at $4,198,006,000,000 (Four trillion, one hundred ninety-eight billion, six million).

Ten years ago, February 24, 1988, the Federal debt stood at $2,472,187,000,000 (Two trillion, four hundred seventy-two billion, one hundred eighty-seven million).

Fifteen years ago, February 24, 1983, the Federal debt stood at $1,211,713,000,000 (One trillion, two hundred eleven billion, seven hundred thirteen million) which reflects a debt increase of more than $4 trillion—$4,310,790,241,725.24 (Four trillion, three hundred ten billion, seven hundred ninety million, two hundred forty-one thousand, seven hundred twenty-five dollars and twenty-four cents) during the past 15 years.

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 appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the Government of Cuba's destruction of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba on February 24, 1996, is to continue in effect beyond March 1, 1998, to the *Federal Register* for publication.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 25, 1998.*

REPORT TO THE NOTICE OF THE CONTINUATION OF THE NATIONAL EMERGENCY RELATING TO CUBA—MESSAGE FROM THE PRESIDENT—PM 98

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

REPORT ON THE LOAN GUARANTEES TO ISRAEL PROGRAM—MESSAGE FROM THE PRESIDENT—PM 99

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

The attached report to the Congress on the Loan Guarantees to Israel Program was completed on December 31, 1997. Since then there have been several key, positive economic developments in Israel that I wanted to communicate to the Congress.

The Israeli Knesset passed its 1998 budget on January 5. The final budget adhered to the deficit target of 2.4 percent of gross domestic product (GDP) set by the Israeli Cabinet in August 1997, and established a spending target of 46.3 percent of GDP (down from 47.3 percent in 1997), without resorting to additional taxes. Furthermore, due partially to the mid-year spending cuts discussed in the report, the Government of Israel overperformed the 1997 deficit target of 2.8 percent of GDP by a significant margin; the 1997 budget deficit came in at 2.4 percent of GDP. These events demonstrate the commitment of the Israeli government to fiscal consolidation and reform.

Second, the Israeli consumer price index (CPI) for 1997 rose by only 7 percent, at the bottom of the 7–10 percent 1997 target range and a 28-year low. This indicates that the battle being waged by the Bank of Israel and the Israeli government against persistent inflation is succeeding. The Israeli Ministry of Finance is reportedly considering lowering the 1998 inflation target (currently set at 7–10 percent) in order to consolidate the strong inflation performance registered in 1997.

This information will be included in the 1998 report to the Congress on the Loan Guarantees to Israel Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 24, 1998.*

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 100

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

As required by section 19(3) of the Public Telecommunications Act of 1992 (Public Law 102–356), I transmit herewith the report of the Corporation for Public Broadcasting.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 25, 1998.*

MESSAGES FROM THE HOUSE

At 1:37 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 916. An act to designate the United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, as the ''Blaine H. Eaton Post Office Building''.

S. 985. An act to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the ''Larry Doby Post Office.''

The message also announced that pursuant to section 202(b)(3) of Public Law 103–227, the Minority Leader appoints the following Member of the House to the National Education Goals Panel: Mr. MARTINEZ of California.

The message further announced that pursuant to section 203(b)(1) of Public Law 105–134, the Minority Leader appoints the following individual on the part of the House to the Amtrak Reform Council: Mr. S. Lee Kling of Villa Ridge, Missouri.

The message also announced that the House insists upon its amendment to the bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-

priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. SMITH of Oregon, Mr. COMBEST, Mr. BARRETT of Nebraska, Mr. STENHOLM, and Mr. DOOLEY, as the managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 424. An act to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

H.R. 429. An act to amend the Immigration and Nationality Act to provide for special immigrant status for NATO civilian employees in the same manner as for employees of international organizations.

H.R. 2766. An act to designate the United States Post Office located at 215 East Jackson Street in Painesville, Ohio, as the ''Karl Bernal Post Office Building.''

H.R. 2773. An act to designate the facility of the United States Postal Service located at 3750 North Kedzie Avenue in Chicago, Illinois, as the ''Daniel J. Doffyn Post Office Building.''

H.R. 2836. An act to designate the building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, as the ''Eugene J. McCarthy Post Office Building.''

H.R. 3116. An act to address the Year 2000 computer problems with regard to financial institutions, to extend examination parity to the Director of the Office of Thrift Supervision and the National Credit Union Administration, and for other purposes.

H.R. 3120. An act to designate the United States Post Office located at 95 West #100 South in Provo, Utah, as the ''Howard C. Nielson Post Office Building.''

ENROLLED BILLS SIGNED

At 4:39 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 916. An act to designate the United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, as the ''Blaine H. Eaton Post Office Building.''

S. 985. An act to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the ''Larry Doby Post Office.''

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 424. An act to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes; to the Committee on the Judiciary.

H.R. 429. An act to amend the Immigration and Nationality Act to provide for special immigrant status for NATO civilian employees in the same manner as for employees of international organizations; to the Committee on the Judiciary.

H.R. 2766. An act to designate the United States Post Office located at 215 East Jackson Street in Painesville, Ohio, as the ''Karl Bernal Post Office Building''; to the Committee on Governmental Affairs.

H.R. 2773. An act to designate the facility of the United States Postal Service located at 3750 North Kedzie Avenue in Chicago, Illinois, as the ''Daniel J. Doffyn Post Office Building''; to the Committee on Governmental Affairs.

H.R. 2836. An act to designate the building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, as the ''Eugene J. McCarthy Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3120. An act to designate the United States Post Office located at 95 West #100 South in Provo, Utah, as the ''Howard C. Nielson Post Office Building''; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on February 25, 1998 he had presented to the President of the United States, the following enrolled bill:

S. 927. An act to reauthorize the Sea Grant Program.

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. HUTCHINSON (for himself, Mr. BROWNBACK, Mr. NICKLES, Mr. DOMENICI, Mr. ABRAHAM, Mr. COVERDELL, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. ALLARD, Mr. ASHCROFT, Mr. SESSIONS, Mr. CRAIG, Mr. GREGG, Mr. DEWINE, Mr. COATS, Mr. LOTT, Mr. MACK, Mr. SANTORUM, Mr. SHELBY, Mr. GRAMS, Mr. GRAMM, Mr. MURKOWSKI, Mrs. HUTCHISON, Mr. SMITH of Oregon, Mr. BURNS, and Mr. FAIRCLOTH):

S. 1673. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 1674. A bill to establish the Commission on Legal Reform; to the Committee on the Judiciary.

By Mr. SHELBY (for himself, Mr. BOND, and Mr. LOTT):

S. 1675. A bill to establish a Congressional Office of Regulatory Analysis; to the Committee on Governmental Affairs.

By Ms. MOSELEY-BRAUN:

S. 1676. A bill to amend section 507 of the Omnibus Parks and Public Land Management Act of 1996 to provide additional funding for the preservation and restoration of historic buildings and structures at historically black colleges and universities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. BOND, Mr. REID, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. WARNER, Mr. SMITH of New Hampshire, Mrs. BOXER, Mr. SESSIONS, Mr. ALLARD, Mr. GRAHAM, Mr. WYDEN, Mr. LAUTENBERG, Mr. HUTCHINSON, Mr. THOMAS, Mr. REED, Mr. FAIRCLOTH, Mr. JEFFORDS, Mr. BREAUX, Mr. STEVENS, and Mr. COCHRAN):

S. 1677. A bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mr. HOLLINGS):

S. 1678. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend and clarify the pay-as-you-go requirements regarding the Social Security trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ROBB):

S. 1679. A bill to modify the conditions that must be met before certain alternative pay authorities may be exercised by the President with respect to Federal employees; to the Committee on Governmental Affairs.

By Mr. DORGAN (for himself, Mr. JOHNSON, Mr. CONRAD, and Mr. DASCHLE):

S. 1680. A bill to amend title XVIII of the Social Security Act to clarify that licensed pharmacists are not subject to the surety bond requirements under the medicare program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER:

S. Res. 180. A resolution expressing the sense of the Senate that the tax exclusion for employer-provided educational assistance programs should be made permanent; to the Committee on Finance.

By Mr. ROBB (for himself and Mr. JEFFORDS):

S. Res. 181. A resolution expressing the sense of the Senate that on March 2nd, every child in America should be in the company of someone who will read to him or her; to the Committee on the Judiciary.

By Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN):

S. Res. 182. A resolution honoring the memory of Harry Caray; considered and agreed to.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. Res. 183. A resolution congratulating Northeastern University on providing quality higher education in the Commonwealth of Massachusetts for 100 years, from 1898–1998; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUTCHINSON (for himself, Mr. BROWNBACK, Mr. NICKLES, Mr. DOMENICI, Mr. ABRAHAM, Mr. COVERDELL, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. ALLARD, Mr. ASHCROFT, Mr. SESSIONS, Mr. CRAIG, Mr. GREGG, Mr. DEWINE, Mr. COATS, Mr. LOTT, Mr. MACK, Mr. SANTORUM, Mr. SHELBY, Mr. GRAMS, Mr. GRAMM, Mr. MURKOWSKI, Mrs. HUTCHISON, Mr. SMITH of Oregon, Mr. BURNS, and Mr. FAIRCLOTH):

S. 1673. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

THE TAX CODE TERMINATION ACT

Mr. HUTCHINSON. Mr. President, I join Senator BROWNBACK in the introduction of the Tax Code Termination

Act today and will explain a little bit about our motivation and our rationale for what I think will prove to be very historic legislation. I heard it said that a tax form is a lot like a laundry list, either way you are going to lose your shirt; and a lot of folks have lost their shirts dealing with this code right here, the Tax Code that we believe needs to be terminated, needs to be eliminated, needs to be pushed over the cliff, giving us a clean slate to start over again.

Today's laundry list of tax provisions which now comprise 480 separate tax forms, requiring an additional 280 supplemental, explanatory pamphlets, is causing taxpayers to not only lose their shirts but to lose their patience. So what we have here is only the beginning. Because, in addition to this, there are the tax forms and there are the 280 supplemental explanatory pamphlets that accompany and explain and try to make rational, try to make understandable, what to most is incomprehensible.

Taxpayers are frustrated that they must spend a combined total of 5.4 billion hours complying with the provisions of this Tax Code—5.4 billion hours. That's just a number to most people. Most people can't conceive of the number ''billion'' or exactly what that means. It is the equivalent of 20 hours a year for every man, woman, and child in America to comply with this Tax Code. A family of four will spend the equivalent of 2 work weeks, just for Tax Code compliance. I think you begin to understand how expensive it is, what a drag it is upon the American economy, and how much wasted time there is for productive Americans who could be using that time in better ways.

The American people are troubled that mere compliance with tax laws is costing the economy over $157 billion a year, and they find it absolutely incredible that the Federal Government itself spends $13.7 billion per year enforcing this code, enforcing the tax laws. Yet, in spite of the fact that we are spending, on the Federal level, $13.7 billion enforcing the tax laws, one out of every four calls to the IRS will get a wrong answer. The Internal Revenue Service itself doesn't understand this Tax Code that we are asked to operate under.

Unfortunately for taxpayers, and even for overburdened IRS employees, the Tax Code continues to grow and become more Byzantine every year. As the chart to my right shows, the number of words comprising the Tax Code grew from 235,000 words back in 1964, to almost 800,000 words in 1994. That is an increase of over 300 percent. This complexity has led to a veritable cottage industry of high-priced lobbyists. In fact, it is interesting, as you look at the chart, to see the parallel between the increase in lobbyists—in 1964, about 10,000, between 10,000 and 20,000—to almost 70,000 lobbyists that we have in Washington, DC now. So as we have seen the explosion in the words of the Tax Code, we have likewise seen an explosion in the number of the lobbyists up here who are lobbying on behalf of one particular provision or another that benefits their particular special interest.

Even the Taxpayer Relief Act of 1997, which I supported because of the sizable substantive real tax cuts that it provided to middle-income families, continues the trend to complexity of the Tax Code. This act added several new forms and resulted in over 830 changes to the Tax Code. So it is no coincidence, when the Taxpayer Relief Act was signed into law last year—a bill that I voted for that provided the first tax cut in 16 years—but when it was signed into law, H&R Block, the national preparation service, saw their stock jump 20 percent. Since then it has increased 50 percent; to a great extent, I think, because of what we did here in Congress in the passage of a bill that further complicated an already overcomplicated Tax Code.

Worse yet, as this chart indicates, the marginal tax rate for typical families with a child in college varies widely under the current Tax Code. As it was pointed out by two economists for the American Enterprise Institute, for typical families with incomes between $10,000 and $120,000, the marginal tax rates bear a strong resemblance to the New York City skyline. If you use your imagination, you can see the skyline of New York City in this chart.

The results of this system are unacceptable. Taxpayers making between $11,000 and $30,000 should not pay higher marginal tax rates than those earning between $30,000 and $40,000. Likewise, taxpayers making between $80,000 and $100,000 should not pay higher marginal tax rates than those earning above $120,000. It is fundamentally unfair. Yet, while we in Washington debate the merits in the flat tax, the tiered progressive tax, the national retail sales tax, the modified flat tax, the VAT tax, all the various tax proposals that have been presented to Congress with all their various advocates and all their pros and cons, the New York City skyline tax continues unfettered.

Today, I am glad to join Senator BROWNBACK in the introduction of legislation that will force this Congress to address this inequality. Like a city block that has fallen into disrepair well beyond the patchwork repairs of urban developers, our legislation would level the current skyline tax and leave a clean slate on which to build a new, fairer, and simpler Tax Code. It is not enough for us to continue to tinker with this Tax Code. It is not enough for us to merely pass IRS reform legislation, though I support that and I will support further legislation to protect the rights of American taxpayers. But all of that is really incremental. All of that is really just nibbling around the edges. We must be much more fundamental in our approach to comprehensive tax reform, and it begins with establishing a sunset date, a date certain in which the American people can with certainty understand and realize that the unfairness and undue complexity and Byzantine nature of the current Tax Code will be eliminated once and for all.

Many have claimed that this national movement to terminate the Tax Code is irresponsible, in spite of the fact that millions of Americans have joined this movement. Hundreds of thousands have already signed petitions, called, e-mailed, written letters to their Representatives demanding that we terminate this Tax Code or ''scrap the code,'' as some have said, or ''explode the code,'' as others have even more graphically expressed themselves.

There are those who would say that in spite of that, that the move to terminate the existing Tax Code is an act that is irresponsible. These critics have warned that the Government cannot just scrap its Tax Code without knowing how it is going to be replaced. I believe what these critics fail to realize, is that almost every major spending program of the U.S. Government terminates every 5 or 6 years. Part of the wisdom of how we operate in this Congress is that when we establish a spending program it is for a certain period of time with a termination date, a sunset date; and subsequent to that termination date, it follows that there will be a debate and there will either be reauthorization or the termination of that program. Whether it's Head Start, whether it's the school lunch program, the student loan program, or the Intermodal Surface Transportation Efficiency Act, ISTEA legislation, which we are going to right now on the reauthorization—all of them expire, all of them terminate, and must be reauthorized. So, far from being irresponsible, this termination process forces Congress to reconsider the effectiveness and efficiency of these major spending programs before they can be replaced.

In short, the Tax Code Termination Act places Federal taxes on the same footing as Federal spending. It will allow us to clean the slate, and on that clean slate, Congress will be able to write a smaller, simpler, fairer Tax Code for the American people. In the end, the Tax Code will be taken to the cleaners and the taxpayers will get to keep their shirts.

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. 1673

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 ''Tax Code Termination Act''.

SEC. 2. TERMINATION OF INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—No tax shall be imposed by the Internal Revenue Code of 1986—

(1) for any taxable year beginning after December 31, 2001, and

(2) in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2001.

(b) EXCEPTION.—Subsection (a) shall not apply to taxes imposed by—

(1) chapter 2 of such Code (relating to tax on self-employment income),

(2) chapter 21 of such Code (relating to Federal Insurance Contributions Act), and

(3) chapter 22 of such Code (relating to Railroad Retirement Tax Act).

SEC. 3. NEW FEDERAL TAX SYSTEM.

(a) STRUCTURE.—The Congress hereby declares that any new Federal tax system should be a simple and fair system that—

(1) applies a low rate to all Americans,

(2) provides tax relief for working Americans,

(3) protects the rights of taxpayers and reduces tax collection abuses,

(4) eliminates the bias against savings and investment,

(5) promotes economic growth and job creation, and

(6) does not penalize marriage or families.

(b) TIMING OF IMPLEMENTATION.—In order to ensure an easy transition and effective implementation, the Congress hereby declares that any new Federal tax system should be approved by Congress in its final form not later than July 4, 2001.

Mr. BROWNBACK. Mr. President, I rise today to make a few remarks on our current Tax Code and the Tax Code Termination Act which Senator HUTCHINSON from Arkansas and I are introducing today, along with 24 cosponsors here in the Senate and the entire Senate leadership.

We just held a press conference on this topic, and Senator HUTCHINSON, I believe, will be joining me shortly to talk about this provision.

Mr. President, with this bill we will pull the current Tax Code up by its roots. And that is no small feat. This is a Tax Code that has roots that are down deep in the soil. I think they are hooked into bedrock. Some people believe they are there and cannot be pulled up. But they can, and they need to be for us to create another American century.

We heard last fall, when the Senate Finance Committee held its hearings on IRS reviews, a horror across the country as people stood up to say that is what happened to them—''Let me tell you what happened to me''— with the IRS abuses that have to be changed. But underlying the IRS is the Internal Revenue Code. The Internal Revenue Service complies with the Revenue Code. The Tax Code of this land has nearly 3 million words. These are words that govern our lives. They are words that micromanage our economic and personal decisions. These are the words of Washington causing us to do certain things, or not to do certain things. There is too much social manipulation involved in the Tax Code.

One of the leading ways that Washington uses to manipulate people's lives is the tax policy that we have. There are three basic ways. One is by regulation; another one is by subsidy. You can either regulate something to stop it, or you can subsidize something to try to grow it, or tax it, or to try to create an exception for somebody to try to fit their lives into it so they can get this economic treat at the end, or tax it here to stop people from doing something, to the point that our Tax Code now is more about social manipulation than it is about raising revenue for the Federal Government.

To prove that point, you can just look at the cost of compliance with this Tax Code—this 2.8-million-word Tax Code that is backed up by 10 million words of regulation. It costs over $150 billion a year just to comply with this Tax Code. That is before a single cent is paid on taxes. It costs over $150 billion a year to comply with this Code.

To give people an idea about how much that is, basically, if we took every car made in America and drove them into the ocean, that would be about the equivalent of what takes place with this. That is how much economic activity we are talking about; not that we should begrudge those people who make their livelihood by figuring taxes. They are good, honest, hard-working Americans. We shouldn't have so many people involved in that, and we shouldn't have a Tax Code that requires so much that people live in fear of it.

I want another American century. I want it for my children who are 11, 9 and 7. And I think we have the time and the moment in history now to start creating, to build that next American century. I don't think you can do it with this Tax Code which micromanages economic and personal decisions out of Washington. Let people in Kansas decide how to invest their money and decide how to take care of their families instead of taking all their money from them. They can make better decisions than people in Washington. It is a fundamental premise upon which I have run, and there are a lot of people associated with this body that have run on that—that people make better personal decisions than, as in a lot of times, the Government forces them to make through the Tax Code.

We need to get back to a Tax Code that is fairer, simpler, flatter, and, I might add as well, freer as far as allowing more freedom to the average American to be able to make their own personal decisions—making the decisions about what is best for them.

The bill that Senator HUTCHINSON and I am introducing is to sunset the current Tax Code. It does not say what we should go to from this point. There are a lot of options that are out there. You can look at a national tax. You can look at a consumption-based tax. You can look at a national sales tax. You can look at some sort of tax simplification, although I have to say when I go around Kansas talking about tax simplification, they say, ''I get that joke. You tried that one on us before and it didn't simplify anything.'' But there are options, I think some of which we can still consider, that are out there.

By this bill, we are not saying which options should be taken. We are simply saying by this bill, let us start the great national debate about what sort of tax system we ought to go to and do away with this one; let us drive a stake through heart of this one; let us salt the soil around where the plant grew up so it cannot grow back again; and let us debate what other sorts of systems can we go to.

It is a very similar proposal that we made when we started to balance the budget 3 years ago. We said at that point in time, let us balance the budget within 7 years. There are lots of different plans out there on how to balance the budget. We did not identify at the outset that this is the way we are going to do it or that is the way. We say, by this date we will have balanced the budget. Let us start the great national debate about how we get there. It is the same thing we are doing here. We are saying by the end of the year 2001—we hopefully will have a balanced budget this year—by the year of 2001, let's have a new Tax Code and let's start the great national debate.

Should it be a national tax? Should it be a sales tax? Should it be a simplified system? Should it be another option that is yet to be identified? And let us have that out there aggressively being talked about. We do not do anything to Social Security or Medicare chapters within the Tax Code; we leave those alone. That is a debate for another day in another arena. But, otherwise, let us have this great debate talking about what we are going to replace this onerous, complex burdensome, system with.

The Tax Code has had its place in history. This Tax Code has. Now let's make it history. Americans are ''taxed to the max.'' I believe that we need to start the clock on the Tax Code and start the process of providing Americans with that flatter, simpler, fairer, freer Tax Code system based upon which they can make a lot more of their economic decisions.

I think it is fundamental for us to create this next American century by having a different system than the onerous one we have today which people cannot understand—that regularly each year Money magazine will send a hypothetical taxpayer to 50 different accountants and get 50 different answers; or, you can ask an IRS agent. Call five of them up on the same question, and you will get five different answers. It is not that these people are not intelligent; it is that the Tax Code is unintelligible.

I have to admit that I went to law school. I have to ask forgiveness for that of a lot of people. I took every tax course, except one, that I could in law school. This Tax Code is unintelligible. My tax law professor, the Dean of the Kansas University School of Law, had the case for driving a stake through and giving capital punishment to this

Tax Code, because he says, ''Look; I have spent 20 years studying this thing, and it still doesn't make sense, and it is still something that is far too burdensome, and people don't understand it, nor is it free of the American people.''

You have to wonder why we have evolved such a system. But it is because we have taken into this Code far more the notion of behavior modification than we have of raising revenue for the Federal Government—that behavior modification that seems now to drive more of our tax policy than for what we need to raise revenue for the Federal Government. It comes from both the left and from the right.

So, Mr. President, as the current Tax Code is anti-American and anti-government, it needs to go the way of history. Let's start this great national debate about which way we need to go. Let's involve all the people across this great land on what they think we need to do.

I might add one other point. A number of people are concerned, who say, ''OK; if you accept this Tax Code, I have made decisions based on this Tax Code, and some of these are 15-year or 20-year decisions.'' They involve depreciation schedules; they involve investment decisions; they involve any number of factors. I think we will probably have to put in place substantial transition mechanisms similar to what we did on the farm bill when we changed the farm bill and we had a 7-year transition period. When we go into trade agreements, a lot of times we have 10- to 15-year transition periods, so that people that have made decisions based on this Tax Code are allowed the opportunity to say, ''OK; I have a transition time period that I need to get to something else.'' So they need not fear that they are going to be driven into some sort of economic chaos or that the country will by changing the Tax Code. We need to have a long and appropriate period for transition so we do not create that economic difficulty or chaos.

This needs to be a very thoughtful and a very learned debate. And that is why Senator HUTCHINSON and I have introduced this bill, along with 24 cosponsors, that simply says sunset it by the end of the year 2001 so we can have plenty of time to talk about a different system to go to. And it is time. I would love to give to my children in the next millennium, as they go into it, a Tax Code where they don't have to worry, regarding every decision they make, what are its tax implications. But, rather, they just have a certain level of burden that is fair, that is low, that is appropriate, and that is one that they can feel is a system that leads to some justice.

I am delighted we introduced this bill and I am delighted to join TIM HUTCHINSON in this effort to sunset the Tax Code, and I encourage all of my colleagues to join me in this effort and on this bill to sunset the Tax Code.

To reiterate, this is a tax code that the annals of history will record as one of the most onerous burdens ever faced by the American people. Our bill aims to make this code history, and by moving our legislation we will take the first steps in sunsetting a tax code that has become a method by which policy makers have confiscated family income and attempted to redistribute it for the sake of big government. This must come to an end.

I am convinced that we cannot have another American Century with this tax code. It is anti-family and anti-growth. It cannot be saved—it must be scrapped.

Americans demand tax reform, we have promised tax reform, and now is time to deliver on that promise to the American people. Some, of course, will argue that we have to be careful about any radical changes to our tax laws.

I agree.

I believe that we must carefully weigh alternative plans, debate the macro and micro effects of each, and then arrive at a thoughtful and reasoned solution that is equitable and just. However, as it should be clear to anyone, what we now have in place is neither just nor equitable. If, as is often said, our tax code is fair why are the defenders so quiet? Let's have the debate.

The bottom line is this: The tax code we now have in place punishes good investment decisions and distorts the labor market as well as our rates of national savings. It manipulates behavior by adding incentives to do one thing while punishing those who do something else.

A quick look at some of the inadequacies in our code should make the case for reform clear. For example if your are a chronic gambler you can deduct your gambling losses. But if you are a homeowner who made an unlucky investment and the value of your home declined you have no recourse to the tax code because you cannot claim a deduction for a capital loss. The question is: why can someone deduct a loss associated with a bad game of blackjack but not a loss associated with their primary residence in which they were the unfortunate victim rather than a willing participant?

The code is full of inconsistencies like the one I just mentioned. Sure, we could try and fix these problems within our tax code—and we should—but the fact of the matter is our tax code is riddled with these inconsistencies which leads me to the conclusion that we cannot reform our code, we must get rid of it.

The bill I am sponsoring today will move us in the direction of making some of these basic changes.

We must move to a tax system where individuals are not punished for their investments and where the national rate of savings is not distorted through unintended consequences. It is often argued that the federal government has an economic obligation to correct for market externalities where the marginal social cost exceeds the marginal social benefit. Unfortunately, the government has become a marginal externality and in so doing has created deadweight economic loss through policies which distort economic behaviour and shift incentives away from savings and investment. Economically this just doesn't make sense. In fact, I challenge anyone within hearing to find ten credible economists who will defend our current tax code. A tax system should not discriminate against the only component of our national income that provides for future economic growth—Investment. But ours does.

Some will disagree. But this is the precise issue upon which we must focus our debate. We must decide where we want the tax to be imposed; and further, we must fully understand what effect the imposition of the tax will have on the health of the economy.

However this debate takes shape we should have as our goal a tax system that does not distort behaviour and create deadweight loss, rather we must have as our goal a pro-growth tax system that encourages growth and increases in our national rate of savings—the true vehicle to long-run sustainable growth. We should have as our model something that is simpler, fairer and yes, flatter.

The Hutchinson-Brownback Tax Code Elimination Act will start the great national debate on how best to change our tax code in favor of one that is more equitable to all taxpayers and less complicated for everyone. Also, our bill will enable this debate to take place outside of the realm of petty demagoguery because it protects the important funding mechanisms for Social Security and Medicare. I believe that we have a commitment to ensure that we have a full, honest and open debate—our bill will give the Senate that opportunity.

I look forward to this important and historic debate as we prepare for the millennium and to a new century that I hope will provide the American people with a renewed sense of the American dream, with a renewed sense of what it means to be an American and what it means to live in America.

And now as we begin this process we should keep one other thing in mind: America is watching.

By Mr. FAIRCLOTH:

S. 1674. A bill to establish the Commission on Legal Reform; to the Committee on the Judiciary.

THE LEGAL REFORM COMMISSION ACT OF 1998

Mr. FAIRCLOTH. Mr. President, I rise to introduce a bill to create a national commission of nonlawyers—nonlawyers, to study legal reform. Nonlawyers, just regular people with a 2-year mandate to offer common sense proposals to reform the legal system. While I stand here, the Association of Trial Lawyers of America are holding their winter convention. It is not a week of hard work on behalf of the American people. No, they are at the Grand Wailea Resort & Spa, in Maui, HI. They

are spending a week in the sun learning how to sue more people for more things. They are learning how to throw more American workers out of a job. They are learning how to take a 40 percent share of more lawsuits against small businesses. They are learning how to run the cost of doing business through the roof.

I have not been to this resort but I am sure that it is not a bare-bones rooming house. First-class flights to a five-star resort—that's what you get, and can afford, when you sue people for a living and take 40 percent of it.

Let me say a few words about my legal reform commission. This will not be a typical Washington commission; it will be made up entirely of nonlawyers. The legal system is overrun with abuses and we need fundamental reform. I want to see what a panel of average Americans who are not lawyers trained to split legal hairs, but think in common sense, will do with legal reform. We have heard all the stories about the $2.8 million award against the lady who spilled the McDonald's coffee. We have heard about a $4 million verdict because a BMW automobile was repainted. These are well known because they are outrageous. The coffee verdict was cut to $480,000 and the BMW verdict was reduced to $50,000. But the fact that millions of dollars were awarded and hundreds of thousands of dollars upheld in these outrageous cases simply highlights the problem.

Let me mention a few cases that did not get the same attention. A Pennsylvania man was fixing his barn roof and tried to get an extra lift by putting his ladder on top of a pile of frozen manure. When the manure thawed, the man fell and he sued the ladder manufacturer. Why? Because the ladder company did not warn him that manure would not withstand the weight of a ladder. Crazy? Sure, but a jury found the ladder maker negligent and awarded the man $330,000. This is the out-of-control, ridiculous problem that we are facing.

A teenager in New Hampshire tried to slam dunk—I think that is where you push the ball through the hoop—a basketball. He lost two teeth when he hit the net. He sued the net manufacturer. The company was forced to settle the case for $50,000 because they were afraid of a tort system run out of control.

These are the types of things that we simply have to stop. With these kinds of lawsuits and 40 percent of it, you can afford to be in Hawaii.

A lumberjack was killed when a 4,000-pound redwood tree fell on him. It was a tragedy, of course, but was it a lawsuit? His family sued the hard-hat maker. The trial lawyer argued that the hard hat was defective because it could not prevent damage from a 4,000-pound falling redwood tree.

Can you imagine how thick a hat would have to be to stand up under a 4,000-pound falling redwood tree? You couldn't put it on your head. You couldn't stand up with it on. But the company wound up paying $650,000 in a ludicrous suit. A hard hat was never intended to protect you from a falling redwood tree. More of the same type of thing.

I assume some of the people who are vacationing in Hawaii received 40 percent of the $650,000.

A Texas man who had a blood alcohol level of .09 more than 8 hours after he caused an accident—8 hours; in other words, he was .09 8 hours later, so he could have been way above that when he had the accident—claimed that the road caused his crash and sued the design firm for negligence. Here is a man falling down drunk 8 hours after the wreck and he sues the highway design firm that designed the road. This was despite the fact that he was speeding and ignored the detour sign. The 15-employee firm spent $200,000 to defend itself and was forced to finally give him $35,000. So the small design firm was out $235,000 because a drunk ignored a detour sign and was speeding.

Not only are these facts—and the pattern—outrageous, but the lawyers profit from their behavior. They take anywhere from 25 to usually over 40 percent of the recovery. It is totally a system out of control: greedy lawyers exploiting the law and their own clients for personal gain.

The tort system costs the people of this country more than $150 billion annually. That is more than 2 percent of our entire economy. It is a huge waste, and it is going to have to stop if we hope to compete in a global economy.

Mr. President, I want to see what a panel of average intelligent Americans will come up with, people with common sense who can look through the facade of these lawsuits. That is why I am introducing the Legal Reform Commission of 1998. And they start out with a big plus. There is no way they can do worse than what we already have.

By Mr. SHELBY (for himself and Mr. BOND);

S. 1675. A bill to establish a Congressional Office of Regulatory Analysis; to the Committee on Governmental Affairs.

THE CONGRESSIONAL OFFICE OF REGULATORY ANALYSIS ACT

Mr. SHELBY. Mr. President, I rise today to introduce the Congressional Office of Regulatory Analysis Act. This legislation would establish a small, professional office within the legislative branch charged with analyzing the potential impacts of Federal rules and regulations.

In April 1996, Congress passed and the President signed the Small Business Regulatory Enforcement Fairness Act. Included in this legislation was a provision known as the Congressional Review Act or CRA which established an expedited process for Congress to review and disapprove Federal agency regulations. Under the CRA, agencies are required to send their final regulations to Congress 60 days before they take effect, and they can be overturned by a joint resolution of disapproval that is signed by the President. At the time of enactment, this law was hailed as a way to rein in agencies and prevent the implementation of costly regulations with few practical benefits.

The legislation that I am introducing would give Congress the tools to fully implement the CRA and reduce the regulatory drain on our economy. Under current law, the potential impacts of new regulations are not systematically evaluated—a fact that I think would come as a surprise to most of our constituents. The Office of Information and Regulatory Affairs within OMB reviews regulations only to ensure that they conform to Administration policies and current law and that they do not interfere with the actions of other Federal agencies. However, this office has performed these minimal calculations on only a small fraction of the new rules promulgated in recent years. In addition, the General Accounting Office (GAO) was given some additional responsibilities under the CRA. GAO must now submit to Congress a checklist citing which reports an agency has or has not completed when developing a new rule. These reports are often incomplete or nonexistent, and Congress has little recourse for obtaining factual information in these instances.

For these reasons, I believe that a Congressional Office of Regulatory Analysis (CORA) is essential to allowing Congress to fulfill its oversight obligations. At present, Congress does not have any resources for objectively evaluating the potential costs and benefits of new regulations. CORA can provide those resources. While the executive branch has thousands of employees devoted solely to creating and enforcing regulations, Congress has few means of effectively overseeing those rules. Our committee staffs are already stretched to their limits, and they cannot possibly study and evaluate each and every regulation that comes out. We need a professional staff that is charged with analyzing regulations and providing Congress with its findings. By gaining access to this valuable information, Congress will then be able to decide whether or not to pursue further action under the CRA.

Specifically, CORA would analyze both the monetary and non-monetary effects of all new major regulations. Non-major rules would be evaluated at the request of committees or individual Members of Congress. In addition to providing information on costs and benefits, which are very important, CORA's analyses would also explore possible alternative approaches to achieving the same goals as the proposed regulation at a lower cost. Finally, this office would issue an annual report on the total cost of Federal regulations to the United States economy.

I believe that anything which costs the average American family $6,800 per

year warrants very careful Congressional examination. Without the objective information that CORA can provide, oversight cannot properly be carried out.

Senator BOND, the chairman of the Small Business Committee, has joined me as a cosponsor of this legislation. I urge the rest of my colleagues to join us in establishing this office in order to ensure that future regulations do not place unnecessary burdens on the American public.

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. 1675

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 ''Congressional Office of Regulatory Analysis Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Federal regulations can have a positive impact in protecting the environment and the health and safety of all Americans; however, uncontrolled increases in the costs that regulations place on the economy cannot be sustained;

(2) the legislative branch has a responsibility to see that the laws it passes are properly implemented by the executive branch;

(3) effective implementation of chapter 8 of title 5 of the United States Code (relating to congressional review of agency rulemaking) is essential to controlling the regulatory burden that the Government places on the economy; and

(4) in order for the legislative branch to fulfill its responsibilities under chapter 8 of title 5, United States Code, it must have accurate and reliable information on which to base its decisions.

(b) PURPOSE.—The purpose of this Act is to establish a congressional office to provide Congress with independent, timely, and reasoned analyses of existing and anticipated Federal rules and regulations, including—

(1) assessments of the need for, and effectiveness of, existing and anticipated Federal rules and regulations in meeting the mandates of underlying statutes;

(2) statements of the existing and projected economic and noneconomic impacts, including the impacts of reporting requirements, of such rules and regulations; and

(3) separate assessments of the effects of existing and anticipated regulations on segments of the public, such as geographic regions and small entities.

SEC. 3. ESTABLISHMENT OF OFFICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a Congressional Office of Regulatory Analysis (hereafter in this Act referred to as the ''Office''). The Office shall be headed by a Director.

(2) APPOINTMENT.—The Director shall be appointed by the Majority Leader of the Senate and the Speaker of the House of Representatives without regard to political affiliation and solely on the basis of the Director's ability to perform the duties of the Office.

(3) TERM.—The term of office of the Director shall be 4 years, but no Director shall be permitted to serve more than 3 terms. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of that term may continue to serve until the individual's successor is appointed.

(4) REMOVAL.—The Director may be removed by a concurrent resolution of Congress.

(5) COMPENSATION.—The Director shall receive compensation at a per annum gross rate equal to the rate of basic pay for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(b) PERSONNEL.—The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate authority to perform any of the duties, powers, and functions of the Office or the Director. For purposes of pay (other than pay of the Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the Senate.

(c) EXPERTS AND CONSULTANTS.—In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of basic pay under the General Schedule of section 5332 of title 5, United States Code.

(d) RELATIONSHIP TO EXECUTIVE BRANCH.—

(1) IN GENERAL.—The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government, including the Office of Management and Budget, and the regulatory agencies and commissions of the Government. All such departments, agencies, establishments, and regulatory agencies and commissions shall promptly furnish the Director any available material which the Director determines to be necessary in the performance of the Director's duties and functions (other than material the disclosure of which would be a violation of law).

(2) SERVICES.—Upon agreement with the head of any such department, agency, establishment, or regulatory agency or commission—

(A) the Director may use the services, facilities, and personnel with or without reimbursement of such department, agency, establishment, or commission; and

(B) the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services, facilities, and personnel.

(e) RELATIONSHIP TO OTHER AGENCIES OF CONGRESS.—In carrying out the duties and functions of the Office, and for the purpose of coordinating the operations of the Office with those of other congressional agencies with a view to utilizing most effectively the information, services and capabilities of all such agencies in carrying out the various responsibilities assigned to each, the Director is authorized to obtain information, data, estimates, and statistics developed by the General Accounting Office, Congressional Budget Office, and the Library of Congress, and (upon agreement with them) to utilize their services, facilities, and personnel with or without reimbursement. The Comptroller General, the Director of the Congressional Budget Office, and the Librarian of Congress are authorized to provide the Office with the information, data, estimates, and statistics, and the services, facilities, and personnel, referred to in the preceding sentence.

(f) APPROPRIATIONS.—There are authorized to be appropriated to the Office for fiscal years 1998 through 2006 such sums as may be necessary to enable the Office to carry out its duties and functions.

SEC. 4. RESPONSIBILITIES.

(a) TRANSFER OF FUNCTIONS UNDER CHAPTER 8 FROM GAO TO OFFICE.—

(1) DIRECTOR'S AUTHORITY.—Section 801 of title 5, United States Code, is amended by striking ''Comptroller General'' each place it occurs and inserting ''Director of the Office''; and

(2) DEFINITION.—Section 804 is amended by adding at the end the following:

''(4) The term 'Director of the Office' means the Director of the Congressional Office of Regulatory Affairs established under section 3 of the Congressional Office of Regulatory Analysis Act.''.

(3) MAJOR RULES.—

(A) REGULATORY IMPACT ANALYSIS.—In addition to the assessment of an agency's compliance with the procedural steps for major rules described under section 801(a)(2)(A) of title 5, United States Code, the Office shall conduct its own regulatory impact analysis of such major rules. The analysis shall include—

(i) a description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms and the identification of those likely to receive the benefits;

(ii) a description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms and the identification of those likely to bear the costs;

(iii) a determination of the potential net benefits of the rule, including an evaluation of effects that cannot be quantified in monetary terms;

(iv) a description of alternative approaches that could achieve the same regulatory goal at a lower cost, together with an analysis of the potential benefit and costs and a brief explanation of the legal reasons why such alternatives, if proposed, could not be adopted; and

(v) a summary of how these results differ, if at all, from the results that the promulgating agency received when conducting similar analyses.

(B) TIME FOR REPORT TO COMMITTEES.—Section 801(a)(2)(A) of title 5, United States Code, is amended by striking ''15'' and inserting ''45''.

(4) NONMAJOR RULES.—The Office shall conduct a regulatory impact analysis, in accordance with paragraph (3)(A), of any nonmajor rule, as defined in section 804(3) of title 5, United States Code, when requested to do so by a committee of the Senate or House of Representatives, or individual Senator or Representative.

(5) PRIORITIES.—

(A) ASSIGNMENT.—To ensure that analyses of the most significant regulations occur, the Office shall give first priority to, and is required to conduct analyses of, all major rules, as defined in section 804(2) of title 5, United States Code. Secondary priority shall be assigned to requests from committees of the Senate and the House of Representatives. Tertiary priority shall be assigned to requests from individual Senators and Representatives.

(B) DISCRETION TO DIRECTOR OF OFFICE.—The Director of the Office shall have the discretion to assign priority among the secondary and tertiary requests.

(b) TRANSFER OF CERTAIN FUNCTIONS UNDER THE UNFUNDED MANDATES REFORM ACT OF 1995 FROM CBO TO OFFICE.—

(1) COST OF REGULATIONS.—Section 103 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1511) is amended—

(A) in subsection (b), by striking ''the Director'' and inserting ''the Director of the Congressional Office of Regulatory Analysis''; and

(B) in subsection (c), by inserting after ''Budget Office'' the following: ''or the Director of the Congressional Office of Regulatory Analysis''.

(2) ASSISTANCE TO THE CONGRESSIONAL OFFICE OF REGULATORY ANALYSIS.—Section 206 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1536) is amended—

(A) by amending the section heading to read as follows: ''sec. 206. assistance to the congressional office of regulatory analysis.''; and

(B) in paragraph (2), by striking ''the Director of the Congressional Budget Office'' and inserting ''the Director of the Congressional Office of Regulatory Analysis''.

(c) OTHER REPORTS.—In addition to the regulatory impact analyses of major and nonmajor rules described under subsection (a), the Office shall issue an annual report on an estimate of the total cost of Federal regulations on the United States economy.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

Mr. BOND. Mr. President, I rise today to join my distinguished colleague from Alabama Senator RICHARD SHELBY in sponsoring legislation to restore Congressional accountability to the regulatory process and improve the likelihood that Federal agencies will be more accountable to the voters for their rulemaking actions. The authority Congress has delegated to these agencies is the source of their power to issue rules, regulations, guidelines and the like. While this delegation of authority to Federal bureaucracies may be a necessary evil until we can make more progress to reduce the size and scope of government's expanded role in our daily lives, this unfortunate regulatory state of affairs calls for increased oversight and renewed involvement by the elected officials who pass the legislation that empowers the bureaucracy.

The size of the regulatory burden is staggering. According to a study for the Small Business Administration by Thomas D. Hopkins, an Adjunct Fellow of the Center for the Study of American Business in St. Louis, the direct, annual cost of regulatory compliance in 1997 was $688 billion—which is approximately $6,875 each year for a family of four. At the same time Congress exercises fiscal restraint in order to achieve a balanced budget, we must also be vigilant to ensure that the Federal government does not impose additional ''hidden taxes'' in the form of regulatory costs on American citizens.

As Chairman of the Senate Committee on Small Business, I have worked especially hard to reduce the burden imposed by government regulations on our nation's small businesses. In 1996, legislation I authored was enacted as an important step in our efforts to reduce red tape and increase fairness in the treatment of small businesses by Federal agencies. Enactment of this law was a victory for small business and for the consumers and workers who rely on small businesses for goods, services and jobs. Because the Small Business Regulatory Enforcement Fairness Act offers such great potential for improving the regulatory landscape, we refer to it as the ''Red Tape Reduction Act.''

The bill Senator Shelby and I are introducing today builds on the work initiated by the Red Tape Reduction Act. Specifically, Subtitle E of that important law, known as the Congressional Review Act (CRA), enhances the ability of Congress to serve as a backstop against excessive regulations. Senators NICKLES and REID sponsored the CRA portion of the Red Tape Reduction Act to provide a new process for Congress to review and disapprove new regulations and to make sure regulators are not exceeding or ignoring the Congressional intent of statutory law.

Despite strong support for the CRA, Congress thus far has been hesitant to use the streamlined procedures for reviewing a regulation provided under the CRA. In fact, since enactment of the Congressional Review Act, more than 7,400 new regulations have been issued—on average 25–30 per day. While many of these rules are routine and others certainly would have survived Congressional scrutiny, the fact remains that more than 110 major final rules have been issued, each having an annual affect on the economy of $100 million or more.

In the 104th Congress, one of two resolutions of disapproval introduced in the Senate reached the floor for a vote and was defeated. In the 105th Congress, only one resolution of disapproval has been introduced in the Senate. Consequently, Congress has been criticized for not fulfilling its role under the CRA. The fact is that, without a separate, reliable, source of in-depth analysis of these new rules, Congress has been limited in its ability to exercise its new authority over these rules. With Federal regulations costing our constituents $688 billion last year, and proposed and final rules accounting for more than 68,000 pages in the Federal Register in 1997 alone, it is time for Congress to take aggressive steps to ensure that the regulations flowing from Congressionally-passed legislation are fairly and reasonably fulfilling the purposes Congress intended.

To provide Congress with the information needed to review new regulations and access whether a resolution of disapproval under the CRA should be considered. Senator SHELBY and I are today introducing legislation to create a Congressional Office of Regulatory Analysis (CORA). CORA would provide an objective source of regulatory analysis to assist Congress in its review of new regulations. This small office will provide the missing information required by Congress to utilize better the potential oversight powers provided under the CRA.

Patterned after the Congressional Budget Office, but on a smaller scale, CORA would be a professional, nonpartisan office, using available information to analyze major and nonmajor regulations. The sponsor of the companion bill in the other body estimates the cost of such an office at $5 million, comparable to the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA). Consistent with the limited resources available to CORA, the bill places first priority on analysis of major rules, second priority on nonmajor rules recommended for analysis by a Congressional Committee, and third priority on non-major rules recommended for review by individual Members of Congress.

The bill we introduce today also would consolidate within CORA certain activities assigned to the Congressional Budget Office under the Unfunded Mandates Reform Act of 1995 and the Governmental Accounting Office under the Congressional Review Act. This would provide Congress with one office, dedicated to the analysis of regulations and their costs. Finally, the bill instructs CORA to provide an annual report on the estimated total cost of regulations—a valuable piece of information the Administration failed to provide adequately despite Congress requiring such a regulatory accounting.

With regulation expanding, Congress must re-take the reigns of accountability and good governance. CORA provides an essential tool in that effort and is consistent with the advances made by Congress in passing the Red Tape Reduction Act, the Congressional Review Act, and Unfunded Mandates Reform Act. I urge all my colleagues to review this legislation and join in our efforts to ensure that Congress has the information it needs to fulfill its responsibilities under the Congressional Review Act and the Constitution.

By Ms. MOSELEY-BRAUN:

S. 1676. A bill to amend section 507 of the Omnibus Parks and Public Land Management Act of 1996 to provide additional funding for the preservation and restoration of historic buildings and structures at historically black colleges and universities, and for other purposes; to the Committee on Energy and Natural Resources.

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES LEGISLATION

Ms. MOSELEY-BRAUN. Mr. President, today I am pleased to introduce legislation to protect and preserve some of our Nation's most important historic landmarks that are at risk of being lost forever. I speak of buildings located on the campuses of our Nation's 103 historically black colleges and universities. Like so much of our infrastructure, many of the buildings that make up these schools are literally falling down.

Our Nation's HBCUs have promoted academic excellence for over 130 years. They have produced some of our Nation's most distinguished leaders, including Dr. Martin Luther King, Jr., Thurgood Marshall, our former colleague Harris Wofford, and many current Members of Congress. These schools have distinguished themselves in the field of higher education over the years by maintaining the highest academic standards while increasing educational opportunities for economically- and socially-disadvantaged Americans, including tens of thousands of African-Americans.

Although they represent only three percent of all U.S. institutions of higher education, HBCUs graduate 33 percent of all African-Americans with bachelor's degrees and 43 percent of all African-Americans who go on to earn their Ph.D.'s.

Nonetheless, in order to meet the educational needs of these promising individuals, these schools have had to keep their tuition and fees well below those at comparable institutions. The average tuition and fees charged by private historically black colleges and universities, for example, is less than half the average charged by private colleges nationwide.

HBCUs have also had to keep their costs low in order to increase financial aid for their students, who are disproportionately more dependent on financial aid than students at other U.S. colleges. A study by the United Negro College Fund found that 90 percent of students at private historically black colleges and universities require financial aid, compared with 65 percent of private college students nationally. The study also found that nearly one-half of these students come from families earning less than $25,000.

Given that historically black colleges and universities have found it increasingly difficult to support student aid, it should not be surprising that they are unable to restore and preserve the historic landmarks that sit on their campuses.

According to a new report being released today by the U.S. General Accounting Office, $755 million are needed to restore and preserve 712 historic structures on the campuses of historically black colleges and universities. 323 of these structures are already on the National Register of Historic Places. The others are either eligible for the National Register on the basis of State historic preservation officers' surveys or are considered historic by the colleges and universities.

Some HBCUs have large numbers of historic properties. Talladega College, for example, has 32 properties on the Historic Register and one additional properties eligible for the Historic Register. The college needs $13,239,000 in order to restore and preserve these facilities.

One of these buildings is Swayne Hall, Talladega's first building. Swayne Hall, which is on the National Register, was built with slave labor in 1852 for the Talladega Baptist Male High School, and later was used to house Federal prisoners during the Civil War. Two of the slaves who helped build Swayne Hall later went on to found Talladega College. Swayne Hall now houses three floors of classrooms and offices, and needs $1.5 million worth of repairs and refurbishment.

Congress authorized $29 million under the Omnibus Parks and Public Lands Management Act of 1996 to fund restoration of certain historic buildings on HBCU campuses, including Swayne Hall. Last year, $4 million was appropriated for this purpose. In addition, Congress has provided $4.3 million over the years to the National Park Service to restore other historic properties on the campuses of HBCUs.

Those actions, while helpful, do not come close to addressing the needs of HBCUs around the country. The legislation I am introducing today will meet those needs. It authorizes the Secretary of the Interior to award $377.5 million to HBCUs to restore and preserve their historic properties. The bill preserves the matching ratio that currently exists, so that when these Federal funds are matched, dollar-for-dollar, HBCUs will have the funds to restore and preserve all their historic structures.

This legislation will help protect the national treasures found on the campuses of our historically black colleges and universities, and will ensure that these schools can continue to provide a quality education in the 21st century. I urge all of my colleagues to cosponsor this important legislation.

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. 1676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL FUNDING FOR BUILDINGS AND STRUCTURES AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

Section 507 of the Omnibus Parks and Public Land Management Act of 1996 (16 U.S.C. 470a note; 110 Stat. 4156) is amended by striking subsection (d) and inserting the following:

''(d) FUNDING.—

''(1) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS TO THE HISTORIC PRESERVATION FUND.—In addition to other funds covered into the Historic Preservation Fund under section 108 of the National Historic Preservation Act (16 U.S.C. 470f) or under any other law, there is authorized to be appropriated to the Historic Preservation Fund $377,500,000 for fiscal years beginning after fiscal year 1998.

''(2) AVAILABILITY TO CARRY OUT THIS SECTION.—For fiscal years beginning after fiscal year 1998, $377,500,000 shall be made available pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470f) to carry out this section.''.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. BOND, Mr. REID, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. WARNER, Mr. SMITH of New Hampshire, Mrs. BOXER, Mr. SESSIONS, Mr. ALLARD, Mr. GRAHAM, Mr. WYDEN, Mr. LAUTENBERG, Mr. HUTCHINSON, Mr. THOMAS, Mr. REED, Mr. FAIRCLOTH, Mr. JEFFORDS, Mr. BREAUX, Mr. STEVENS, and Mr. COCHRAN):

S. 1677. A bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act; to the Committee on Environment and Public Works.

THE NORTH AMERICAN WETLANDS CONSERVATION ACT REAUTHORIZATION ACT OF 1998

Mr. CHAFEE. Mr. President, I am proud to introduce a bill to reauthorize the North American Wetlands Conservation Act (NAWCA), a law that has played a major role in conservation of wetland habitats across this continent. I am joined by many members of the Committee on Environment and Public Works.

This tremendous showing of bipartisan support is nothing less than a celebration of one of the great success stories in wildlife conservation. This is a story about the recovery of more than 30 species of ducks, geese, and other waterfowl and migratory birds from their lowest population numbers just 12 years ago, to some of their highest population numbers this year.

To appreciate why NAWCA is such a success, it is necessary to review its background. In the early 1980s populations of duck and other waterfowl plummeted precipitously. The numbers were stark: between the 1970s and 1985, breeding populations of ducks dropped an average of 31 percent, with some species declining by as much as 61 percent. This decline was due to several factors, including over-hunting, loss of habitat, and an extended drought in many parts of the country.

In 1986, the U.S. and Canada worked cooperatively to develop the North American Waterfowl Management Plan. Mexico joined the Plan in 1994, so that the entire continent now participates in this effort. The Plan established ambitious goals and innovative strategies for conserving waterfowl habitat. Under the leadership of former Senator George Mitchell of Maine, Congress provided a funding mechanism for the Plan when it passed the North American Wetlands Conservation Act in 1989.

I believe that NAWCA has been successful for three reasons. First, NAWCA focuses on the real key to wildlife conservation: the habitat itself. Populations of birds and other wildlife will fluctuate naturally over time, but if the habitat is not there, the species don't have a chance. Under NAWCA, approximately 3.7 million acres of wetlands and associated wetlands have been acquired, enhanced or restored.

Second, the law sets up voluntary partnerships, without the heavy hand of government regulations. These partnerships involve federal, state and

local government agencies, businesses, conservation organizations, and private individuals. Under NAWCA, funding has been provided for about 260 projects, with more than 700 partners—across 45 states—plus Mexico and Canada.

Third, NAWCA leverages federal dollars with state, local and private dollars. Since its passage, the Act has provided more than $200 million in Federal funds, that have been matched by more than $420 million in state and private funds.

The benefits of NAWCA and other wetlands protection programs —combined with a few years of heavy rainfall—have been enormous. Populations of ducks and other waterfowl have, in large measure, rebounded to the levels of the 1970s. Every year since 1995 has been billed as a ''banner year,'' and each year the numbers are even greater than the previous one. This past year's fall migration totaled 92 million ducks, the highest since 1972, and surveys counted 42 million breeding ducks, the highest level since the surveys began in 1955.

Also, wetlands losses, while still occurring, have declined dramatically: the rate of loss has slowed by 60 percent below that experienced in the 1970s and 1980s. This is a result of regulatory protections under the Clean Water Act and, perhaps even more, voluntary programs like NAWCA and the Wetlands Reserve Program in the Farm Bill.

But our conservation successes are no reason for complacency. More can and should be done. Each year, good projects must be turned down because there is not enough funding. In addition, abundant rainfall has helped the waterfowl populations rebound, but it is up to us to maintain these population increases when the rainfall abates. Lastly, the pressure to develop wetlands continues to grow each year. By the year 2020, more than half the U.S. population will live in coastal plains. Laws like NAWCA will become ever more important in protecting these areas.

Support for NAWCA has always crossed party lines. In 1996, 78 Senators signed a letter supporting the North American Wetlands Conservation Act. The need for a healthy environment is a need that transcends politics. With support for laws like NAWCA, we can meet today's challenges and protect the environment for the benefit of our children, and future generations after them.

The bill we are introducing also reauthorizes the Partnerships for Wildlife Act. This law was first enacted in 1992 to encourage partnerships among the Service, state agencies, and private organizations and individuals to undertake projects to conserve non-game wildlife species. It is modeled after NAWCA, and is the only Federal grants program for the sole purpose of benefiting non-game species—species that are not hunted, fished, or trapped. Projects funded under the Act have covered numerous species across 40 States, and have entailed management programs, research, education and outreach. Since 1994, Federal funding for grants has totaled $4.2 million. States leverage each Federal dollar with one State dollar and one additional private-sector dollar.

The bill would reauthorize the North American Wetlands Conservation Act through the year 2003, at a level of $30 million per year. It would also reauthorize the Partnerships for Wildlife Act through the year 2003, at a level of $6.25 million per year. These amounts are the same in the current laws, which expire at the end of 1998.

I urge my colleagues to fully support this bill. Thank you, Mr. President.

By Mr. FEINGOLD (for himself and Mr. HOLLINGS):

S. 1678. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend and clarify the pay-as-you-go requirements regarding the Social Security trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE SOCIAL SECURITY TRUST FUND PROTECTION ACT OF 1998

Mr. FEINGOLD. Mr. President, I am pleased to join my good friend, the Senator from South Carolina (Mr. HOLLINGS) in offering the Social Security Trust Fund Protection Act of 1998, legislation extending our current PAYGO budget rules, and clarifying that Congress may not use so-called budget surpluses to pay for tax cuts or new spending when those surpluses are really Social Security Trust Fund balances.

Mr. President, it gives me particular pleasure to join with Senator HOLLINGS in offering this bill. Both in this body and in the Budget Committee, he has been a consistent voice for fiscal prudence in this body.

Mr. President, fiscal prudence is popular in theory, but often less attractive in practice. Senator HOLLINGS has taken tough positions, even when those positions may not have been politically attractive. That is the true measure of commitment to honest and prudent budgeting, and I am proud to join him in this effort today. I am also pleased to be introducing a measure which is similar in many respects to a measure introduced in the other body by Congressman MINGE, who has an outstanding record of working in a bipartisan manner to bring fiscal discipline to the budget.

The Minge bill, too, seeks to prevent the irresponsible use of Social Security Trust Fund balances, and I very much look forward to working with the Congressman to advance these proposed budget rules.

Mr. President, we are entering a budget era of transition. For decades, Congress and the White House ran up huge deficits, producing a mounting national debt. For the past few years, we have worked to bring down those deficits. Those efforts have paid off, in large part, and we are now about to consider something Congress has not seen in 30 years—a unified budget submitted by the President that actually reaches balance.

Mr. President, if we can work together to pass a balanced unified budget this year that will be a notable accomplishment, and it deserves to be highlighted. But, Mr. President, even if we do pass a balanced unified budget this year, that is not the end of our work. Balancing the unified budget isn't a touchdown. It's more like first and ten at mid-field. It's not a bad place to be, but we still have a way to go.

But, Mr. President, some act as if the goal posts are really on the 50; that all we have to do is balance the unified budget and we've scored a touchdown. They want to declare victory once the unified budget is in balance, and use any projected unified budget surpluses for increased spending or tax cuts. Just last week, a member of this body was reported to have complained about needing to find offsets for tax cuts. The implied intention of that member was to support a large tax cut without also cutting enough spending to fully pay for the tax cut. Instead, the unspoken intention of this member was to rely on a projected surplus in the unified budget as an offset.

Mr. President, that would be a grave mistake. As the President cautioned us during his State of the Union address, we should not touch the unified budget surplus. In fact, that admonition may have been just as important as the achievement of proposing the first balanced unified budget in 30 years.

Mr. President, while I strongly agree with the President's comments, I approach this matter from a different perspective. There are many of us who do not view the unified budget as the appropriate measure of our Nation's budget.

In particular, I want to acknowledge my fellow Budget Committee colleagues, Senators HOLLINGS and CONRAD, for their consistent warnings to the body on this very issue.

Mr. President, as I have noted before, the unified budget is not the budget which should guide our policy decisions. The projected surpluses in the unified budget are not real. In fact, far from surpluses, what we really have are continuing on-budget deficits, masked by Social Security revenues. The distinction is absolutely fundamental. As I have noted before, the very word ''surplus'' connotes some extra amount or bonus. One dictionary defines ''surplus'' as: ''something more than or in excess of what is needed or required.''

Mr. President, the projected unified budget surplus is not ''more than or in excess of what is needed or required.''

Those funds are needed. They were raised by the Social Security system, specifically in anticipation of commitments to future Social Security beneficiaries. Mr. President, let me just note that the problem of using Social Security trust fund balances to mask the real budget deficit is not a partisan issue.

Both political parties have used this accounting gimmick—here in Congress and in the White House. But it must stop, and this legislation can help us stop it.

Mr. President, budget rules cannot by themselves reduce the deficit, but they can protect what has been achieved and guard against abuse. The PAYGO rule governing entitlements and taxes, along with the discretionary spending caps, have kept Congress disciplined and on track. The bill we are introducing today ensures the PAYGO rule continues to require new entitlement spending or tax cuts are fully paid for.

Our bill clarifies current PAYGO procedures to remove any doubt that tax cuts or increased spending must continue to be offset. It extends the PAYGO rule, which currently covers legislation enacted through 2002, until we are no longer using Social Security to mask the deficit. Under our bill, Congress could not use a so-called surplus until it is real, namely when the budget runs a surplus without using Social Security Trust Funds.

Mr. President, earlier I said we are in a budget era of transition. With some hard work this year, we can leave the years of unified budget deficits behind us. And with some more work, we can move toward real budget balances without using Social Security revenues. Mr. President, that must be our highest priority.

If Congress does not begin to rid itself of its addiction to Social Security trust fund balances, we will put the benefits of future retirees at serious risk. Fortunately, Mr. President, we are within reach of the goal of balancing the budget without using the Social Security trust funds. If we stay the course, and continue the tough, sometimes unpopular work of reducing the deficit, we can give this Nation an honest budget, one that is truly balanced. And the time to act is now.

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. 1678

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 ''Social Security Trust Fund Protection Act of 1998''.

SEC. 2. EXTENSION AND MODIFICATION OF PAY-AS-YOU-GO REQUIREMENT.

(a) EXTENSION.—(1) Section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''enacted before October 1, 2002,'' both places it appears.

(2) Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the last sentence.

(b) MODIFICATION.—(1) Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new paragraph:

''(20) The term 'budget increase' means, for purposes of section 252, an increase in direct spending outlays or a decrease in receipts relative to the baseline, and the term 'budget decrease' means, for purposes of section 252, a decrease in direct spending outlays or an increase in receipts relative to the baseline.''.

(2) Section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) by striking ''increases the deficit'' and inserting ''results in a net budget increase''; and

(B) by inserting before the period the following: ''except to the extent that the total budget surplus exceeds the social security surplus''.

(3) Section 252(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in its side heading by inserting ''AND AMOUNT'' after ''TIMING''; and

(B) by striking ''net deficit increase'' and inserting ''net budget increase'' and by adding at the end the following new sentence: ''The requirement of the preceding sentence shall apply for any fiscal year only to the extent that the surplus, if any, before the sequestration required by this section in the total budget (which, notwithstanding section 710 of the Social Security Act, includes both on-budget and off-budget Government accounts) is less than the combined surplus for that year in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.''.

(4) Section 252(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in its side heading by striking ''DEFICIT INCREASE'' and inserting ''NET BUDGET INCREASE'';

(B) by striking ''deficit increase or decrease'' the first place it appears and inserting ''any net budget increase''; and

(C) by striking ''any net deficit increase or decrease in the current year resulting from''.

(5) The side heading of section 252(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''DEFICIT INCREASE'' and inserting ''NET BUDGET INCREASE''.

By Mr. DORGAN (for himself, Mr. JOHNSON, Mr. CONRAD, and Mr. DASCHLE):

S. 1680. A bill to amend title XVIII of the Social Security Act to clarify that licensed pharmacists are not subject to the surety bond requirements under the medicare program; to the Committee on Finance.

PROVIDING PARITY FOR LICENSED PHARMACISTS LEGISLATION

Mr. DORGAN. Mr. President, I am introducing today legislation that will exempt licensed pharmacists from the Medicare surety bond requirement imposed by the Balanced Budget Act of 1997 for suppliers of durable medical equipment (DME). I am pleased to be joined in offering this legislation by Senators JOHNSON, CONRAD, and DASCHLE.

Let me say right off that I understand and generally support the rationale behind the surety bond requirement. This will be an important new tool for the Health Care Financing Administration to prevent Medicare fraud and abuse by raising the threshold for participating in Medicare and thereby helping to ensure that only legitimate medical suppliers participate. I am sure we have all heard the horror stories about some of the scams uncovered by the HHS Office of Inspector General, in which businesses with no employees and no actual physical location were billing Medicare for unneeded services and supplies. It was these kinds of ''fly-by-night'' operations that the surety bond is intended to weed out, and I certainly support this goal.

I do not, however, think it makes sense to apply this requirement to pharmacists, who are already licensed and heavily regulated by the states, and I do not believe that was Congress' intention. Pharmacists are highly skilled health care providers who are licensed by the states, and the pharmacies they operate are also licensed and regularly inspected by state boards of pharmacy. Clearly, pharmacists are not the kind of fly-by-night business owners the surety bond was aimed at.

Congress already exempted physicians and other health care practitioners from the surety bond requirement, but HCFA has determined that this exemption does not extend to pharmacists since they do not typically bill Medicare for the services they provide. My legislation would simply ensure that pharmacists receive the same treatment as other licensed health care practitioners for purposes of the DME surety bond requirement.

Without this legislation, older Americans stand to lose access to needed durable medical equipment and prescription drugs. Pharmacies are reputable and convenient providers of medical equipment, and in many rural areas, they are the only local medical suppliers. In addition, since HCFA now requires that prescription drugs covered by Medicare be purchased from a pharmacy, driving pharmacies out of Medicare will reduce patient access not only to medical equipment but also to prescription drugs.

Pharmacies dropping out of the Medicare program is not an unjustifiable fear; it may be an economic reality. For the vast majority of pharmacies, providing durable medical equipment constitutes less than 10 percent of their total business. Yet, they provide this service for the convenience of their Medicare customers. If required to purchase even the minimum surety bond of $50,000, pharmacists have told me they will be forced to drop out of the Medicare program because it would actually cost them money to participate. For instance, in an informal survey of North Dakota pharmacists, 75 percent did less than $5,000 in business annually as a Medicare supplier, and not coincidentally, 70 percent said they would have to drop out of Medicare if they must purchase a surety bond.

I am pleased to have worked with and have the support of the National Community Pharmacists Association, the American Pharmaceutical Association, the North Dakota Pharmaceutical Association, and many individual pharmacists. I ask unanimous consent that letters of support from these organizations be included in the RECORD.

I hope my colleagues will join me in supporting this common-sense bill and acting on it promptly before Medicare beneficiaries lose access to dependable suppliers of medical equipment.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

S. 1680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. EXEMPTION OF LICENSED PHARMACISTS FROM SURETY BOND REQUIREMENTS.

(a) IN GENERAL.—The last sentence of section 1834(a)(16) of the Social Security Act (42 U.S.C. 1395m(a)(16)) (as added by section 4312(c) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 387)) is amended by inserting before the period at the end the following: '', except that the Secretary may not impose a surety bond described in subparagraph (B) of that sentence on suppliers that are licensed pharmacies for which the person signing the supplier application is a licensed pharmacist under State law who has the authority to bind the business entity''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect as if included in the enactment of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 251).

NATIONAL COMMUNITY PHARMACISTS ASSOCIATION,
Alexandria, VA, December 16, 1997.

Hon. BYRON L. DORGAN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DORGAN: We are especially appreciative of your initiative to amend the recently enacted Medicare Provider Surety Bond program to exempt licensed pharmacists who supply Medicare beneficiaries with covered products. We have worked closely with Stephanie Mohl and the North Dakota Pharmacist Association and look forward to a sensible solution that will assure continued access for Medicare beneficiaries and is consistent with the exemption for other licensed health care providers.

If appropriate we can target your legislation in early March at our 30th Annual Legislative Conference.

Warm Regards,

JOHN M. RECTOR, Esq.,
Senior Vice President of Government Affairs and General Counsel.

AMERICAN PHARMACEUTICAL ASSOCIATION,
Washington, DC, January 28, 1998.

Hon. BYRON L. DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: The American Pharmaceutical Association (APhA), the national professional society of pharmacists, would like to express its support for your legislation to exempt pharmacists from the surety bond requirement for Medicare suppliers of durable medical equipment. APhA, the first established and largest association of pharmacists in the United States, has a membership of more than 50,000 practicing pharmacists, pharmaceutical scientists, and pharmacy students. This requirement will have serious consequences for both pharmacists and their patients as many pharmacies who bill Medicare for less than the required $50,000 bond amount will be unable to continue supplying beneficiaries with much needed durable medical equipment. In addition, the bonding requirement would impose a regulation upon a health care profession that is already licensed and regulated by State Boards of Pharmacy.

APhA appreciates the work you and your staff have expended to exempt pharmacists from this additional regulation. As you know, congressional conferees specifically indicated in report language for the Balanced Budget Act of 1997 that they did not intend for this regulation to be imposed upon health care professionals. Unfortunately, the proposed rules issued by the Health Care Financing Administration (HCFA) do not reflect this intent. APhA believes that your legislation is an important first step towards realizing the intentions of the Conferees.

Please feel free to contact Lisa Geiger of my staff should you require any assistance from APhA and its members. Again, thank you for your work on this important issue for the profession of pharmacy.

Sincerely,

JOHN A. GANS,
PharmD, Executive Vice President.

NORTH DAKOTA PHARMACEUTICAL ASSOCIATION,
Bismarck, ND, January 26, 1998.

Hon. BYRON DORGAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DORGAN: This letter is to inform you of the strong support of the North Dakota Pharmaceutical Association for the introduction of legislation to exempt pharmacists and certain other licensed health care providers from the DMEPOS Surety Bond requirement. This requirement is a result of the Balanced Budget Act of 1997. The exemption for licensed pharmacists will place them in the same position as physicians and other practitioners who are currently exempted from the requirement.

Now that HCFA has published the rules notice for Medicare DME suppliers, we can see that our members are faced with a very difficult situation. In the proposed rules, HCFA estimates that the minimum $50,000 bond will cost approximately $788—an amount greater than we had originally heard from the bonding companies. In the proposed rules HCFA estimated that Medicare accounts for approximately 40% of the average supplier's revenue and that for most suppliers the additional costs of the bond would be outweighed by the benefits gained by continuing to be a supplier. A survey of our members showed that these figures certainly do not apply to the pharmacists of North Dakota who act as suppliers. Approximately 75% of pharmacists responding to the survey did less than $5,000 business annually as a Medicare supplier. Less than 5% indicated doing more than $25,000 in Medicare business. When asked if they would continue providing Medicare supplies if bond costs were $400–500, almost 70% indicated that they would drop out of the Medicare program.

The bonding requirement will drive a number of pharmacies out of the Medicare supplier business. Those who stay will essentially be paying a bonding fee that exceeds their revenue from the Medicare program. In North Dakota rural areas, the local pharmacy is a supplier that can be relied upon to obtain supplies for Medicare eligible patients. While provision of these supplies is not even a profitable portion of pharmacists' business under the present circumstances, it is an important service that they provide to their patients and community. The surety bond requirement will cause patients to lose access to a local supplier with the ability to assist them in a place and manner that is most convenient. Quality of health care outcomes for these patients will suffer.

We feel that you are taking the right approach with legislation to exempt pharmacists from the DME supplier surety bond requirement on the same basis as other licensed health care practitioners. The pharmacists of North Dakota are personally licensed and regulated by the State Board of Pharmacy. The Board also licenses the pharmacy facilities where they practice. These licensure provisions along with other requirements for insurance and state accountability insure that pharmacists doing business as Medicare suppliers are already sufficiently screened and regulated.

Our Association feels that legislation to exempt pharmacists from surety bond requirements is very significant to our profession and we will support your efforts to the fullest. More significantly it will preserve high quality local access service to Medicare beneficiaries in all rural areas and under served areas of our country. This action will be a benefit for Medicare patients at a time when our population is aging and access to services must be maintained. Please let us know what additional actions we can take to assist you on this issue. Thank you for all the efforts that you make on behalf of pharmacy and for the patients we serve.

Sincerely,

GALEN JORDRE,
R.Ph., Executive Vice President.

Mr. JOHNSON. Mr. President, today I am pleased to join my colleagues from North Dakota, Senators DORGAN and CONRAD, and our distinguished Minority Leader and my friend from South Dakota, Senator DASCHLE, in introducing this legislation which will clarify that licensed pharmacies are not included, nor were they ever intended to be included, in the surety bond requirements imposed on certain health care providers under the Balanced Budget Act of 1997. At a time when we are properly addressing the rise in fraud and abuse of the Medicare system, we must also be cognizant of the impact some of these efforts will have on the intended beneficiaries of Medicare. This misapplication of the surety bond requirement is one such circumstance, and I urge my colleagues to join us in clarifying that licensed pharmacies were not intended to be in the scope of the surety bond requirement.

While the vast majority of health care providers are honest and do their best to comply with Medicare rules, repeated studies have found a great amount of Medicare fraud within the national system—some estimates would place the cost to the American taxpayers at an incredible $24 billion per year. These are dollars that could be used to better compensate honest health care providers, or expand Medicare coverage. I have always been supportive of, and will continue to strongly support, these efforts to crack down on fraud and abuse. We must continue our efforts in that regard.

As part of the effort to curb fraud and abuse in the Medicare system, last year Congress enacted a $50,000 surety

bond requirement for home health agencies, Durable Medical Equipment (DME) providers, rehabilitation services providers and ambulance services. The law was aimed at fly-by-night home health agencies and DME providers who abuse the system, and not small rural pharmacies. Unfortunately, these pharmacies have been caught up in this broadly written provision of last year's budget reconciliation.

Under the definitions incorporated in this surety bond provision, all pharmacies are considered to be DME providers if even a small portion of their business is DME-related. Thus, they must obtain a minimum $50,000 surety bond regardless of how much or how little of their business consists of providing durable medical equipment to Medicare beneficiaries.

The surety bond requirement is intended to ensure that the federal government will have recourse in the event of fraud. Many of the perpetrators of fraud and abuse are fly-by-night organizations that can quickly disappear. Many rural pharmacies, however, only offer DME as a service to their Medicare patients. It is not a major profit center for them, and many will stop providing this service rather than undergo the expense of obtaining a minimum $50,000 bond. Rural Medicare patients would then have greater difficulty in obtaining needed DME.

The surety bond requirement attacks fraud indirectly, by mandating financial accountability. Pharmacies engaging in fraud will still be liable for their actions. This bill would clarify that the federal surety bond requirement does not apply to licensed pharmacies. It allows states to enforce their own licensing requirements, which can include surety bonds if states feel it necessary.

Mr. President, while we must continue our efforts to root out the fraud and abuse that is plaguing our Medicare system, this important clarification will help ensure that our efforts are appropriately targeted and do not have the unintended consequence of denying critical services to Medicare beneficiaries, and I urge my colleagues to support our efforts and to support this bill.

Mr. DASCHLE. Mr. President, it is my pleasure today to join my colleagues, Senator DORGAN, Senator CONRAD and Senator JOHNSON, in introducing legislation to clarify that licensed pharmacists are not subject to a surety bond requirement under the Medicare program. This bill will help ensure continued access to durable medical equipment (DME) in rural areas for those covered by Medicare.

The Balanced Budget Act of 1997 requires that all DME suppliers purchase a surety to qualify for a supplier number. The minimum amount for the bond is $50,000. The Health Care Financing Administration has estimated that these bonds will cost about $788 per year for each supplier. Many South Dakota pharmacists do not take in sufficient revenue from Medicare DME sales to support the purchase of a bond. Therefore, the surety bond requirement in the Balanced Budget Act could severely compromise the availability of services for Medicare patients in rural areas.

The surety bond requirement was established as an important way to combat Medicare fraud and abuse. I remain in strong support of efforts to combat fraud and abuse, because they are crucial to protecting and strengthening the Medicare program. Because the ultimate aim of fraud and abuse measures is to improve Medicare, they should be applied in ways that are consistent with the goal of quality health care and should not jeopardize access to necessary services and supplies.

This legislation retains the surety bond requirement for many DME suppliers, but it exempts licensed pharmacists. This policy is not only logical in terms of fairness to these pharmacists; it is the right thing to do for the beneficiaries who depend on their services.

I urge my colleagues to join me in support of this amendment to title XVIII of the Social Security Act. It will lift an unreasonable burden from small pharmacists without jeopardizing fraud and abuse prevention efforts, and it will enable pharmacists to continue to provide quality health care services in their local communities.

ADDITIONAL COSPONSORS

S. 1096

At the request of Mr. KERREY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1283

At the request of Mr. BUMPERS, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1283, a bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the ''Little Rock Nine'' on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1308

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1308, a bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes.

S. 1314

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1314, a bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals.

S. 1334

At the request of Mr. BOND, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availablity of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1389

At the request of Ms. SNOWE, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Georgia (Mr. COVERDELL), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1389, a bill to amend title 39, United States Code, to allow postal patrons to contribute to funding for prostate cancer research through the voluntary purchase of certain specially issued United States postage stamps.

S. 1606

At the request of Mr. WELLSTONE, the names of the Senator from New York (Mr. MOYNIHAN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1606, a bill to fully implement the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and to provide a comprehensive program of support for victims of torture.

S. 1631

At the request of Mr. HUTCHINSON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1631, a bill to amend the General Education Provisions Act to allow parents access to certain information.

S. 1644

At the request of Mr. REED, the names of the Senator from Washington (Mr. GORTON) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of S. 1644, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 regarding Grants to States for State Student Incentives.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from Maryland (Mr. SARBANES), the Senator from New York (Mr. MOYNIHAN), the Senator from Indiana (Mr. LUGAR), and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

SENATE JOINT RESOLUTION 30

At the request of Mr. WARNER, the names of the Senator from Utah (Mr. BENNETT), the Senator from Rhode Island (Mr. REED), and the Senator from

North Dakota (Mr. CONRAD) were added as cosponsors of Senate Joint Resolution 30, a joint resolution designating March 1, 1998 as ''United States Navy Asiatic Fleet Memorial Day'', and for other purposes.

SENATE JOINT RESOLUTION 40

At the request of Mr. HATCH, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of Senate Joint Resolution 40, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

At the request of Mr. SPECTER, his name was added as a cosponsor of Senate Joint Resolution 40, supra.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of Senate Concurrent Resolution 74, a bill expressing the sense of the Congress relating to the European Union's ban of United States beef and the World Trade Organization's ruling concerning that ban.

SENATE RESOLUTION 148

At the request of Mr. DOMENICI, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of Senate Resolution 148, a resolution designating 1998 as the ''Onate Cuartocentenario'', the 400th anniversary commemoration of the first permanent Spanish settlement in New Mexico.

SENATE RESOLUTION 155

At the request of Mr. LOTT, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of Senate Resolution 155, a resolution designating April 6 of each year as ''National Tartan Day'' to recognize the outstanding achievements and contributions made by Scottish Americans to the United States.

SENATE RESOLUTION 171

At the request of Mr. SPECTER, the names of the Senator from Nevada (Mr. REID), the Senator from New Hampshire (Mr. GREGG), the Senator from Idaho (Mr. CRAIG), the Senator from Vermont (Mr. JEFFORDS), the Senator from Utah (Mr. HATCH), the Senator from Indiana (Mr. COATS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Massachusetts (Mr. KERRY), the Senator from Texas (Mrs. HUTCHISON), the Senator from Hawaii (Mr. INOUYE), the Senator from Alabama (Mr. SHELBY), the Senator from Florida (Mr. MACK), and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of Senate Resolution 171, a resolution designating March 25, 1998, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Kentucky (Mr. FORD), the Senator from Washington (Mrs. MURRAY), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as ''National Character Counts Week''.

SENATE RESOLUTION 179

At the request of Mr. SPECTER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of Senate Resolution 179, a resolution relating to the indictment and prosecution of Saddam Hussein for war crimes and other crimes against humanity.

SENATE RESOLUTION 181—CONCERNING MARCH 2ND

Mr. ROBB, (for himself and Mr. JEFFORDS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 181

Whereas reading is a basic skill for a quality education, a requirement for a successful life's work, and a source of pleasure throughout life;

Whereas reading ability is essential to our nation's ability to remain competitive in a global economy;

Whereas the American Library Association, the National Family Literacy Council, the National Association of Elementary School Principals, Reading Is Fundamental, the International Reading Association, the Boys and Girls Clubs of America, and others have joined with the National Education Association to use March 2 as a national day to celebrate reading: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) March 2, 1998 shall be known as ''Read Across America Day'' to focus on the basic component of learning; and

(2) every child should be in the company of someone who will read to him or her on March 2, Dr. Seuss's birthday; and

(3) the success of Dr. Seuss and many others like him in encouraging children to discover the joy of books is applauded; and

(4) all parents are encouraged to read with their children for at least one half hour on March 2 in honor of Dr. Seuss to help us realize the goal of having the best readers in the world.

SENATE RESOLUTION 182—HONORING THE MEMORY OF HARRY CARAY

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 182

Whereas for more than 50 years, Harry Caray enthusiastically provided a unique vision of baseball in his broadcasting of thousands of games, first for the St. Louis Cardinals, then the Oakland Athletics, followed by the Chicago White Sox, and finally the Chicago Cubs;

Whereas Harry Caray was born in St. Louis in 1914, orphaned at the age of 4, and raised by family friends in St. Louis;

Whereas Harry Caray began his professional baseball broadcasting career in 1944 for the St. Louis Cardinals, and spent 25 years calling Cardinal games;

Whereas in 1971 Harry Caray began his 11 year stint with the Chicago White Sox where, in 1978, he began the tradition of leading the fans in the singing of ''Take Me Out to the Ball Game'' during the 7th inning stretch;

Whereas in 1982 Harry Caray moved to the broadcast booth for the Chicago Cubs, a switch that would eventually make Mr. Caray a national celebrity thanks to the popularity of the Cubs on cable television;

Whereas in the winter of 1987, Harry Caray suffered a stroke and for the first time in his career missed the broadcast of an opening day game, and yet, he never talked of retiring from the game he loved and soon was back in the booth at Wrigley Field;

Whereas the uncharacteristic honesty of Harry Caray made him immensely popular with fans;

Whereas Harry Caray once said ''My style is a very simple one, be entertaining, be informative and, of course, tell the truth. If you don't have the reputation for honesty, you just can't keep the respect of the listener.'';

Whereas Harry Caray's exuberant voice and his trademark shout of ''Holy Cow'' are known to baseball fans across the Nation;

Whereas Harry Caray was inducted into the National Sportscasters and Sportswriters Hall of Fame in 1988, the Baseball Hall of Fame in 1989, and the National Association of Broadcasters Hall of Fame in 1994;

Whereas Harry Caray became a major supporter of various Chicago organizations that supported and housed orphaned and troubled children;

Whereas on February 18, 1998, Harry Caray passed away after a long career enjoyed by millions; and

Whereas Harry Caray is survived by his wife of 22 years, 5 children, 5 stepchildren, 14 grandchildren and a great grandchild, and by baseball fans across the Nation: Now, therefore, be it

Resolved, That the Senate honors the life of Harry Caray.

SENATE RESOLUTION 183—CONGRATULATING NORTHEASTERN UNIVERSITY

Mr. KENNEDY (for himself and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 183

Whereas on October 16, 1997, Northeastern University marked the beginning of its centennial celebration;

Whereas Northeastern University began providing higher education in conjunction with the Boston Young Men's Christian Association (YMCA) in 1898;

Whereas Northeastern University currently enrolls over 27,000 full time students and boasts an alumni in excess of 137,000 individuals;

Whereas Northeastern University has attained a national reputation for cooperative

education that prepares students to transition successfully into the workplace;

Whereas Northeastern University provides access to higher education for students from all backgrounds;

Whereas Northeastern University has achieved growing recognition as a major research institution; and

Whereas the Senate supports Northeastern University's efforts to offer exceptional educational opportunities to individuals from throughout the world: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and congratulates Northeastern University as an outstanding educational institution that has produced exceptional alumni during the past 100 years and gives every indication of doing so for the next 100 years; and

(2) wishes Northeastern University a successful and memorable centennial celebration.

SENATE RESOLUTION 180—RELATIVE TO EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS

Mrs. BOXER submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 180

Whereas since its inception in 1978, section 127 of the Internal Revenue Code of 1986 has enabled millions of workers to advance their education and improve their job skills without incurring additional taxes or a reduction in take-home pay;

Whereas a well trained and educated workforce is essential to our Nation's economy, competitiveness, and national security;

Whereas education and retraining will be necessary to maintain and strengthen the competitive position of American industries through the next century;

Whereas much of our Nation's workforce and many of our Nation's industries are experiencing the pressures of rapid technological change and facing the pressures of global competition;

Whereas many cutting edge American industries are facing a dearth of qualified United States citizens to fill key positions in important disciplines such as engineering, mathematics, and computer science;

Whereas the United States Senate is on record supporting a permanent extension of section 127 of such Code for both graduate and undergraduate study; and

Whereas there is bipartisan support for a permanent extension of section 127 of such Code, as evidenced by the introduction of bills by Senators of both parties: Now, therefore, be it

Resolved, That it is the sense of the Senate that legislation to permanently extend section 127 of the Internal Revenue Code of 1986 should be brought to the Senate floor as expeditiously as possible in order to help ensure that United States workers will not be discouraged from advancing their education and job skills.

Mrs. BOXER. Mr. President, I am submitting today a Resolution urging the Senate to act quickly on legislation permanently extending the employer-provided educational assistance program—Section 127 of the Internal Revenue Code. This provision is particularly important to many high technology companies in my home state of California who are desperately seeking highly skilled employees. Employees to fill key positions in disciplines like engineering, mathematics and computer science. The employer-provided educational assistance program will help in this regard.

Section 127 of the Code enables employers to contribute up to $5,250 per year in educational assistance to an employee, without that employee having to include such expenditures, made on his behalf, as taxable income.

Since its inception in 1978, this provision has helped countless American workers advance their education and/or improve their job skills without also having to incur additional taxes; or alternatively, receiving a reduction in their take-home pay. I am an original co-sponsor of a bill—S.127—introduced by Senator MOYNIHAN on January 21, 1997 which would make Section 127 permanent and would also extend Section 127 to include graduate school education. I would note that there are several other bills currently pending before the Senate, introduced by members of both parties, which would make permanent section 127. So Mr. President I would urge the Senate to immediately adopt legislation to make permanent Section 127 and to extend that Section to include graduate school education.

AMENDMENTS SUBMITTED

THE PAYCHECK PROTECTION ACT

JOHNSON AMENDMENTS NOS. 1657–1658

(Ordered to lie on the table.)

Mr. JOHNSON submitted two amendments intended to him to amendment No. 1646 proposed by Mr. MCCAIN to the bill (S. 1663) to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization; as follows:

AMENDMENT NO. 1657

On page 11, after line 30, insert the following:

SEC. 104. TREATMENT AS CONTRIBUTION OF UNREIMBURSED COST OF CANDIDATE TRAVEL ON PRIVATE AIRCRAFT.

Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) (as amended by section 205(a)) is amended—

(1) in clause (ii), by striking ''; or'' at the end;

(2) in clause (iii), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(iv) in the case of the use of a private aircraft by a candidate or a candidate's authorized committees (other than an aircraft owned by the candidate or the candidate's authorized committees), the unreimbursed cost of such use, determined as the greater of the value of—

''(I) a first-class ticket on a commercial airline for a comparable trip; or

''(II) the fair market value of the use of the private aircraft.''.

AMENDMENT NO. 1658

On page 29, lines 9 and 10, strike ''CONTRIBUTIONS'' and insert ''CONTRIBUTIONS AND EXPENDITURES''.

On page 29, line 11, strike ''Section'' and insert ''(a) CONTRIBUTIONS.—Section''.

On page 29, between lines 20 and 21, insert the following:

(b) EXPENDITURES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by striking ''$200'' and inserting ''$50''.

At the end of Title III, add the following:

On page 37, between lines 9 and 10, insert the following:

SEC. 309. REPORTING REQUIREMENT FOR CERTAIN EXPENDITURES OF CANDIDATES.

(a) REPORTING REQUIREMENT OF COMMITTEE.—Section 304(b)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)) is amended—

(1) in subparagraph (A), by inserting ''(including, in the case of an expenditure to reimburse candidates or campaign workers, a specific itemization of each reimbursed candidate or worker expenditure in excess of $50 and in the case of an expenditure for air travel, the dates of the trip, each point of departure and arrival, and the identity of the traveler)'' after ''purpose'';

(2) in subparagraph (D), by striking ''and'' at the end;

(3) in subparagraph (E), by inserting ''and'' at the end; and

(4) by adding at the end the following:

''(F) in the case of an expenditure described in subparagraph (A) that is made to a person providing personal or consulting services and is used by such person to make expenditures to other persons (not including employees) who provide goods or services to the candidate or the candidate's authorized committees, the other person, together with the date, amount, and purpose of such expenditure, shall be disclosed;''.

(b) INFORMATION REPORTED TO COMMITTEE.—Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following:

''(j) A person described in section 304(b)(5)(F) shall maintain records of and provide to a political committee the information necessary for the committee to report the information described in such section.''.

MURRAY AMENDMENT NO. 1659

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by her to amendment No. 1646 proposed by Mr. MCCAIN to the bill, S. 1663, supra; as follows:

On page 29, strike lines 9 through 20 and insert the following:

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS IN ANY AMOUNT.

(a) SECTION 302.—Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''and if the amount of the contribution is in excess of $50''; and

(ii) by inserting a comma after ''making a contribution''; and

(B) in paragraph (2)(A), by inserting ''and the name and address of the person making the contribution'' after ''such contribution''; and

(2) in subsection (c)(2), by striking ''in excess of $50''.

(b) SECTION 304.—Section 304(b)(3)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)(A)) is amended—

(1) by striking '', whose contribution'' and all that follows through ''together''; and

(2) by striking the semicolon at the end and inserting '', except that in the case of a

person who makes contributions in an aggregate amount of $200 or less during the calendar year, the identification need include only the name and address of the person;''.

LIEBERMAN AMENDMENTS NOS. 1660–1662

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted three amendments intended to be proposed by him to an amendment to the bill, S. 1663, supra; as follows:

AMENDMENT NO. 1660

At the appropriate place, insert the following:

SEC. ___. DEFINITIONS OF POLITICAL COMMITTEE AND POLITICAL ORGANIZATION.

(a) DEFINITION OF POLITICAL COMMITTEE.—Section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(D) a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986 and subject to section 527 of such Code) unless—

''(i) the activities of the organization are for the primary purpose of influencing or attempting to influence the selection, nomination, election, or appointment of any individual or individuals to any State or local public office or office in a State or local political organization; and

''(ii) the organization does not engage in any activity aimed at influencing or attempting to influence the selection, election, or appointment of any individual to any Federal office or the election of Presidential or Vice Presidential electors.''.

(b) DEFINITION OF POLITICAL ORGANIZATION.—Paragraph (e)(1) of section 527 of the Internal Revenue Code of 1986 (relating to political organizations) is amended by striking ''incorporated) organized and operated'' and all that follows through the period and inserting ''incorporated)—

''(A) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function, and

''(B) that is a political committee described in section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) except to the extent that—

''(i) the activities of the organization are for the primary purpose of influencing or attempting to influence the selection, nomination, election, or appointment of any individual or individuals to any State or local public office or office in a State or local political organization; and

''(ii) the organization does not engage in any activity aimed at influencing or attempting to influence the selection, election, or appointment of any individual to any Federal office or the election of Presidential or Vice Presidential electors.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section take effect on the date that is 30 days after the date of enactment of this Act.

(d) REGULATIONS.—The Federal Election Commission and the Commissioner of the Internal Revenue Code of 1986 shall—

(1) promulgate regulations as necessary to enforce this section; and

(2) in the promulgation of regulations under paragraph (1), provide an exception to any provision that the Commission or Commissioner determines necessary to serve the public interest.

AMENDMENT 1661

At the appropriate place, insert the following:

SEC. ___. LIMITATIONS ON POLITICAL ACTIVITY BY TAX-EXEMPT ORGANIZATIONS.

(a) TAX-EXEMPT ORGANIZATIONS.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following new subsection:

''(o) SPECIAL RULES FOR ORGANIZATIONS EXEMPT UNDER PARAGRAPH (3) OR (4) OF SUBSECTION (c).—

''(1) IN GENERAL.—An organization described in paragraph (3) or (4) of subsection (c) shall be denied exemption from taxation under subsection (a) if such organization—

''(A) solicits or accepts a contribution (as defined in section 271(b)(2)) from a committee of a political party or an authorized committee of a candidate (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)),

''(B) makes or directs a contribution to a committee of a political party or an authorized committee of a candidate,

''(C) makes a disbursement for electioneering advertising (as defined in paragraph (2)), except to the extent that—

''(i) the disbursement constitutes an independent expenditure (as defined in section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)), or

''(ii) the advertising is—

''(I) described in paragraph (2)(B)(i)(II),

''(II) otherwise permitted by law, and

''(III) made more than—

''(aa) 60 days before the date of a general, special, or runoff election in which the identified candidates are seeking office, or

''(bb) 30 days before the date of a primary or preference election or a convention or caucus of a political party that has authority to nominate a candidate for the office for which the identified candidates are seeking election, or

''(D) participates in a coordinated disbursement.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) COORDINATED DISBURSEMENT.—

''(i) IN GENERAL.—The term 'coordinated disbursement' means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made in connection with any broadcasting, newspaper, magazine, billboard, direct mail, phone bank, widely distributed electronic mail, or similar type of general public communication or advertising by a person (who is not a candidate or a candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a member of the candidate's immediate family (as defined in section 9004(e)), the candidate's authorized committees, or a committee of a political party.

''(ii) EXCEPTION.—The term 'coordinated disbursement' does not include a disbursement for a bona fide newscast, news interview, news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), editorial, or on-the-spot coverage of bona fide news events.

''(B) ELECTIONEERING ADVERTISING.—

''(i) IN GENERAL.—The term 'electioneering advertising' means a communication—

''(I) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of individual) for President', '(name of individual) in (calendar year)', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to recommend the election or defeat of 1 or more clearly identified candidates such as '(name of candidate)'s the One' or '(name of candidate'); or

''(II) referring to 1 or more clearly identified candidates in a communication that is widely disseminated to the electorate for the election in which the identified candidates are seeking office through a broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public communication.

''(ii) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'electioneering advertising' does not include a printed communication that—

''(I) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more individuals;

''(II) is not made in coordination with an individual, political party, or agent of the individual or party;

''(III) in the case of a voter guide based on a questionnaire, provides each individual seeking a particular seat or office an equal opportunity to respond to the questionnaire and have the individual's responses incorporated into the voter guide;

''(IV) does not present an individual with greater prominence than any other individual; and

''(V) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of individual) for President', '(name of individual) in 1997', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified individuals.''.

(b) EFFECTIVE DATE.—This section and the amendments made by this section take effect on the date that is 30 days after the date of enactment of this Act.

(c) REGULATIONS.—The Federal Election Commission and the Commissioner of the Internal Revenue Code of 1986 shall—

(1) promulgate regulations as necessary to enforce this section; and

(2) in the promulgation of regulations under paragraph (1), provide an exception to any provision that the Commission or Commissioner determines necessary to serve the public interest.

AMENDMENT NO. 1662

After title VI, insert the following:

TITLE VII—PUBLIC FUNDING FOR PRESIDENTIAL CANDIDATES AND PRESIDENTIAL NOMINATING CONVENTIONS

SECTION 701. REQUIREMENTS FOR PRESIDENTIAL CANDIDATES ACCEPTING PUBLIC FUNDING.

(a) RESTRICTIONS ON FUNDRAISING BY CANDIDATES.—

(1) DEFINITION OF FUNDRAISING.—Section 9002 of the Internal Revenue Code of 1986 (relating to definitions in the Presidential Election Campaign Fund Act) is amended by adding at the end the following:

''(13) FUNDRAISING ACTIVITY.—

''(A) IN GENERAL.—The term 'fundraising activity' means—

''(i) an activity or event the purpose or effect of which is the direct or indirect solicitation, acceptance, or direction of a contribution (as defined in section 271(b)(2)) for—

''(I) any candidate for public office,

''(II) a political committee (including a national, State, or local committee of a political party),

''(III) an organization that—

''(aa) is described in section 501(c) and exempt from taxation under section 501(a) (or

has submitted an application to the Secretary of the Treasury for determination of tax-exemption under such section), and

''(bb) engages in any election-related activity, including, but not limited to, voter registration, get-out-the-vote activity, publication or distribution of a voter guide, or making communications that are widely disseminated through a broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising and that clearly identify a candidate (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a political party,

''(IV) a political organization (as defined in section 527), or

''(V) an organization that engages in any electioneering advertising (as defined in section 324 of the Federal Election Campaign Act of 1971), or

''(ii) the authorization of use of a candidate's name in connection with an activity or event described in clause (i).

''(B) EXCEPTION.—The term 'fundraising activity' does not include an activity or event the sole purpose or effect of which is to solicit or accept a contribution (as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) for the candidate participating in the activity or event that is specifically solicited for, and deposited in, the candidate's legal and accounting compliance fund or that is necessary to cover any deficiency in payments received from the Presidential Election Campaign Fund, to the extent otherwise permissible by law.''.

(2) GENERAL ELECTION.—Section 9003 of the Internal Revenue Code of 1986 (relating to condition for eligibility for payments) is amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking ''and'' at the end;

(ii) in paragraph (2), by striking the period at the end and inserting '', and''; and

(iii) by inserting after paragraph (2) the following:

''(3) such candidate, a member of the candidate's immediate family (as defined in section 9004(e)), and the candidate's authorized committee or agents or officials of the committee shall not participate in any fundraising activity during the expenditure report period.''; and

(B) in subsection (c)—

(i) in paragraph (1), by striking ''and'' at the end;

(ii) in paragraph (2), by striking the period at the end and inserting '', and''; and

(iii) by inserting after paragraph (2) the following:

''(3) subject to paragraph (2), such candidate, a member of the candidate's immediate family (as defined in section 9004(e)), and the candidate's authorized committee or agents or officials of such committee shall not participate in a fundraising activity during the expenditure report period.''.

(3) PRIMARY ELECTION.—Subsection (b) of section 9033 of the Internal Revenue Code of 1986 (relating to eligibility for payments) is amended—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting '', and''; and

(C) by adding at the end the following:

''(5) the candidate, a member of the candidate's immediate family (as defined in section 9004(e)), and the candidate's authorized committee or agents or officials of such committee shall not participate in a fundraising activity during the matching payment period unless such activity has as its sole purpose and effect the solicitation or acceptance of contributions (as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8))).''.

(b) RESTRICTION ON COORDINATED DISBURSEMENT.—

(1) DEFINITION OF COORDINATED DISBURSEMENT.—Section 9002 of the Internal Revenue Code of 1986 (as amended by subsection (a)) is amended by adding at the end the following:

''(14) COORDINATED DISBURSEMENT.—

''(A) IN GENERAL.—The term 'coordinated disbursement' means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made in connection with any broadcasting, newspaper, magazine, billboard, direct mail, phone bank, widely distributed electronic mail, or similar type of general public communication or advertising by a person (who is not a candidate or a candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a member of the candidate's immediate family (as defined in section 9004(e)), the candidate's authorized committees, or a committee of a political party.

''(B) SPECIAL RULE.—In the case of a candidate who designates a committee of a political party as the candidate's authorized committee, the term 'coordinated disbursement' shall include disbursements made by the committee in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or a member of the candidate's immediate family (as defined in section 9004(e)) in excess of an amount equal to the aggregate of the limit under section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) and the appropriate limit under section 315(b)(1) of such Act (2 U.S.C. 441a(b)(1)).

''(C) EXCEPTIONS.—The term 'coordinated disbursement' does not include—

''(i) a disbursement that is an expenditure subject to the limits under section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)); or

''(ii) a disbursement for a bona fide newscast, news interview, news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), editorial, or on-the-spot coverage of bona fide news events.''.

(2) GENERAL ELECTION.—Subsection (a) of section 9003 of the Internal Revenue Code of 1986 (relating to condition for eligibility for payments) is amended—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting '', and''; and

(C) by adding at the end the following:

''(4) agree not to participate in a coordinated disbursement during the election report period.''.

(3) PRIMARY ELECTION.—Section 9033(b) (as amended by subsection (a)(3)) is amended—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting '', and''; and

(C) by adding at the end the following:

''(6) the candidate and the candidate's authorized committees shall not participate in a coordinated disbursement (as defined in section 9002(14)) during the matching payment period except to the extent that the disbursement is a contribution subject to the contribution limits of section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a).''.

SEC. 702. REQUIREMENTS FOR POLITICAL PARTIES ACCEPTING PUBLIC FINANCING FOR PRESIDENTIAL NOMINATING CONVENTIONS.

(a) REQUIREMENTS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 507) is amended by adding at the end the following:

''SEC. 327. REQUIREMENTS FOR POLITICAL PARTIES ACCEPTING PUBLIC FINANCING FOR PRESIDENTIAL NOMINATING CONVENTIONS.

''(a) DEFINITIONS.—In this section—

''(1) COMMITTEE.—The term 'committee' shall include a national, State, district, or local committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such party committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity.

''(2) ELECTIONEERING ADVERTISING.—

''(A) IN GENERAL.—The term 'electioneering advertising' means a communication—

''(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of individual) for President', '(name of individual) in (calendar year)', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to recommend the election or defeat of 1 or more clearly identified candidates such as '(name of candidate)'s the One' or '(name of candidate'); or

''(ii) referring to 1 or more clearly identified candidates in a communication that is widely disseminated to the electorate for the election in which the identified candidates are seeking office through a broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public communication.

''(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'electioneering advertising' does not include a printed communication that—

''(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more individuals;

''(ii) is not made in coordination with an individual, political party, or agent of the individual or party;

''(iii) in the case of a voter guide based on a questionnaire, provides each individual seeking a particular seat or office an equal opportunity to respond to the questionnaire and have the individual's responses incorporated into the voter guide;

''(iv) does not present an individual with greater prominence than any other individual; and

''(v) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of individual) for President', '(name of individual) in 1997', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified individuals.

''(3) ELIGIBLE POLITICAL COMMITTEE.—The term 'eligible political committee' means a national committee of a political party entitled to receive payments under section 9008 of the Internal Revenue Code of 1986 for a presidential nominating convention.

''(b) LIMITS ON ELECTIONEERING ADVERTISING.—During the matching payment period (as defined in section 9032(6) of the Internal Revenue Code of 1986) and the expenditure report period (as defined in section 9002(12) of such Code), an eligible political committee shall not—

''(1) make disbursements for electioneering advertising in connection with an individual seeking nomination for election, or election, to the office of President or Vice President except from funds that are subject to the limitations, prohibitions, and reporting requirements of this Act; or

''(2) transfer funds that are not subject to the limitations, prohibitions, and reporting requirements of this Act to a State, district, or local committee of a political party that will be used to make disbursements for electioneering advertising in connection with an individual seeking nomination for election, or election, to the office of President or Vice President.

''(c) LIMITATION OF COORDINATED AND INDEPENDENT EXPENDITURES.—In the case of an eligible political committee, the limitation under section 315(d)(2) (relating to coordinated expenditures by committees of a political party) shall apply to the aggregate of expenditures, disbursements for electioneering advertising, and independent expenditures made by the national committee in connection with a candidate for President of the United States.

''(d) PROHIBITION OF COORDINATED DISBURSEMENTS.—During the matching payment period (as defined in section 9032(6) of the Internal Revenue Code of 1986) and the expenditure report period (as defined in section 9002(12) of such Code), an eligible political committee shall not participate in a coordinated disbursement (as defined in section 9002(14) of the Internal Revenue Code of 1986) with respect to an individual seeking nomination for election, or election, to the office of President or Vice President.

''(e) PROHIBITION OF CERTAIN DONATIONS.—An eligible political committee and any officer or agent acting on behalf of such committee shall not solicit any funds for, or make or direct any donation to, an organization that—

''(1) is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 and is described in section 501(c) of such Code (or has submitted an application to the Secretary of the Treasury for determination of tax-exemption under such section), and

''(2) engages in any election-related activity, including, but not limited to, voter registration, get-out-the-vote activity, publication or distribution of a voter guide, or making communications that are widely disseminated through a broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising that clearly identify a candidate or a political party.

''(f) PROHIBITION OF SOFT MONEY.—An eligible political committee (including a national congressional campaign committee of a political party), any officers or agents of such committees, a State, district, or local committee of a political party that has an eligible political committee (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, in violation of section 324 of this Act.''.

(b) INCREASED CONTRIBUTION LIMIT.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C)—

(A) by inserting ''(other than a committee described in subparagraph (D))'' after ''committee''; and

(B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(D) to a political committee established and maintained by a State committee of a political party that is entitled to receive payments under section 9008 of the Internal Revenue Code of 1986 for a Presidential nominating convention in any calendar year that, in the aggregate, exceed $10,000.''.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL ELECTION CAMPAIGN ACT OF 1971.—Section 315(d)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(2)) is amended by striking ''The national committee'' and inserting ''Subject to section 327(b), the national committee''.

(2) INTERNAL REVENUE CODE OF 1986.—Subsection (b) of section 9008 of the Internal Revenue Code of 1986 (relating to payments for presidential nominating conventions) is amended—

(A) in paragraph (1), by inserting ''and section 327 of the Federal Election Campaign Act of 1971'' after ''section''; and

(B) in paragraph (2), by inserting ''and section 327 of the Federal Election Campaign Act of 1971'' after ''section''.

SEC. 703. REQUIRED DISCLAIMER FOR PRESIDENTIAL CANDIDATES.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended by adding at the end the following:

''(c) REQUIRED DISCLAIMER FOR PRESIDENTIAL CANDIDATES.—In the case of an expenditure by a candidate for President or Vice President eligible under section 9003 of the Internal Revenue Code of 1986 or under section 9033 of the Internal Revenue Code of 1986 to receive payments from the Secretary of the Treasury for an advertisement that is broadcast by a radio broadcast station or a television broadcast station or communicated by direct mail, such advertisement shall contain the following statement: 'Federal law establishes voluntary spending limits for candidates for President. This candidate ___ agreed to abide by the limits.' (with the blank filled in with 'has' or 'has not' as appropriate).''.

SEC. 704. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title take effect on the date that is 30 days after the date of enactment of this title.

SEC. 705. REGULATIONS.

The Federal Election Commission and the Commissioner of the Internal Revenue Code of 1986 shall—

(1) promulgate regulations as necessary to enforce this title; and

(2) in the promulgation of regulations under paragraph (1), provide an exception to any provision that the Commission or Commissioner determines necessary to serve the public interest.

MCCAIN (AND OTHERS) AMENDMENT NO. 1663

(Ordered to lie on the table.)

Mr. MCCAIN (for himself, Mr. FEINGOLD, Ms. COLLINS, Mr. TORRICELLI, and Mr. DURBIN) submitted an amendment intended to be proposed by them to amendment to the bill, S. 1663, supra; as follows:

On page 53, after line 16, insert the following:

TITLE VII—SENATE VOLUNTARY OPTION

SEC. 701. SENATE VOLUNTARY OPTION.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 is amended by adding at the end the following:

''TITLE V—VOLUNTARY OPTION FOR SENATE ELECTION CAMPAIGNS

''SEC. 501. DEFINITIONS.

''In this title:

''(1) ELIGIBLE SENATE CANDIDATE.—The term 'eligible Senate candidate' means a candidate who the Commission has certified under section 505 as an eligible primary election Senate candidate or as an eligible general election Senate candidate.

''(2) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMIT.—The term 'multicandidate political committee contribution limit' means, with respect to an eligible Senate candidate, the limit applicable to the candidate under section 502(f).

''(3) OUT-OF-STATE RESIDENT CONTRIBUTION LIMIT.—The term 'out-of-State resident contribution limit' means, with respect to an eligible Senate candidate, the limit applicable to the candidate under section 502(e).

''(4) PERSONAL FUNDS EXPENDITURE LIMIT.—The term 'personal funds expenditure limit' means, with respect to an eligible Senate candidate, the limit applicable to the candidate under section 503(a).

''(5) SMALL STATE.—The term 'small State' means a State with a voting age population not in excess of 1,500,000.

''SEC. 502. ELIGIBLE SENATE CANDIDATES.

''(a) IN GENERAL.—A candidate is—

''(1) an eligible primary election Senate candidate if the Commission certifies under section 505 that the candidate—

''(A) has met the primary election filing requirement of subsection (b); and

''(B) has met the threshold contribution requirement of subsection (d); and

''(2) an eligible general election Senate candidate if the Commission certifies under section 505 that the candidate—

''(A) has met the general election filing requirement of subsection (c); and

''(B) has been certified as an eligible primary election Senate candidate.

''(b) PRIMARY ELECTION FILING REQUIREMENT.—

''(1) IN GENERAL.—The requirement of this subsection is met if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees—

''(A) will not exceed the personal funds expenditure limit; and

''(B) will not accept contributions for the primary election, any runoff election, or the general election that would cause the candidate to exceed the out-of-State resident contribution limit or the multicandidate political committee contribution limit.

''(2) DEADLINE FOR FILING PRIMARY ELECTION DECLARATION.—The declaration under paragraph (1) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

''(c) GENERAL ELECTION FILING REQUIREMENT.—

''(1) IN GENERAL.—The requirement of this subsection is met if the candidate files with the Commission—

''(A) a declaration, with such supporting documentation as the Commission may require, that—

''(i) the candidate and the candidate's authorized committees—

''(I) did not exceed the personal funds expenditure limit; and

''(II) did not accept contributions for the primary election or any runoff election that caused the candidate to exceed the out-of-State resident contribution limit or the multicandidate political committee contribution limit; and

''(ii) the candidate has met the threshold contribution requirement of subsection (d), as demonstrated by documents accompanying the declaration under subsection (b) or the declaration under this subsection; and

''(B) a declaration that the candidate and the candidate's authorized committees—

''(i) will not make expenditures in excess of the personal funds expenditure limit; and

''(ii) will not accept any contribution for the general election to the extent that the contribution would cause the candidate to

exceed the out-of-State resident contribution limit or the multicandidate political committee contribution limit.

''(2) DEADLINE FOR FILING GENERAL ELECTION DECLARATION.—The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date on which the candidate qualifies for the general election ballot under State law; or

''(B) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

''(d) THRESHOLD CONTRIBUTION REQUIREMENT.—

''(1) IN GENERAL.—The requirement of this subsection is met—

''(A) if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount not less than—

''(i) $100,000 in the case of a candidate seeking election in a small State; or

''(ii) $250,000 in the case of any other candidate; and

''(B) the candidate files with the Commission a statement under penalty of perjury that the requirement of subparagraph (A) has been met, with supporting materials demonstrating that the requirement has been met.

''(2) DEFINITIONS.—In this subsection:

''(A) ALLOWABLE CONTRIBUTION.—

''(i) IN GENERAL.—The term 'allowable contribution' means a contribution that is made as a gift of money by an individual pursuant to a written instrument identifying the individual as the contributor.

''(ii) EXCLUSIONS.—The term 'allowable contribution' does not include a contribution from—

''(I) an individual residing outside the candidate's State to the extent that acceptance of the contribution would bring a candidate out of compliance with subsection (e);

''(II) a multicandidate political committee to the extent that acceptance of the contribution would bring the candidate out of compliance with subsection (f); or

''(III) a source described in section 503(a)(2).

''(B) APPLICABLE PERIOD.—The term 'applicable period' means—

''(i) the period beginning on January 1 of the calendar year preceding the calendar year of a general election and ending on the date on which the declaration under subsection (b) is filed by the candidate; or

''(ii) in the case of a special election for the office of United States Senator, the period beginning on the date on which the vacancy in the office occurs and ending on the date of the general election.

''(e) OUT-OF-STATE RESIDENT CONTRIBUTION LIMIT.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this subsection is met if more than 50 percent of the total amount of contributions accepted by the candidate and the candidate's authorized committees are from individuals who are legal residents of the candidate's State.

''(B) SPECIAL RULE FOR SMALL STATES.—In the case of a candidate seeking election in a small State, the requirement of this subsection is met if, at the option of the candidate—

''(i) more than 50 percent of the total amount of contributions accepted by the candidate and the candidate's authorized committees are from individuals who are legal residents of the candidate's State; or

''(ii) more than 50 percent of the number of individuals whose names are reported to the Commission as individuals from whom the candidate and the candidate's authorized committees accept contributions are legal residents of the candidate's State.

''(2) PERSONAL FUNDS.—For purposes of paragraph (1), amounts consisting of funds from sources described in section 503(a)(2) shall be treated as contributions from individuals residing outside the candidate's State.

''(3) TIME FOR MEETING REQUIREMENT.—The requirements of paragraph (1) must be met by an eligible Senate candidate as of the close of each reporting period under section 304.

''(4) REPORTING REQUIREMENTS.—In addition to information required to be reported under section 304, a candidate that elects to comply with the requirements of paragraph (1)(B)(ii) shall include in each report required to be filed under section 304 the name and address of and the amount of contributions made by each individual that, during the calendar year in which the reporting period occurs, makes contributions aggregating $20 or more.

''(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMIT.—The requirement of this subsection is met if the candidate and the candidate's authorized committees do not accept, for use in connection with a primary, runoff, or general election, a contribution from a multicandidate political committee, to the extent that the making or accepting of the contribution would cause the aggregate amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed 25 percent of the aggregate contributions received by such candidate and committees from all sources.

''SEC. 503. PERSONAL FUNDS EXPENDITURE LIMIT.

''(a) LIMIT.—

''(1) IN GENERAL.—The amount of expenditures that may be made by an eligible Senate candidate or the candidate's authorized committees in connection with a primary, runoff, or general election of the candidate from the sources described in paragraph (2) shall not exceed, in aggregate for each such election—

''(A) in the case of an eligible Senate candidate seeking election in a small State, $25,000 per election; or

''(B) in the case of any other eligible Senate candidate, $50,000 per election.

''(2) SOURCES.—A source is described in this paragraph if the source is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

''(b) NOTICE OF FAILURE TO COMPLY WITH REQUIREMENTS.—A candidate who filed a declaration under section 502 and subsequently acts in a manner that is inconsistent with any of the statements made in the declaration shall, not later than 24 hours after the first of the acts—

''(1) file with the Commission a notice describing those acts; and

''(2) notify all other candidates for the same office by sending a copy of the notice by certified mail, return receipt requested.

''SEC. 504. BENEFIT FOR ELIGIBLE CANDIDATES.

''An eligible Senate candidate shall be entitled to the broadcast media rates provided under section 315(b) of the Communications Act of 1934.

''SEC. 505. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this title and, based on the determination, issue a certification stating whether the candidate is an eligible Senate candidate entitled to receive benefits under this title.

''(b) CERTIFICATION.—

''(1) PRIMARY ELECTION.—Not later than 7 business days after a candidate files a declaration under section 502(b), the Commission shall determine whether the candidate meets the eligibility requirements of section 502(b)(1) and, if so, certify that the candidate is an eligible primary election Senate candidate entitled to receive a benefit under this title.

''(2) GENERAL ELECTION.—Not later than 7 business days after a candidate files a declaration under section 502(c), the Commission shall determine whether the candidate meets the eligibility requirement of section 502(c)(1), and, if so, certify that the candidate is an eligible general election Senate candidate entitled to receive a benefit under this title.

''(c) REVOCATION.—

''(1) IN GENERAL.—The Commission shall revoke a certification under subsection (a), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate fails to continue to meet the requirements of this title.

''(2) NO FURTHER BENEFIT.—A candidate whose certification has been revoked shall be ineligible for any further benefit made available under this title for the duration of the election cycle.

''(d) DETERMINATIONS BY COMMISSION.—A determination (including a certification under subsection (a)) made by the Commission under this title shall be final, except to the extent that the determination is subject to examination and audit by the Commission under section 506 and to judicial review.

''SEC. 506. PENALTIES.

''(a) MISUSE OF BENEFITS.—If the Commission revokes the certification of an eligible Senate candidate, the Commission shall so notify the candidate, and the candidate shall pay to the provider of any benefit received by the candidate under this title an amount equal to the difference between the amount the candidate paid for such benefit and the amount the candidate would have paid for the benefit if the candidate were not an eligible Senate candidate.

''(b) CIVIL PENALTIES FOR EXCEEDING LIMITS.—Any eligible Senate candidate who makes expenditures in excess of the personal funds expenditure limit, or receives contributions in excess of the out-of-State resident contribution limit or the multicandidate political committee contribution limit, shall pay to the Commission as a civil penalty an amount equal to—

''(1) the amount of the excess if the excess does not exceed 5 percent of the limit,

''(2) 3 times the amount of the excess if the excess exceeds 5 percent but does not exceed 10 percent of the limit, and

''(3) if the excess exceeds 10 percent of the limit, the sum of 3 times the amount of the excess plus a civil penalty to be imposed pursuant to section 309.''

(b) EXPENDITURES MADE BEFORE EFFECTIVE DATE.—An expenditure shall not be counted as an expenditure for purposes of the expenditure limits contained in the amendment made by subsection (a) if the expenditure is made before the date that is 60 days after the date of enactment of this Act.

SEC. 702. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''(b) The charges'' and inserting the following:

''(b) BROADCAST MEDIA RATES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the charges'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(3) in paragraph (1)(A) (as redesignated by paragraph (2))—

(A) by striking ''forty-five'' and inserting ''30''; and

(B) by striking ''lowest unit charge of the station for the same class and amount of time for the same period'' and inserting ''lowest charge of the station for the same amount of time for the same period on the same date''; and

(4) by adding at the end the following:

''(2) SENATE CANDIDATES.—

''(A) ELIGIBLE SENATE CANDIDATES.—In the case of an eligible Senate candidate (as defined in section 501 of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the 30-day period and 60-day period referred to in paragraph (1)(A) shall not exceed 50 percent of the charge described in paragraph (1)(B).

''(B) NONELIGIBLE SENATE CANDIDATES.—In the case of a candidate for the United States Senate who is not an eligible Senate candidate, paragraph (1)(A) shall not apply.''.

(b) PREEMPTION; ACCESS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) PREEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1)(A), of a broadcasting station by an eligible Senate candidate who has purchased and paid for such use pursuant to subsection (b)(2).

''(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.''.

(c) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking ''or repeated'';

(2) by inserting ''or cable system'' after ''broadcasting station''; and

(3) by striking ''his candidacy'' and inserting ''the candidacy of the candidate, under the same terms, conditions, and business practices as apply to the most favored advertiser of the licensee''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 703. REPORTING REQUIREMENT FOR ELIGIBLE SENATE CANDIDATES.

Section 304(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting ''; and''; and

(3) by adding at the end the following:

''(L) in the case of an eligible Senate candidate, the total amount of contributions from individuals who are residents of the State in which the candidate seeks office.''.

DURBIN AMENDMENTS NOS. 1664–1666

(Ordered to lie on the table.)

Mr. DURBIN submitted three amendments intended to be proposed by him to amendment No. 1646 proposed by Mr. MCCAIN to the bill, S. 1663, supra; as follows:

AMENDMENT NO. 1664

In section 324(d) of the Federal Election Campaign Act of 1971 (as added by section 101 of the amendment), strike ''donations'' and insert ''donation or loan of money or other thing of value''.

AMENDMENT NO. 1665

On page 49, beginning on line 20, strike ''donation'' and all that follows through ''donation'' on line 22 and insert ''donation or loan of money or other thing of value, or to promise expressly or impliedly to make a donation or loan''.

AMENDMENT NO. 1666

At the appropriate place, insert the following:

SEC. ___. CITIZENSHIP STATUS OF CONTRIBUTORS.

(a) PROVISION OF NAMES OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 15 days after the end of a calendar quarter—

(A) the Secretary of State shall provide to the Federal Election Commission the name of each individual that loses United States citizenship during the calendar quarter by an act referred to in paragraph (2); and

(B) the Federal agency primarily responsible for administering the immigration laws shall provide to the Federal Election Commission the name of each individual that has had the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws revoked or administratively or judicially determined to be abandoned during the calendar quarter.

(2) LOSS OF CITIZENSHIP.—An act is referred to in this paragraph if—

(A) an individual renounces United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5));

(B) an individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)-(4));

(C) the United States Department of State issues a certificate of loss of nationality to an individual; or

(D) a court of the United States cancels a naturalized citizen's certificate of naturalization.

(3) TRANSITION RULE.—For purposes of individuals described in paragraph (1) that lose United States citizenship status or lawful permanent resident status prior to the date of enactment of this Act, the Secretary of State and the Federal agency primarily responsible for administering the immigration laws shall—

(A) not later than 180 days after the date of enactment of this Act, provide the Federal Election Commission the names of such individuals that lose such status during the time period beginning on the date that is 5 years before the date of enactment of this Act and ending on the date on which the first calendar quarter for which this section becomes effective begins; and

(B) not later than 1 year after the date of enactment of this Act, provide the Federal Election Commission the names of such individuals that have not been previously provided under subparagraph (A) for which the Secretary of State and Federal agency have available records.

(b) AVAILABILITY OF NAMES.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended by adding at the end the following:

''(c) AVAILABILITY OF NAMES OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Commission shall make available the name of each individual losing United States citizenship or lawful permanent resident status during a calendar quarter with respect to whom the Commission receives information from the Secretary of State or the Federal agency primarily responsible for administering the immigration laws to persons required to file reports, statements, or designations under this Act for the purpose of ensuring compliance with section 319, not later than the date that is 30 days after the date of receipt of such information.

''(2) ELECTRONICALLY AVAILABLE.—The Commission shall make the names available on the Internet for persons required to file reports, statements, or designations under this Act.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to calendar quarters that begin on or after the date of enactment of this Act.

SEC. ___. CITIZENSHIP STATUS OF CONTRIBUTORS.

(a) AFFIRMATION OF CONTRIBUTOR CITIZENSHIP STATUS.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and'' the first place it appears; and

(B) by inserting '', an affirmative statement by the individual of the citizenship or lawful permanent residency status of the individual, and an affirmation by the individual that the individual is an individual who is not prohibited by section 319 from making a contribution'' after ''employer'';

(2) in subparagraph (B), by inserting ''and an affirmation by the person that the person is a person that is not prohibited by section 319 from making a contribution'' after ''such person''.

(b) SOLICITATION OF CONTRIBUTIONS FROM FOREIGN NATIONALS.—

(1) AFFIRMATION OF POLITICAL COMMITTEE.—Section 304(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)) is amended—

(A) in paragraph (7), by striking ''and'' at the end;

(B) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(9) an affirmation that the reporting person has not knowingly solicited or accepted a contribution from a person prohibited from making such contribution.''.

(2) REQUIRED DISCLAIMER ON SOLICITATIONS.—Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) (as amended by section 308) is amended by adding at the end the following:

''(f) A communication described in subsection (a) shall contain a statement explaining that individuals who are foreign nationals (as defined in section 319) are prohibited from making contributions.''.

(c) CLARIFICATION OF DEFINITION OF FOREIGN NATIONAL.—Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting ''(including an individual that has lost United States citizenship)'' after ''United States''.

REED AMENDMENT NO. 1667

(Ordered to lie on the table.)

Mr. REED submitted an amendment intended to be proposed by him to an

amendment to the bill, S. 1663, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. CONTRIBUTION LIMIT FOR POLITICAL PARTIES MAKING INDEPENDENT EXPENDITURES.

Section 315(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(1) in paragraph (1)(B), by striking ''which, in the aggregate, exceed $20,000'' and inserting ''that—

''(i) in the case of any political committee established and maintained by a national political party that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $20,000; or

''(ii) in the case of any political committee established and maintained by a national political party that does not certify under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $5,000''; and

(2) in paragraph (2)(B), by striking ''which, in the aggregate, exceed $15,000'' and inserting ''that—

''(i) in the case of a political committee established and maintained by a national political party that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $15,000; or

''(ii) in the case of a political committee established and maintained by a national political party that does not certify under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $5,000''.

TORRICELLI AMENDMENTS NOS. 1668–1669

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to amendment No. 1646 proposed by Mr. MCCAIN to the bill, S. 1663, supra; as follows:

AMENDMENT NO. 1668

On page 53, strike lines 14 through 21 and insert the following:

SEC. 601. SEVERABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), if any provision of this Act or amendment made by this Act, or the application of any provision or amendment to any person or circumstance, is held invalid, the holding shall not affect—

(1) the other provisions of this Act and amendments made by this Act; or

(2) the application of the provisions of this Act and amendments made by this Act to other persons and circumstances.

(b) EXCEPTION.—If any part of paragraph (20) of section 301 of the Federal Election Campaign Act of 1971 (as added by section 201), or the application of any part of that paragraph to any person or circumstance, is held invalid, section 324 of the Federal Election Campaign Act of 1971 (as added by section 101) shall be of no effect.

AMENDMENT NO. 1669

At the appropriate place in the bill, insert the following:

Sec. . BROADCAST MEDIA RATES FOR CANDIDATES

Section 315(b) of the Communications Act (47 U.S.C. 315(b)(1)) is amended by—

(1) by striking paragraph (1) and inserting the following:

''during the 30 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election:

(A) 50 percent of the normal unit rate, if candidate appears in 75% of the duration of the advertisement; or

(B) 25 percent of the normal unit rate, if the candidate appears in 100% of the duration of the advertisement.''

TORRICELLI AMENDMENT NO. 1670

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill, S. 1663, supra; as follows:

At the appropriate place, insert:

SEC. ___. ELECTIONEERING COMMUNICATIONS BY TAX EXEMPT ORGANIZATIONS.

(a) PROHIBITION ON ELECTIONEERING COMMUNICATIONS BY CERTAIN TAX EXEMPT ORGANIZATIONS.—Section 501 of the Internal Revenue Code of 1986 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) PROHIBITION ON ELECTIONEERING COMMUNICATIONS.—

''(1) DENIAL OF TAX EXEMPTION.—An organization described in paragraph (3) or (4) of subsection (c) shall be exempt from tax under subsection (a) only if the organization does not directly or indirectly disburse, or contract to disburse, amounts for electioneering communications.

''(2) ELECTIONEERING COMMUNICATION.—For purposes of this subsection, the term 'electioneering communication' means a communication which is broadcast on a television or radio broadcast station and which advocates the election or defeat of a candidate by—

''(A) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in (calendar year)', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates; or

''(B) referring to 1 or more clearly identified candidates in a paid advertisement that is broadcast within—

''(i) 60 calendar days preceding the date of a general, special, or runoff election, or

''(ii) 30 calendar days preceding the date of a primary election or a convention or caucus of a political party which has the authority to nominate a candidate,

and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing an organization to take any action which is otherwise prohibited by this title.''

(b) SECTION 527 ORGANIZATIONS REQUIRED TO REGISTER AS POLITICAL COMMITTEE IF ELECTIONEERING COMMUNICATIONS ARE MADE.—Section 301(4) of the Federal Election Campaign Act of 1971 is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ''; or'', and by adding at the end the following new subparagraph:

''(D) any organization which—

''(i) is exempt from taxation under section 527 of the Internal Revenue Code of 1986,

''(ii) has, at any time on or after the date of the enactment of this subparagraph, directly or indirectly disbursed, or contracted to disburse, any amount for any electioneering communication (within the meaning of section 501(p)(2) of the Internal Revenue Code of 1986), and

''(iii) is not otherwise a political committee, a principal campaign committee, an authorized committee, or a connected organization.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disbursements made after the date of the enactment of this Act, except that such amendments shall not apply to disbursements made after such date pursuant to a contract entered into on or before such date.

SEC. ___. RETURN AND DISCLOSURE REQUIREMENTS RELATING TO SECTION 527 ORGANIZATIONS.

(a) RETURN AND DISCLOSURE REQUIREMENTS FOR POLITICAL ORGANIZATIONS CLAIMING EXEMPTION UNDER SECTION 527.—

(1) RETURN REQUIREMENTS.—

(A) ORGANIZATIONS REQUIRED TO FILE.—Section 6012(a)(6) of the Internal Revenue Code of 1986 (relating to political organizations required to make returns of income) is amended by inserting ''or which has gross receipts of $100,000 or more for the taxable year'' after ''taxable year''.

(B) INFORMATION REQUIRED TO BE INCLUDED ON RETURN.—Section 6012 of such Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) RETURNS OF POLITICAL ORGANIZATIONS.—Every organization required to file a return under subsection (a)(6) for a taxable year shall include with the return information setting forth—

''(1) its gross income for the year,

''(2) its expenses attributable to such income,

''(3) its receipts and disbursements within the year which are taken into account in determining its exempt function income,

''(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of the year,

''(5) the total of the gifts and contributions received by it during the year, and the names and addresses of all substantial contributors (within the meaning of section 6033(b)),

''(6) the names and addresses of its officers and highly compensated employees,

''(7) the compensation and other payments made during the year to each individual described in paragraph (6), and

''(8) such other information as the Secretary may require to carry out the internal revenue laws.''

(2) PUBLIC DISCLOSURE OF RETURNS.—

(A) RETURNS MADE AVAILABLE BY SECRETARY.—Section 6104(b) of the Internal Revenue Code of 1986 (relating to inspection of annual information returns) is amended by inserting ''6012(a)(6),'' before ''6033''.

(B) RETURNS MADE AVAILABLE BY ORGANIZATIONS.—

(i) IN GENERAL.—Section 6104(e)(1) of such Code (relating to public inspection of annual returns) is amended by inserting ''or section 6012(a)(6) (relating to returns by political organizations)'' after ''organizations)''.

(ii) CONFORMING AMENDMENT.—Section 6104(e)(1)(B) of such Code (relating to organizations to which paragraph applies) is amended to read as follows:

''(B) ORGANIZATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to—

''(i) any organization which—

''(I) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), and

''(II) is not a private foundation (within the meaning of section 509(a)), and

''(ii) an organization exempt from taxation under section 527(a).''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns for taxable years beginning after December 31, 1997.

(b) APPLICATIONS FOR RECOGNITION OF SECTION 527 STATUS.—

(1) IN GENERAL.—Section 527 of the Internal Revenue Code of 1986 (relating to political organizations) is amended by adding at the end the following new subsection:

''(i) NEW ORGANIZATIONS MUST NOTIFY SECRETARY THAT THEY ARE APPLYING FOR RECOGNITION OF SECTION 527 STATUS.—

''(1) IN GENERAL.—Except as provided in paragraph (3), an organization organized after February 28, 1998, shall not be treated as an organization described in this section—

''(A) unless it has given notice to the Secretary, in such manner as the Secretary may prescribe, that it is applying for recognition of such status, or

''(B) for any period before the giving of the notice, if the notice is given after the time prescribed by the Secretary by regulations for giving notice under this paragraph.

''(2) EFFECT OF FAILURE.—In the case of an organization failing to meeting the requirements of paragraph (1) for any period—

''(A) the taxable income of such organization shall be computed by taking into account any exempt function income (and any deductions directly connected with the production of such income), and

''(B) section 2501(a)(5) shall apply to the organization in the same manner as if it were a political organization to which this section applies.

''(3) EXCEPTIONS.—This subsection shall not apply to any organization—

''(A) to which this section applies solely by reason of subsection (f), or

''(B) the gross receipts of which in each taxable year are normally not more than $5,000.''

(2) DISCLOSURE REQUIREMENTS.—

(A) INSPECTION AT INTERNAL REVENUE SERVICE OFFICES.—Section 6104(a)(1)(A) of the Internal Revenue Code of 1986 (relating to public inspection of applications) is amended—

(i) by inserting ''or a political organization is exempt from taxation under section 527 for any taxable year'' after ''taxable year'',

(ii) by inserting ''or 527(a)'' after ''exemption under section 501(a)'',

(iii) by inserting ''for exemption from taxation under section 501(a)'' after ''any organization'' in the last sentence, and

(iv) by inserting ''OR 527'' after ''SECTION 501'' in the heading.

(B) INSPECTION BY COMMITTEE OF CONGRESS.—Section 6104(a)(2) of such Code is amended by inserting ''or a political organization which is exempt from taxation under section 527 for any taxable year'' after ''taxable year''.

(C) PUBLIC INSPECTION MADE AVAILABLE BY ORGANIZATION.—Section 6104(e)(2)(A) of such Code is amended—

(i) by inserting ''or an organization is exempt from taxation under section 527'' after ''section 501(a)'' in clause (i), and

(ii) by inserting ''or 527'' after ''section 501'' in clause (ii).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to organizations organized after February 28, 1998.

(c) DISCLOSURE TO FEDERAL ELECTION COMMISSION.—

(1) IN GENERAL.—Section 6104 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) DISCLOSURE OF POLITICAL ORGANIZATION INFORMATION TO, AND BY, THE FEDERAL ELECTION COMMISSION.—

''(1) IN GENERAL.—The Secretary shall disclose to the Federal Election Commission any information required to be made available to the public under subsection (a) or (b) with respect to a political organization exempt from taxation under section 527. The Federal Election Commission shall make such information available to the public in the same manner as other reports required to be filed with the Commission.

''(2) COORDINATION OF DISCLOSURE.—The Secretary may provide that disclosure by the Federal Election Commission under paragraph (1) is in lieu of disclosure by the Secretary under subsection (a) or (b) if the Secretary determines such action will not result in lack of full disclosure to the public.''

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to information required to be made available to the public on and after the 90th day following the date of enactment of this Act.

FEINSTEIN AMENDMENTS NOS. 1671–1673

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted three amendments intended to be proposed by her to amendment to the bill, S. 1663, supra; as follows:

AMENDMENT NO. 1671

At the appropriate place, insert the following:

SEC. ___. MODIFICATION OF CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) MODIFICATION OF CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended—

(1) in subsection (a)(1), by striking ''No person'' and inserting ''Except as provided in subsection (i), no person'';

(2) in subsection (a)(2), by striking ''No multicandidate'' and inserting ''Except as provided in subsection (i), no multicandidate''; and

(3) by adding at the end the following:

''(i) INCREASE IN LIMITS TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.—

''(1) IN GENERAL.—In the case of a nomination for election to, or election to, the Senate or House of Representatives, the limits under paragraphs (1)(A) and (2)(A) of subsection (a) for any calendar year shall be 3 times the limit determined without regard to this section until such time as the aggregate contributions accepted under the increased limits of this paragraph exceed the personal funds amount for a candidate.

''(2) PERSONAL FUNDS AMOUNT.—The personal funds amount is an amount equal to the excess (if any) of—

''(A) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) in excess of $25,000 that an opposing candidate in the same election makes; over

''(B) the aggregate amount of expenditures from personal funds made by the candidate in the election.''.

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS.—Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following:

''(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS.—

''(i) DEFINITION OF EXPENDITURES FROM PERSONAL FUNDS.—In this subparagraph, the term 'expenditures from personal funds' means—

''(I) an expenditure made by a candidate using personal funds; and

''(II) a contribution made by a candidate using personal funds to the candidate's authorized committee.

''(ii) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate seeking nomination for election to, or election to, the Senate or House of Representatives makes or obligates to make an aggregate amount of expenditure from personal funds in excess of $25,000 in connection with any election, the candidate shall file a notification stating the amount of the expenditure with—

''(I) the Commission; and

''(II) each candidate in the same election.

''(iii) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under clause (ii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount of $5,000 with—

''(I) the Commission; and

''(II) each candidate in the same election.

''(iv) CONTENTS.—A notification under clause (ii) or (iii) shall include—

''(I) the name of the candidate and the office sought by the candidate;

''(II) the date and amount of each expenditure; and

''(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.''.

(c) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by section 307(b)) is amended by adding at the end the following:

''(22) ELECTION CYCLE.—The term 'election cycle' means the period beginning on the day after the date of the most recent general election for the specific office or seat that a candidate is seeking and ending on the date of the next general election for that office or seat.

''(23) PERSONAL FUNDS.—The term 'personal funds' means an amount that is derived from—

''(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

''(i) legal and rightful title; or

''(ii) an equitable interest;

''(B) income received during the current election cycle of the candidate, including—

''(i) a salary and other earned income from bona fide employment;

''(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

''(iii) bequests to the candidate;

''(iv) income from trusts established before the beginning of the election cycle;

''(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

''(vi) gifts of a personal nature that had been customarily received by the candidate prior to beginning of the election cycle; and

''(vii) proceeds from lotteries and similar legal games of chance; and

''(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property.''.

AMENDMENT NO. 1672

At the appropriate place, insert the following:

SEC. ___. PROHIBITION OF CONTRIBUTIONS BY INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE.

(a) PROHIBITION.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) (as amended by section 506) is amended—

(1) in the heading by adding ''AND INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE'' at the end; and

(2) by adding at the end the following:

''(c) INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE.—It shall be unlawful for an individual who is not qualified to register to vote in a Federal election to make a contribution, or to promise expressly or impliedly to make a contribution, in connection with a Federal election; or for any person to solicit, accept, or receive a contribution in connection with a Federal election from an individual who is not qualified to register to vote in a Federal election.''.

(b) INCLUSION IN DEFINITION OF IDENTIFICATION.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and'' the first place it appears; and

(B) by inserting '', and an affirmation that the individual is an individual who is not prohibited by section 319 from making a contribution'' after ''employer''; and

(2) in subparagraph (B) by inserting ''and an affirmation that the person is a person that is not prohibited by section 319 from making a contribution'' after ''such person''.

AMENDMENT NO. 1673

At the appropriate place, insert the following:

SEC. ___. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting ''or for any applicable electioneering communication'' before '', but shall not include''.

(b) APPLICABLE ELECTIONEERING COMMUNICATION.—Section 316 of such Act is amended by adding at the end the following new subsection:

''(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS.—

''(1) APPLICABLE ELECTIONEERING COMMUNICATION.—For purposes of this section, the term 'applicable electioneering communication' means an electioneering communication (within the meaning of paragraph (3)) which is made by any entity to which subsection (a) applies.

''(2) SPECIAL OPERATING RULE.—For purposes of paragraph (1), an electioneering communication shall be treated as made by an entity described in paragraph (1) if—

''(A) the entity described in paragraph (1) directly or indirectly disburses any amount for any of the costs of the communication; or

''(B) any amount is disbursed for the communication by a corporation or organization or a State or local political party or committee thereof that receives anything of value from the entity described in paragraph (1), except that this clause shall not apply to any communication the costs of which are defrayed entirely out of a segregated account to which only individuals can contribute.

''(3) DEFINITIONS AND RULES.—For purposes of this subsection—

''(A) ELECTIONEERING COMMUNICATION.—

''(i) IN GENERAL.—The term 'electioneering communication' means any broadcast from a television or radio broadcast station which—

''(I) refers to a clearly identified candidate for Federal office;

''(II) is made (or scheduled to be made) within—

''(aa) 60 days before a general, special, or runoff election for such Federal office, or

''(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for such Federal office, and

''(III) is broadcast from a television or radio broadcast station whose audience includes the electorate for such election, convention, or caucus.

''(ii) EXCEPTIONS.—Such term shall not include—

''(I) communications appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate, or

''(II) communications which constitute expenditures or independent expenditures under this Act.

''(B) MAKING OF A DISBURSEMENT.—A person shall be treated as having made a disbursement if the person has contracted to make the disbursement.

''(4) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 from carrying out any activity which is prohibited under such Code.''

LOTT AMENDMENT NO. 1674

Mr. LOTT proposed an amendment to amendment No. 1646 proposed by Mr. MCCAIN to the bill, S. 1663, supra; as follows:

Strike section 601 and insert the following:

SEC. 600. ELECTIONEERING COMMUNICATIONS.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available to the Federal Communications Commission may be expended to impose or enforce any requirement or obligation with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligation is specifically and expressly authorized by title III of the Communication Act of 1934.

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

LOTT AMENDMENT NO. 1675

Mr. LOTT proposed an amendment to amendment No. 1674 proposed by him to the bill, S. 1663 supra; as follows:

Strike all after the first word, and insert the following:

SEC. 600. ELECTIONEERING COMMUNICATIONS.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available to the Federal Communications Commission may be expended to impose or enforce any requirement or obligation with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligation is specifically and expressly authorized by title III of the Communication Act of 1934.

(b) EFFECTIVE DATE.—This section shall take effect ten days after enactment of this Act.

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, March 4, 1998 at 9:30 a.m. to conduct an oversight hearing on the FY '99 budget and operations of the Library of Congress, and to review the reauthorization of the American Folklife Center.

For further information concerning this hearing, please contact Ed Edens of the Rules Committee staff at 224–6678.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 25, 1998, to conduct a hearing on the oversight on the monetary policy report to Congress pursuant to the Full Employment and Balanced Growth Act of 1978.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BURNS. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 25, 1998, at 9:30 a.m. on universal service distribution.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 25, 1998, at 2 p.m. to hold a hearing.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BURNS. 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, February 25, at 9:30 a.m. in room 562 of the Dirksen Senate Building to conduct hearings on the President's FY '99 Budget Request for Indian programs.

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

COMMITTEE ON THE JUDICIARY

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to

meet during the session of the Senate on Wednesday, February 25, 1998 at 10 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on the high-tech worker shortage and U.S. immigration policy.

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

COMMITTEE ON THE JUDICIARY

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, February 25, 1998 at 2 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on judiciary nominations.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on The Non-School Hours: Mobilizing School and Community Resources during the session of the Senate on Wednesday, February 25, 1998, at 9:30 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BURNS. 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, February 25, 1998, beginning at 9:30 a.m. until business is completed, to hold an oversight hearing on the budget and operations of the Office of the Secretary of the Senate, the Sergeant at Arms, and the Architect of the Capitol.

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

COMMITTEE ON INTERNATIONAL ECONOMIC POLICY

Mr. BURNS. 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, February 25, 1998, at 10 a.m. to hold a hearing.

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

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, February 25, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:45 a.m. The purpose of this oversight hearing is to receive testimony on the use of specialty forest products from the national forests.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BURNS. Mr. President, I ask unanimous consent that the Surface Transportation/Merchant Marine Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 25, 1998, at 2 p.m. on reauthorization of the Rail Safety Act.

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

SUBCOMMITTEE ON READINESS

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet on Wednesday, February 25, 1998 at 10 a.m. in open session, to receive further testimony on the status of the operational readiness of the U.S. military forces including the availability of resources and training opportunities necessary to meet our national security requirements.

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

ADDITIONAL STATEMENTS

TRIBUTE TO REVEREND MICHAEL BLEDSOE

● Mr. CLELAND. Mr. President, I recently had the privilege of attending worship services at the Riverside Baptist Church here in Washington, D.C. I was inspired by the warmth and spirit of the congregation, but I was especially touched by the message of interracial understanding in the sermon by Riverside's minister, the Reverend Michael Bledsoe.

Reverend Bledsoe's message was particularly compelling in light of the fact that Riverside Church is a church where they ''practice what they preach''—a church in which all groups of people and races are represented and welcomed with open arms.

As was stated in Reverend Bledsoe's sermon, Black History Month is a celebration of all of this nation's African American men and women and their contributions and accomplishments that have informed us, educated us, inspired us, challenged us and have made us all proud. This sermon reminded me of these men and women who have had such a profound impact on American culture.

I commend this sermon to the attention of the U.S. Senate and ask that it be printed in the RECORD.

The sermon follows:

SERMON BY MICHAEL BLEDSOE, PASTOR, RIVERSIDE BAPTIST CHURCH, WASHINGTON, D.C.

Several years ago there was a slogan being thrown around and worn on tee-shirts. It was a somewhat popular slogan. I recall seeing it in huge letters on a tee-shirt and being offended. Why was I offended? Because I knew the statement to be inaccurate. The slogan boldly proclaimed: It's a Black Thing, You Wouldn't Understand.

Now some might quickly conclude that I was offended as a white person. But I can tell you honestly, this is not why I was offended by that statement. On the contrary, I was offended by its inaccuracy. If it were true, then how could I account for how the truth of Martin Luther King had transformed me? how could I account for the fact that our nation has only produced two great theological movements, one the Social Gospel and the other the Black Church? How could I account for the power of the poetic words of Langston Hughes upon my soul? How account for African-American music like the spirituals, the blues and jazz which leave me at times trembling? How account for the veracity of James Cone's ''Black Theology'' which angrily and righteously exclaimed, ''[Black Theology] refuses to embrace any concept of God which makes black suffering the will of God?'' How account for the truth of Albert Murray's assertion in the late 1960's that ''It is the non-conforming Negro who now acts like the true descendent of the Founding Fathers—who cries, 'Give me liberty or give me death,' and who regards taxation without representation as tyranny.'' How account for my sense of awe and reverence when entering the sacred halls of Howard University School of Divinity and feeling like I'm in the right place, surrounded by a great cloud of witnesses? How account for being able to look into the eyes of my church members who are African-American and sharing joy and sadness, laughter and tears?

The truth of African-American experience is a universal truth. That is, its truth is not confined to a neighborhood, but it penetrates the entire world. And I have not only embraced that truth, but have been embraced by it, for Truth makes no distinctions as regards our race, our gender our circumstances of birth, but if it is truth, it has everything to do with us. Its speech is a primary speech, a speech which speaks at the most basic levels of our humanity and is understood by all who possess the heart of human longing: the heart which yearns to be understood, loved and received as worthy.

I can tell you very clearly what contribution Black Theology—African-American experience—has made in my life. There is no blur as regards this; it is absolutely clear what I have gained from having encountered the truth contained in the religion, theology and arts of African-Americans. And it is this: I have met Jesus. Now mind you, I was raised in the church and I give thanks to God for having parents who taught me to love God and to follow Jesus. But here's the point, friends . . . no one church, no one group of people can fully comprehend Jesus. Jesus is far greater than our limited and finite abilities to understand him. We need our own knowledge and experience complimented by that of others. So when I went to college in 1972 and began to encounter the thought and life of Martin Luther King; when I began to have the gaps in history filled in and was introduced to the rest of the story, then I had a revolution in my spirit. For I was introduced to Jesus Christ the Suffering Servant. I was introduced to the God of liberation who hears the cry of the oppressed and who stands with the marginalized. That is, Black theology offered me a more comprehensive understanding of the Jesus I love and serve. Hence, the slogan ''It's a Black Thing, You Wouldn't Understand,'' should be changed in my opinion to, ''It's a Black Thing, Expand Your Understanding.'' For in my experience, that is in fact what happened. Black theology led me to the cross and tomb of our Lord in a way I'd never experienced and in the words of the spiritual it caused me to tremble.

I want to speak further now about the primary speech with which African-American experience has spoken. James Melvin Washington refers to this ''primary speech'' in his wonderful collection of prayers entitled, ''Conversations With God: Two Centuries of Prayers by African Americans.'' Washington says that prayer is primary speech. It is

first, or basic speech. But there is also a sense of primary speech being God's speech. What is it that God speaks first? What is God's basic speech?

Since prayer involves our response, I want to deal with that last. Let's think a moment about God's speech. What is it that God speaks first? The Black Church has been adamant about that question, at least since the eruption of the Civil Rights Movement, if not from the days of slavery. That speech is rooted in the human quest for freedom. The essential text for comprehending that truth is found in Exodus where God calls Moses and tells him to go to Pharaoh and say, ''Let my people go!'' When we consider this text, we immediately discover that this God hears and speaks.

God hears! Despite all your swirling circumstances; despite the doubts which dim the sun; the scriptures are clear: God does hear. And God is concerned when people are oppressed. This is what he says to Moses, ''I have seen the affliction of my people who are in Egypt, and have heard their cry because of their taskmasters; I know their sufferings, and I have come to deliver them.''

What is it that God speaks first; what is God's primary speech? Within Exodus, God speaks first about human liberation and hope. And this is one of the contributions Black Theology has made in my life: God is not just concerned for me as an individual, though that is true enough. But God is concerned with how I treat my neighbor. And I cannot pretend to love God on Sunday and oppress someone on Monday. God's primary speech is about freedom and responsibility. The freedom to be and the responsibility to allow others the same freedom.

Revealed in this passage is a God who is just and who listens when we cry. But not only that. Revealed as well is a God who sends prophets to look into the face of a tyrant and demand liberation for their people.

As I began to get in touch with the history of slavery in this country and the history of its racism whipped onto the back of this nation, leaving its scarring wounds for generations and generations; as I began to hear and listen to friends tell me what it is like to be, in the words of W. E. B. Du Bois, ''a seventh son born with a veil;'' as I stand in the chapel at the Howard University School of Divinity, as I did last week, and worship with the students there, many of whom have become my students and friends, and I watch them worship with fervency and with pride and dedication receive the Tradition from their ancestors and thus secure it for another generation and the future; as I did those things, I began to touch another mystery, a theological one. And it is this: how is it that those who have suffered continue to believe in God? This is a mystery of faith shared with the Jewish people. How is it that a people who have been bloodied and run barefoot and naked into rivers to find freedom, how is it that they believe in God, while the educated and the affluent have determined that such belief is untenable? I'll tell you why I think this people have kept kindled the fire of faith and trust in God: it is because of that primary speech called prayer.

The Exodus passage reveals a hearing, speaking God who speaks in the syllables of freedom and liberation. But you'll notice once again from that passage that God said, ''I have heard their cry.'' Those Hebrew slaves were praying. That primal speech was being uttered amongst the mud and straw as they made bricks for Pharaoh. They cried from the hut of being to God and believed that this world could not have come into being without such a God and nor could their liberation occur except he send a liberator. The African-American experience knows this God; knows this contest of slavery. Daniel Coker in his ''Prayers from a Pilgrim's Journal'', wrote in 1820. ''When will Jehovah hear our cries? When will the sun of freedom rise? When will for us a Moses stand, And bring us out from Pharaoh's hand?

Perhaps then the question is not how an African-American could still believe in God. The question is, given the utter depravity of slavery and the history of racism, upon whom else would he depend for his liberation and freedom? No one but God.

James Washington has stated his own struggle with this question of how to love and trust God who has the power to free but his people are still enslaved. And he admits that he has doubted. Well, who wouldn't? But he also says he inherited the burden of believing in God. He told the story of how as a young child, in the early morning hours, he was awake looking out his bedroom window in East Tennessee. He lay there counting stars when he heard a voice. He strained to hear. It was his mother's voice. ''She was,'' he wrote, ''speaking in a piteous hush. I yearn to recapture her exact words. I cannot. I do know that the drama of the moment demanded that I should stop counting stars. I could not resist the temptation to eavesdrop on a most unusual conversation. Mama said a few words about her burdens, anxieties, children. Then an awesome silence would punctuate her lamentation to ...God? Who was her conversation partner? Daddy was working on the night shift. 'Please, Jesus!' she cried. I felt she was hurt, maybe even dying. I ran to be with her. I rubbed her back while she sobbed.

''In many ways,'' Washington writes, ''I have been in spiritual solidarity with my mother since that moment. She taught me to pray. Her silence and her action taught me that I must pray.''

I know. I know in a cynical age; in an age when entire sets of encyclopedias thirty and forty in number can be put on one CD; I know that in an age where we can launch people into space and gaze into the deep, black sea of space; I know that in an age which is utterly materialistic and can conceive of nothing so majestic as a spirit; that in such an age, prayer seems idle and worthless. But we better remember that few great things have been done without it and those events which matter most were most certainly the result of prayer. Think of Gandhi in India. That myriad number of persons who marched and whose names we will never see printed on a page or dramatized in film who prayed in churches and sang their way to freedom in the Civil Rights Movement. Think of those Christians in Eastern Europe who were scheduled by Marx and the children of Marx for destruction but who lived to see the Iron Curtain collapse. Think of those brave souls in South Africa who prayed and didn't give up and have seen apartheid ended and Mandela made the father of a nation. Think of Sojourner Truth who said, ''Let others say what they will of the efficacy of Prayer, I believe in it, and I shall pray. Thank God! Yes, I shall always pray.''

Today we begin our remembrance of those who preceded us in faith; those whose feet passed over the stony road, who felt the bitter chast'ning rod, those who somehow tread a path through the blood of the slaughtered—we remember them and we lift our voices in thanksgiving for their lives. We pray sorrowfully for those millions lost to the savage ways of this brutal world. Nameless in death, we commend them nonetheless to God who knows them by name. Today we remember and we celebrate their victory, for beloved, the God to whom they prayed for deliverance does deliver and we will march on until victory is won and we will remain true to God and our native land. We shall not be moved from the glorious vision of a table set in the presence of our enemies where all God's children can sit down together and eat at the table of brother and sister hood. Too many have paid the ultimate price; we have come too far to abandon that vision now.

Here within the primal speech of God addressing us as his own; here in the primal speech of prayer and devotion, may we offer ourselves to God and to each other. Amen.●

RICKY RAY HEMOPHILIA RELIEF ACT OF 1997

● Mr. ABRAHAM. Mr. President, I rise today as a cosponsor of S. 358. This legislation, introduced by Senator DEWINE, will provide compassionate payments to eligible individuals or families of persons with hemophilia-related AIDS.

More than 90 percent of people with severe hemophilia and half of all persons with hemophilia have been infected with HIV. In addition, between 10–20 percent of the spouses, children, and partners of these individuals also have been infected. I believe all of us should support measures that would improve the lives of those who have contracted blood diseases through poorly screened blood supplies.

The Ricky Ray Hemophilia Relief Act of 1997 would provide a payment of $125,000 to persons with hemophilia-related HIV who used blood products between July 1, 1982 and December 31, 1987. HIV-positive spouses and children of these individuals also are eligible. Based on the 7,200 eligible individuals, the bill would authorize $900 million to be contributed through a five-year trust fund administered by the Department of Health and Human Services. The ''window'' of eligibility is based on evidence of HIV transmission to the hemophilia community and the last manufacturer recall of contaminated blood products in 1987. It seems clear to me that both the federal government and private industry should be held accountable for the infection of most of the hemophiliac community during those years.

These people have had tragedy visited upon them through no fault of their own, amply because they depend on a blood supply that, for a time, was not kept safe. I am happy to be able to assure the American people that problems with our blood supply have been addressed and hope my colleagues will join me in providing some small relief to those who are suffering from past failures.●

CONGRATULATIONS TO WISCONSIN'S OLYMPIANS

● Mr. FEINGOLD. Mr. President, today I want to offer my heartiest congratulations to the athletes who represented our nation and the State of Wisconsin so admirably at the recently-completed 18th Winter Olympic Games in Nagano, Japan.

Millions of people throughout the world thrilled to the sights and sounds of athletes, several of whom overcame great personal hardship, pushing themselves to go faster, farther or higher at

Nagano. We witnessed the full panoply of the human spirit in the arena of athletic competition; we were reminded of all the hard work and sacrifice demanded of those who would become Olympians; and many of us drew inspiration from what we saw.

Mr. President, Wisconsin sent 29 men and women to the Games in Nagano. They competed in speedskating, hockey, curling and even snow sculpting. Some brought home medals, and all of them brought back indelible memories of competing on the world stage with the world's best athletes.

Best known among them is probably Chris Witty, of West Allis, who holds the world's record for the 1,000 meter speedskate and who added to her growing cache of honors with a silver medal in the 1,000 meter speedskating event and a bronze medal in the 1,500 meter event.

Another Wisconsinite, Karyn Bye, of River Falls, played forward on the historic gold-medal-winning women's hockey team and who, draped in the Stars and Stripes after she and her teammates triumphed, showed us what pure joy looks like.

Mr. President, athletes and athletics get a lot of attention in our society, sometimes for unpleasant reasons, but I believe there is something inherently good about people testing themselves, pushing themselves, working individually and together to do their best. That is the spirit that motivated these Olympians, and to them we offer our congratulations for their efforts, our thanks for their inspiration, and our best wishes for their future endeavors. No matter where they go from here, I hope they always remember their experiences in Nagano, and I hope they retain their capacity to push themselves as far as they can, and to encourage others to do the same.●

IN HONOR OF BILLY SULLIVAN

● Mr. KERRY. Mr. President, I ask my colleagues to join me in recognizing and mourning a loss for Massachusetts, New England, and the professional sports community of this country. On Monday, February 23, 1998, William H. Sullivan, founder and former owner of the New England Patriots, passed away at his home in Florida. I join the rest of the Massachusetts delegation in extending to Mary Sullivan, his wife of 56 years, and their six children the condolences of millions of people who were affected by the vast and varied pursuits of Billy Sullivan. His leadership was instrumental in bringing a professional football team to New England, and by overseeing the merger of the American Football League and the National Football League he ushered the entire sport into a new era of cultural prominence.

While Billy Sullivan is predominantly identified with professional football and the New England Patriots, to summarize his life with just those references would do a great injustice to a public career that spanned more than 60 years. Billy's pursuits combined the worlds of business, human service, community revitalization, and education. From Little League baseball to cancer research, sports broadcasting to entrepreneurship, Billy Sullivan brought an integrity and drive to any pursuit and collectively we are the better for his efforts.

After graduating from Boston College in 1937, he served as Publicity Director for that institution from 1938 to 1940. He briefly assisted the Director of Athletics at Notre Dame, then in 1942 answered the nation's call and served in the Aviation Training Division of the United States Navy throughout World War II.

Two years after the war he was back and involved in sports, taking part in two projects that would send both him and professional sports in new directions.

In 1948 he became Director of Public Relations for the Boston Braves, a position that sparked his abiding passion for New England and its teams. For his crowning achievement in that post, he produced the first package of highlights from the recently completed Braves season for media and industry distribution. This short compilation of clips revolutionized sports broadcasting and reporting, tapping into a market so strong that he established a company in 1952 to produce these segments for mass distribution. Use of these clips on television broadcasts resulted in the nightly sports segment that is a staple of virtually every news program throughout the country.

During that same year came the inspiration for the Jimmy Fund, now an internationally recognized cancer research foundation that provides millions of dollars for research and treatments. Under Billy Sullivan's guidance, The Jimmy Fund grew from an ambitious idea to an organization that now reaches out to thousands of families from all over this country and the world. With an eye towards increased community support and permanence of mission, he enlisted the sports teams and fans of New England in his fight against cancer. This masterful stroke of organizing skill leaves us an alliance whose effectiveness and dedication will allow his helping hand to extend long into the next century. He helped create the Hundred Club, a private organization that aids the families of police officers and firefighters hurt or killed in the line of duty. He also provided distinguished service as a member of the boards of the United Way, the Dana Farber Cancer Institute, Stonehill College, the Massachusetts Eye and Ear Research Corporation and countless others. These are just a few of the dozens of community organizations that were the fortunate recipients of his time and energy.

For many New Englanders, though, William Sullivan is foremost the founder of the Patriots and one of the central players in the merger of the AFL and the NFL.

We applaud his life, his spirit and his many contributions to the millions whom he touched in one way or the other. We will miss you, Billy.●

JAMES FARMER AWARDED THE PRESIDENTIAL MEDAL OF FREEDOM

● Mr. ROBB. Mr. President, while this Congress was in recess, the President of the United States awarded the Presidential Medal of Freedom, our country's highest civilian honor, to James Farmer. The Medal was given to Mr. Farmer on January 15, 1998, the birthday of the Reverend Martin Luther King, Jr., in a symbolic gesture that reminded us again of the value of freedom, and the debt we owe those who sacrificed greatly for racial equality in America.

Mr. President, James Farmer was one of the six major civil rights leaders of the civil rights era, joining A. Philip Randolph, Roy Wilkins, Whitney Young, JOHN LEWIS and Martin Luther King, Jr. He helped establish, and later led, the Congress of Racial Equality (CORE). He was the father of the famous Freedom Rides through the South. He organized and inspired. He placed himself in great personal danger again and again. Today, he teaches civil rights history to some very lucky students at Mary Washington College in Fredericksburg, Virginia.

Last year, I was pleased to join Congressman JOHN LEWIS and others in asking that the President award the Medal of Freedom to James Farmer. Last month, Lynda and I were privileged to be at the White House when President Clinton officially presented the Medal to Mr. Farmer.

Before the White House ceremony, Congressman LEWIS and I prepared a tribute to James Farmer, which I ask be printed in the RECORD following my remarks today. In this tribute, we thank James Farmer for a lifetime of fighting for racial equality in America. We challenge our nation to continue to learn from this great American hero, to continue to reach for a truly colorblind society, to finally lay down the burden of race.

The tribute follows:

A TRIBUTE TO AN AMERICAN FREEDOM FIGHTER

As one man who had the privilege to march and demonstrate alongside this dedicated pioneer during the Civil Rights Movement, and another who has long respected his courage and is proud to represent him in the United States Senate, we both have enormous respect and admiration for James Farmer. Now, all Americans are being given the opportunity both to learn more about this man and to appreciate his lifetime of contributions to our nation as a civil rights activist, community leader and teacher.

Yesterday, on the birth date of the Reverend Martin Luther King, Jr., President Clinton presented the Presidential Medal of Freedom, our country's highest civilian honor, to fifteen distinguished Americans. We are grateful that James Farmer, one of the ''Big Six'' leaders of the Civil Rights Movement and the father of the Freedom Rides, was among them.

As the nation prepares to officially celebrate the life and legacy of Dr. Martin Luther King, Jr., it is also fitting that we join the President in recognizing one of the great soldiers and leaders of the Civil Rights Movement. In the 1940's, while still in his early twenties, James Farmer was already leading some of the earliest nonviolent demonstrations and sit-ins in the nation, over a decade before nonviolent tactics became a vehicle for the modern Civil Rights Movement in the South.

Early in his academic career, James Farmer became interested in the Ghandian principles of civil disobedience, direct action, and nonviolence. In 1942, at the age of 22, he enlisted an interracial group, mostly students, and founded the Congress of Racial Equality (CORE), with the goal of using nonviolent protest to fight segregation in America. During these early years, James Farmer and other CORE members staged our nation's first nonviolent sit-in, which successfully desegregated the Jack Spratt Coffee Shop in Chicago.

Five years later, in what he called the ''Journey of Reconciliation,'' James Farmer led other CORE members to challenge segregated seating on interstate buses.

In 1961, James Farmer orchestrated and led the famous Freedom Rides through the South, which are renown for forcing Americans to confront segregation in bus terminals and on interstate buses. In the spring of that year, James Farmer trained a small group of freedom riders, teaching them to deal with the hostility they were likely to encounter using nonviolent resistance. This training would serve them well.

During the journeys, freedom riders were beaten. Buses were burned. When riders and their supporters—including James Farmer and the Reverend Martin Luther King, Jr.—were trapped during a rally in Montgomery's First Baptist Church, Attorney General Robert Kennedy ordered U.S. marshals to come to their aid and protect them from the angry mob that had gathered outside.

In reflecting on the ride from Montgomery, Alabama to Jackson, Mississippi, James Farmer said, ''I don't think any of us thought we were going to get to Jackson. . . . I was scared and I am sure the kids were scared.'' He later wrote in his autobiography, ''If any man says that he had no fear in the action of the sixties, he is a liar. Or without imagination.''

James Farmer made it to Jackson and spent forty days in jail after he tried to enter a white restroom at the bus station. On November 1, 1961, six months after the freedom rides began, the Interstate Commerce Commission ordered all interstate buses and terminal facilities to be integrated.

Six years ago, James Farmer told a reporter that while the fight against racism in the 1960's ''required tough skulls and guts . . . now it requires intellect, training and education.''

Not surprisingly, James Farmer continues to do his part. Just as he taught his freedom riders how to battle segregation over three decades ago, he has taught civil rights history at Mary Washington College in Fredericksburg, Virginia, for the past twelve years. He teaches his students how to remember and how to learn from history.

James Farmer has, in truth, spent a lifetime teaching America the value of equality and opportunity. He has taught America that its most volatile social problems could be solved nonviolently. He has reminded us of the countless acts of courage and conviction needed to bring about great change. He has shown us the idealism needed to act and the pragmatism needed to succeed. His respect for humanity and his belief in justice will forever inspire those of us privileged to call him mentor and friend.

As we celebrate the Martin Luther King Holiday on Monday, and as we honor James Farmer with the Presidential Medal of Freedom, let us vow to continue to learn. If we truly believe in the idea of the beloved community and an interracial democracy, we cannot give up. As a nation and a people, we must join together and strive towards laying down the burden of race. And we must follow in the footsteps of a courageous leader, to whom, with the Presidential Medal of Freedom, we can finally say: thank you, James Farmer.●

TRIBUTE TO THE REVEREND DR. SAMUEL B. MCKINNEY

● Mrs. MURRAY. Mr. President, Seattle's African American community loses a visionary and much respected leader when the Rev. Dr. Samuel B. McKinney steps down after four decades of service at the Mt. Zion Baptist Church in Seattle. Dr. McKinney is well known throughout the region as a tireless advocate for social justice, supporter of youth and proponent of economic development.

Samuel Berry McKinney was born in Michigan, and raised in Ohio. He entered Morehouse College in Atlanta, where he became friends with a fellow minister's son, Martin Luther King, Jr. His college career was interrupted by a tour of service in the U.S. Army, but he returned to Morehouse to earn his degree in 1949. He then continued his education at Colgate Rochester Divinity School, graduating in 1952.

Dr. McKinney began his ministry at Mt. Zion on the first Sunday of February 1958. His ministry would become the longest in the church's 107-year history as well as one of the most accomplished.

He quickly established himself as an energetic and ambitious young pastor. In 1961, Dr. McKinney invited his college friend, Dr. King, to participate in a lecture series presented by the Brotherhood of Mount Zion Baptist Church, a program started by Dr. McKinney. It would be Dr. King's only visit to Seattle and had a lasting impact on Seattle's African American community.

Mt. Zion has flourished under Dr. McKinney's leadership. The membership has more than tripled in size. An educational wing was constructed in 1963 and a new sanctuary in 1975. The church was a forerunner in accredited, church-site, preschool and kindergarten education. The Feeding Ministry provides meals to hundreds of homeless persons, seniors and shut-ins each week. Mt. Zion's six choirs provide music for the church and community at large.

Mt. Zion's work on behalf of children has been especially noteworthy and reflects Dr. McKinney's belief in educational achievement. The Educational Excellence Program presents annual awards to students from kindergarten to grade 12. The Scholarship Ministry annually provides an average of over $25,000 for undergraduate and graduate school education. The Youth Credit Union brings to participants training and experience in responsible financial management.

Dr. McKinney is well known in local and national church circles. He has served as a leader of the American Baptist Convention USA. He was the first African American president of the Church Council of Greater Seattle from 1965 to 1967. He has served as Advisor on Racism to the World Council of Churches, and as a representative to WCC's Seventh Assembly.

Dr. McKinney's leadership has extended beyond the religious community to the community at large. He has been active on the community, regional and state level. He was an original member of the Seattle Human Rights Commission and served for 12 years on the Washington State Commission for Vocational Education. He was founder of the Seattle Opportunities Industrialization Center and served as President of the Board of Directors for 20 years. He was a charter member of Seattle's first African American bank and served on the Advisory Board of Directors for the 1990 Goodwill Games. He has served as Chair of the Washington State Rainbow Coalition.

For his many works of community service, Dr. McKinney was awarded the YMCA's prestigious A.K. Guy Award. He was also honored by his alma mater with the hanging of his portrait in the Chapel of Morehouse.

Even with retirement growing near, Dr. McKinney remains involved in a variety of community activities. They include membership on the boards of the Fred Hutchinson Research Center, Washington Mutual Savings Bank, the Seattle Foundation and the Washington Gives Foundation. He is also a member of the Housing Commission of the National Baptist Convention, USA.

At Dr. McKinney's side throughout his years of service has been his wife, Louise Jones McKinney. Mrs. McKinney, retired from the Seattle Public Schools where she was Director of Academic Achievement, shares her husband's deep commitment to community service and to encouraging academic progress. The McKinneys have passed their values and work ethic to their accomplished daughters. Lora-Ellen McKinney earned her Ph.D. in Clinical Psychology and has received awards for her innovative work with children. Rhoda Eileen McKinney Jones has a graduate degree from Columbia University School of Journalism and writes for many national church publications.

I know that Dr. McKinney will continue to make his mark on the community. I wish him the best of success in his future endeavors.●

GREG BAYANI'S FIGHT FOR EQUITY

● Mrs. BOXER. Mr. President, I rise today to honor the life of Greg Bayani, a World War II veteran and tireless advocate for Filipino-Americans. Until

his death last Thursday, Mr. Bayani spent 52 years working for the day when Filipino veterans would receive the benefits they deserve for serving in the United States Army Forces in the Far East during World War II.

I join the Filipino community in mourning the death of Mr. Bayani and my heart goes out to his wife, Salvacion and their seven children. In addition to serving in World War II, Mr. Bayani took great pride in serving his community as a schoolteacher and principal in his native Philippines. In 1993, Mr. Bayani retired to southern California where many Filipino veterans currently reside.

Last July, Mr. Bayani sat directly behind me during a Senate hearing on the Filipino Veterans Equity Act. Having served under General Douglas MacArthur, Mr. Bayani proudly wore his full uniform that day to show his support for this legislation.

Mr. President, Greg Bayani was one of hundreds of thousands of Filipino soldiers who dutifully served the United States during World War II. These troops fought side by side with Americans during our campaign in the Pacific, bravely defending our democratic ideals. They fought along side American soldiers during the infamous Bataan death march, a journey that claimed tens of thousands of casualties.

The Philippines were a U.S. possession when President Roosevelt called up Filipino Commonwealth Army forces in July of 1941. Under this order, Filipino forces were eligible for full U.S. veterans benefits.

After the war, however, Congress overturned President Roosevelt's order by passing the Rescissions Act, which stripped away many of the benefits and recognition that these soldiers earned and deserve. The limitation of benefits was later extended to New Philippine Scouts, units enlisted mainly as an occupation force following the war. We must correct this inequity by restoring the full benefits that these veterans were promised.

Mr. President, time is running out to correct this clear injustice. It is tragic that the Filipino Veterans Equity Act could not be passed in time for Mr. Bayani and thousands of others who served the United States in World War II.

This injustice has lasted 53 years. I hope Congress will correct it soon by restoring the benefits promised to Filipino World War II veterans.●

TRIBUTE TO JUANITA YATES

● Mr. CLELAND. Mr. President, it was my pleasure recently to attend worship services at the Riverside Baptist Church here in Washington, D.C. It was a blessing to me that I attended services on the Sunday in which the sermon and lay message related to the church's observance of Black History Month.

I was particularly impressed by the lay message of Ms. Juanita Yates, a Riverside parishioner who is the sister of the Reverend Ronald Yates of Marietta, Georgia. Ms. Yates is a distinguished civil servant with the Food and Drug Administration.

This sermon reminded us all of the African American men and women who have had such a profound impact on American culture. Black History Month is a celebration of their contributions and accomplishments that have informed us, educated us, inspired us, challenged us and have made us all proud.

As we honor the contributions of African Americans during Black History Month, we should all celebrate America's rich diversity and many accomplishments.

I believe Ms. Yates has a message that is important for all Americans, and I ask that her remarks from that Sunday morning be printed in the RECORD.

The remarks follow:

BLACK HISTORY MONTH

(By Juanita Yates)

As we begin our celebration of Black History Month, it's wonderful to have our young people actively participate in this morning's service. We certainly pay tribute to our leaders of the past:

Thurgood Marshall, who argued the Brown vs. Board of Education of Topeka, Kansas case before the Supreme Court. The Court proclaimed that segregation in public schools was unconstitutional; Rosa Parks, whose defiance led to the year-long Montgomery Bus Boycott; Dr. Martin Luther King, Jr., who became the leader of the Civil Rights Movement and whose birthday we celebrated last month with a national holiday; and the countless others whose actions have led to a better life for African Americans.

But we must also recognize the contributions of young people. More than any other social movement in American history, the Civil Rights Crusade of the 1960's was driven by young people who marched, demonstrated, and walked through white mobs to attend newly desegregated schools. Young people sat-in, road buses, were jailed and were even killed.

A few weeks ago, the story of Ruby Bridges was shown on television. She was the 6-year-old who walked pass a white mob for a year to successfully integrate the New Orleans public schools.

A few months ago, Spike Lee released a documentary of the "4 Little Girls," who were killed in the bombing of the 16th Street Baptist Church in Birmingham, AL. That documentary first aired in theaters around the country. It will be shown on HBO this month.

I believe that it was the television sights and sounds of America's children being beaten with batons, hosed down, attacked by dogs, jailed and killed that ultimately caught the attention and sparked the outrage of the American people. So, it is altogether fitting and proper that our young people are taking part in this celebration.

During the month we will hear great music—beautiful spirituals and gospels—music unique to the African American experience. And I'm looking forward to enjoying it.

We can also expect to see film clips, documentaries, and photography that chronicle the plight of African Americans in this country. The Smithsonian's National Museum of American History currently has a very moving exhibit entitled, "We Shall Overcome: Photographs From the American Civil Rights Era." It runs through February 8 and is well worth seeing.

The music, film clips and photographs are all wonderful treasures. But it is through the literature—the prose and verse—that I believe we are most able to see the pain and suffering, problems, fears, struggles, faith, hopes and dreams of our ancestors.

The writers of yesterday poured out their innermost thoughts and left us an extraordinary body of work. The writers of today articulate our frustrations and pride as a people. Of the wonderful writers of by-gone years, Langston Hughes was unique. He wrote 9 full-length plays, 10 books of poetry, 9 books of fiction, 9 juvenile books, and 2 autobiographies.

My favorite Hughes poem, "I Too, Sing America," shows determination not to stay in the corner that an individual or country want to put you in. But you must prepare yourself to move forward.

I, TOO, SING AMERICA

I was the darker brother,
They send me to eat in the kitchen when company comes.
But I laugh and eat well and grow strong.
Tomorrow I will eat at the table when company comes.
Nobody will dare say to me, eat in the kitchen then.
For they will see how beautiful I am and be ashamed.
I, too, am America.

All America is enriched by the tremendous body of work from African American writers like: W.E.B. Dubois: "The Souls of Black Folks"; Lorraine Hansberry: "A Raisen In the Sun"; James Baldwin: "The Fire Next Time," and "Notes From A Native Son"; Shirley Chrisholm: "Unbought and Unbossed"; Price Cobbs: "Black Rage"; Angela Davis: "Autobiography"; Samuel Yette: "The Choice: The Issue of Black Survival In America"; Alex Haley: "Roots" and "The Autobiography of Malcolm X"; Toni Morrison: "Beloved"; Maya Angelou: "I know Why the Caged Bird Sings"; Bell Hooks: "Killing Rage: Ending Racism In America."

And one of the most eloquent writers of them all, Dr. Martin Luther King, Jr. In his "Letter From the Birmingham Jail," King wrote: "For years now, I have heard the word, Wait. It rings in the ear of every Negro with piercing familiarity. This wait has almost always meant, Never. We must come to see with one of our distinguished jurist that, "Justice too long delayed is justice denied."

African Americans have taken part in building this country and have often gone unnoticed. But yet, we have come a long way in making unforgettable marks in history.

We pay tribute this month to our brothers and sisters who have had such a profound impact on American culture. We thank God for them and for their body of work which informs us, educates us, inspires us, challenges us and makes us proud. Their writings should awaken in all of us the very best qualities of the American spirit.

In his State of the Union address last week, President Clinton discussed his National Initiative on Race designed to help us recognize our common humanity and interests. As we come together during February to recognize and honor the contributions of African Americans, we should all celebrate America's rich diversity.

"We are many, we must be one."●

HONORING THE MEMORY OF HARRY CARAY

Ms. MOSELEY-BRAUN. Mr. President, I send a resolution to the desk

and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 182) honoring the memory of Harry Caray.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. MOSELEY-BRAUN. Mr. President, this resolution, which I introduce with my distinguished colleague from Illinois, Senator DICK DURBIN, and which has been cleared on both sides of the aisle, honors the life of Harry Caray, a legendary American and Chicagoan, whom we lost last week at the age of 83.

Harry Caray's death, which saddened Americans in every corner of this country, marked the end of an outstanding 53-year career as a baseball broadcaster. But before explaining why Harry was so beloved, let me say a few words about his journey from a poor St. Louis neighborhood to the Baseball Hall of Fame.

Born in 1914, Harry Caray was orphaned in childhood and raised by an aunt. In 1943, while a salesman for a company that made basketball backboards, he wrote a letter to the manager at the St. Louis radio station KMOX, arguing he could do a better job of calling Cardinals baseball games than the station's then announcers. The manager helped Harry get a job at a radio station in Joliet, IL, where he began his career as a broadcaster. After moving to a radio station in Kalamazoo, MI, in 1945, Harry made his way back to St. Louis where he was hired to announce Cardinals games. For a quarter of a century, he was known as ''the voice of the St. Louis Cardinals.''

After parting ways with the Cardinals in 1969, Harry spent the 1970 season broadcasting Oakland A's games. When he signed with the Chicago White Sox in 1971, the team's games were not broadcast on any major AM radio station, so Harry had to call them on a 5,000-watt AM station in LaGrange, IL, and on a small FM station in Evanston.

Nevertheless, by his second year, Harry was drawing larger audiences on those stations than the 50,000-watt stations he was competing against.

One night, White Sox owner Bill Veeck noticed that fans sitting under the broadcast booth joined in when Harry sang ''Take Me Out to the Ball Game'' during the seventh-inning stretch. Veeck decided to place a public-address microphone in the booth while Harry sang, and a new Chicago tradition was created. For more than two decades, Harry led Chicago baseball fans in song during every home game.

In 1982, Harry signed on as the principal Chicago Cubs announcer. Forty-four percent of White Sox fans sampled in a Chicago Tribune poll said they would follow him to the North Side of the city. Cubs games are broadcast on superstation WGN–TV whose signal is carried by cable systems across the country, and it didn't take long for Harry to develop a national following.

After suffering a stroke in 1987, Harry was inundated with cards and letters from fans around the United States. Due to the stroke, Harry missed the first six weeks of the 1987 season, and on his first day back, former Cubs announcer and then-President Ronald Reagan called the broadcast booth to wish him well. The President said, ''It was never the same without the real voice of the Chicago Cubs.'' Harry thanked him, then quickly reported, ''And in the excitement, Bob Dernier beat out a bunt down the third-base line.'' In other words, announcing the game was important to him. He always put the fans first.

In 1988, Harry was inducted into the National Sportscasters and Sportswriters Hall of Fame, and in 1994 he was awarded entry into the National Association of Broadcasters Hall of Fame. Perhaps his greatest honor, however, came in 1989, when he was inducted into the broadcasters' wing of the Baseball Hall of Fame in Cooperstown, N.Y. In his acceptance speech, he said, ''I always tried, in each and every broadcast, to serve the fans to the best of my ability. In my mind, they are the unsung heroes of our great game.''

And why did the fans adore Harry so much? The Tribune eloquently answered that question in an editorial memorializing him. ''Broadcasting' doesn't fully capture what Harry Caray did,'' the editors wrote. ''He exulted in baseball; he reveled in it; he loved it and, by his vocal exuberance, infected others with that love.'' A man of the people, he surrounded himself with baseball fans. He often chose to broadcast games from the outfield bleachers (sometimes bare-chested, like his fellow fans) and was known to spend extraordinary lengths of time signing autographs and shaking hands.

With Harry calling the games, fans knew that one of them was in the broadcast booth. He never failed to say exactly what was on his mind. If he thought a pitcher was doing poorly he would say, ''Get him out of there! He's got nothing today!'' Once, while calling a game in which White Sox shortstop Bee Bee Richard had made a couple of errors, Caray, noticing Richard pick up a hot-dog wrapper, quipped, ''It's the first thing he has picked up all night.'' His habit of speaking candidly frequently got him into trouble with his employers, but the fans loved him for it.

His enthusiasm for the game of baseball and his zest for life came through in all his broadcasts. His trademark habits of shouting ''It might be . . . It could be . . . It is! A home run! Holy Cow!'' and booming ''Cubs win! Cubs win!'' endeared him to fans everywhere. He could make a routine play sound like an earthshattering event. As one fan wrote in the Chicago Sun-Times, his descriptions of baseball games on the radio were ''so visible, so exciting in the mind's eye that even reality paled in comparison.''

Mr. President, there has been a great deal of concern in recent years about the state of major league baseball. Commentators have suggested that it has never fully recovered from the strike season a few years ago and that it is losing young fans to football and basketball. But baseball still captures the nation's imagination in ways that cannot be rivaled. It continues to be our national pastime. Recollections of great games and great players are still passed down from parents to children just as they have always been. Harry was part of the reason that the game continues to play a major role in the lives of American families. Consider this tribute, posted on the Web with a multitude of others, after Harry's death:

I'm a Yankees fan who is brokenhearted at the passing of Harry. He brought such joy to all our lives. He was something real in a prepackaged age. He brought smiles to my children's faces and helped bring together that beautiful bond a parent and child can share through baseball. My whole family will miss him and that wonderful booming voice.

Harry recognized something about baseball and the role that it plays in American life that those of us who root for the Cubs and White Sox understand particularly well: The pleasure of going to a baseball game is only loosely connected to whether or not the home team wins. Baseball, a game without a clock played during the summertime, is about timeless days and languid nights. It's about grass and sunshine and hot dogs and a million other things that have nothing to do with which team is ahead. In only seven of Harry's 27 years in Chicago did the team for which he was broadcasting win as many games as it lost. But this was a minor point for Harry, for whom every game represented an opportunity to visit with fans and have fun. Over and over again, whether his team was winning or losing, he would say, ''You can't beat fun at the old ballpark.'' For Chicagoans and baseball fans all across the nation, the old ballpark will never be quite the same without him.

I yield the floor.

Mr. LOTT. Mr. President, will the distinguished Senator from Illinois yield?

Ms. MOSELEY-BRAUN. I am happy to yield to the majority leader.

Mr. LOTT. Mr. President, first of all, I commend the Senator from Illinois for the statement which she just gave. I couldn't help but smile throughout the entire remarks.

Harry Caray was truly a person of passion and devotion, a baseball idol of the whole country, not only in just St. Louis but Illinois. When I was growing up as a kid going to college at the University of Mississippi, he was the voice of the St. Louis Cardinals. We didn't have any other southern teams. We grew up listening to him and loved him

the way he called the game. And he truly is a national treasure. He will really be missed. He made the game something really special.

So I thank the Senator from Illinois for calling to the attention of this body the contribution that he made.

I thank the Senator very much.

Ms. MOSELEY-BRAUN. I thank the majority leader for his gracious comments and for his eloquent statement in behalf of Harry.

I yield to my distinguished senior Senator from Illinois.

Mr. DURBIN. I thank my colleague.

Mr. President, do we need to ask unanimous consent to extend the remarks in morning business?

The PRESIDING OFFICER. The Senator has a right to speak.

Mr. DURBIN. I thank the President.

Mr. President, I rise today to pay tribute to one of baseball's most colorful contributors, Harry Caray. I join my colleague, Senator MOSELEY-BRAUN, in cosponsoring this resolution.

Baseball fans, from Chicago to St. Louis to Oakland, often heard Harry's trademark greeting over the last 53 seasons. He used to start out by saying, ''Hello everybody, this is Harry Caray at the ballpark.'' Harry was a fan's friend, the guy who spoke for us all, our eyes and ears in the broadcast booth. Every day from April to October, he invited us aboard for an irresistible ride, to enjoy a kid's game and have the time of our lives doing it.

Harry Caray was more than baseball's goodwill ambassador, he was ever youthful, a voice who crossed the generations. He was the pied piper of fun, the white-haired kid in the oversized horned-rim glasses who made us feel better for the experience of sharing the game he loved from our seats at home listening to a radio or in front of a television set.

Harry Caray broadcast his first St. Louis Cardinals game in 1945, five days after the death of President Franklin Roosevelt and his final game with the Chicago Cubs last year. He met every president from Harry Truman to Bill Clinton.

As a boy, I tuned in KMOX from across the river in East St. Louis many a night. While I was supposed to be asleep, I heard Harry Caray rooting hard and hoping for a Cardinal victory or, like the fan he was, bemoaning a misplay or failure in the clutch with those disheartened words ''Popped it up!''

But, Harry taught us never to give up hope, especially when someone like Stan ''The Man'' Musial came to the plate. ''Musial waves that magic wand,'' Harry would say. ''He's in that familiar stance. Now the pitch. Here it comes. There she goes!!! It might be, it could be, IT IS! A HOME RUN. HOLY COW!!!''

I will remember forever in 1966 as a kid fresh out of college going to Sparta, IL, just south of St. Louis, late at night to meet with a party official, and it was dark outside. There were no street lights. I had a street address. But I couldn't see the numbers on the houses. I had to get out and walk around. It was in August. You would have thought that they had a PA system in that town with Harry Caray on it. Everybody was sitting in the backyard and on the front porch listening to KMOX and the Cardinals from house to house and yard to yard. You didn't miss a play. That is the kind of devotion that Harry Caray brought.

In 1970, after 25-unforgettable seasons in St. Louis, Harry Caray hit the road. He stopped in Oakland, but he needed the hot-blooded passion the Midwest brought to the game. So back he came a year later to a new town, Carl Sandberg's City of Big Shoulders, to announce White Sox games. It was a match for the ages. Chicago, the raucous city that never slept, fun, exciting, alive, and Harry Caray, who loved the city and its people so much he couldn't get enough of it. Chicago reciprocated in kind as witnessed by the unprecedented outpouring of tributes this past week.

After eleven seasons, the bloom wore off the rose on the South Side, so he crossed town. With the superstation power of WGN carrying Cubs games, and another Sandberg, Ryne, to extol, Harry Caray became the first genuine superstar on cable television, selling baseball and the Cubs around the world.

Another memory I have was having been elected to Congress and I made one of my first trips out of the country to Costa Rica. I went into San Jose, Costa Rica, checked into a hotel in the middle of the day, walked in, put my suitcase down, flipped on the light, turned on the TV, and there was Harry Caray's voice in San Jose, Costa Rica, again broadcasting the Cubs.

Harry Caray missed out on just three things during his 16-years with the Cubs: a World Series, retirement that he never sought, nor desired, and the thrill of sharing the mike on a day-to-day basis with his grandson, Chip.

A few years ago, Harry, his son Skip who does such outstanding work with the Atlanta Braves, and Chip, broadcast a Cubs-Atlanta game. It was the only time three generations of one family, the Carays, ever called a major league contest.

In Illinois, only one thing is more contentious than politics. It's baseball. Downstate from Springfield south is Cardinals' country. Up north, Cub fans are every bit as vocal and spirited. Then, there's the intra-city matter of the Cubs versus the White Sox. One man, and one man alone bridged that gulf. To paraphrase Harry, now here was the only guy who broadcast baseball games for the Cardinals, White Sox, and Cubs, and remains loved by all.

Mr. President, Harry Caray's nonstop sprint through life lasted 83-far-too-brief years. As someone put it the other day, Harry joined another team this week—the ''Angels.''

If old Harry is up there, and I am sure he is, there is one thing I can guarantee. The cherubim, the seraphim, the saints, and the heavenly choirs will be taking a break from singing ''Amazing Grace,'' and will join old Harry in a chorus of ''Take me out to the ball game.''

So long, Harry, and thanks for all those great memories.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to S. Res. 182 submitted by the Senators from the great State of Illinois. If there is no objection, the resolution and the preamble to the resolution are agreed to.

The resolution (S. Res. 182) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 182

Whereas for more than 50 years, Harry Caray enthusiastically provided a unique vision of baseball in his broadcasting of thousands of games, first for the St. Louis Cardinals, then the Oakland Athletics, followed by the Chicago White Sox, and finally the Chicago Cubs;

Whereas Harry Caray was born in St. Louis in 1914, orphaned at the age of 4, and raised by family friends in St. Louis;

Whereas Harry Caray began his professional baseball broadcasting career in 1944 for the St. Louis Cardinals, and spent 25 years calling Cardinal games;

Whereas in 1971 Harry Caray began his 11 year stint with the Chicago White Sox where, in 1978, he began the tradition of leading the fans in the singing of ''Take Me Out to the Ball Game'' during the 7th inning stretch;

Whereas in 1982 Harry Caray moved to the broadcast booth for the Chicago Cubs, a switch that would eventually make Mr. Caray a national celebrity thanks to the popularity of the Cubs on cable television;

Whereas in the winter of 1987, Harry Caray suffered a stroke and for the first time in his career missed the broadcast of an opening day game, and yet, he never talked of retiring from the game he loved and soon was back in the booth at Wrigley Field;

Whereas the uncharacteristic honesty of Harry Caray made him immensely popular with fans;

Whereas Harry Caray once said ''My style is a very simple one, be entertaining, be informative and, of course, tell the truth. If you don't have the reputation for honesty, you just can't keep the respect of the listener.'';

Whereas Harry Caray's exuberant voice and his trademark shout of ''Holy Cow'' are known to baseball fans across the Nation;

Whereas Harry Caray was inducted into the National Sportscasters and Sportswriters Hall of Fame in 1988, the Baseball Hall of Fame in 1989, and the National Association of Broadcasters Hall of Fame in 1994;

Whereas Harry Caray became a major supporter of various Chicago organizations that supported and housed orphaned and troubled children;

Whereas on February 18, 1998, Harry Caray passed away after a long career enjoyed by millions; and

Whereas Harry Caray is survived by his wife of 22 years, 5 children, 5 stepchildren, 14

grandchildren and a great grandchild, and by baseball fans across the Nation: Now, therefore, be it

Resolved, That the Senate honors the life of Harry Caray.

MEMORIALIZING PENNY SEVERNS

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to say a few words concerning a friend, former colleague, and outstanding public servant, Illinois Senator Penny Severns. Senator Severns, one of the most courageous people I have ever known, lost her long battle with cancer over the weekend at the age of 46. Until the end, she battled for the causes that animated her outstanding political career—a career that began when she was elected as a delegate to the 1972 Democratic National Convention at the age of 20.

After graduating from Southern Illinois University two years later, Penny served in the Agency for International Development and the Illinois comptroller's office. In 1983, she was elected to the Decatur City Council and, three years after that, she won election to the Illinois Senate.

Penny's tenure in the Senate was marked by an unwavering commitment to her beliefs that impressed both her allies and opponents. An unabashed liberal in a politically conservative district, she was beloved because she worked tirelessly on behalf of her constituents the people of Illinois. She had an outstanding record of fighting for Illinois workers, women, and children. At the time of her death, Penny, the 1994 Democratic nominee for lieutenant governor, was the ranking Democrat on the Senate Revenue Committee and was the principal negotiator for Senate Democrats on issues involving the state budget. She was a champion of fiscal reforms, worked to expand Illinois exports, fought for an emergency medical leave law for workers, and sought to establish a mechanism to help the State track down parents delinquent in their child support payments.

Penny spent the final months of her life not only battling cancer, but waging a campaign to become Illinois' next Secretary of State. So strong was her commitment to the people of her State that, last year, after a tumor was removed from her skull, she vowed to ''wage two campaigns at once.'' She said, ''The doctors took care of the first battle by removing the tumor. I'll take care of the second battle, which is to continue to serve the citizens * * * and to continue my campaign.''

Penny's illness began in 1994 with a diagnosis of breast cancer, a disease that her sisters, Patty and Marsha, both battled as well. Patty is currently in remission, but Marsha died in 1992. Too many families across the United States have been ravaged by this terrible scourge. In the United States in 1997, 180,200 new cases of breast cancer were diagnosed and 44,000 women died of it. One out of every nine American women will be stricken with the disease during their lifetime. These statistics are unacceptably high. We must redouble our commitment to finding a way to defeat this killer. The nation simply cannot afford to keep losing women like Penny Severns.

Mr. President, a great many people throughout our nation have come to view politics as a cynical game involving giant egos and inconsequential battles. I would suggest that those individuals take a moment to study the life and career of Penny Severns, who was involved in electoral politics for all the right reasons and cared passionately about the welfare of the people she served. Her accomplishments are not only an inspiration to those of us who continue to work on behalf of the causes she championed, but also serve as a reminder to all Americans of the good work that committed public officials throughout this nation do. The State of Illinois and, indeed, our great nation are poorer for her loss.

NATIONAL SAFE PLACE WEEK

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 225, which is S. Res. 96.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 96) proclaiming the week of March 15 through March 21, 1998 as ''National Safe Place Week.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 96) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 96

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term ''safe places'' at neighborhood locations where more than 2,500 trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas Safe Place combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas Safe Place provides a direct means to assist programs in meeting performance standards relative to outreach/community relations, as set forth in the Federal runaway and homeless youth guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas currently 34 States and more than 6,000 business locations have established Safe Place programs; and

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of March 15 through March 21, 1998, as ''National Safe Place Week''; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place organization, and to observe the week with appropriate ceremonies and activities.

CONGRATULATING NORTHEASTERN UNIVERSITY ON PROVIDING QUALITY HIGHER EDUCATION FOR 100 YEARS

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 183, submitted earlier today by Senators KENNEDY and KERRY.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 183) congratulating Northeastern University on providing quality higher education in the Commonwealth of Massachusetts for 100 years, from 1898–1998.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. KENNEDY. Mr. President, it is an honor to take this opportunity to congratulate Northeastern University in Massachusetts as it begins its centennial celebration.

Northeastern University began providing higher education in conjunction with the Boston Young Men's Christian Association (YMCA) in 1898. Since then, it has been a leader in providing quality higher education to large numbers of students. It currently enrolls 27,000 full-time students and has graduated over 137,000 students over the years.

Northeastern University is also an impressive leader in the current effort to expand access to higher education. It offers the largest cooperative education plan in the country for students to combine work with college. It has also helped educators in other countries develop cooperative education

programs. Thanks to Northeastern's leadership, universities in Africa and Asia now have significant programs in this important field.

Northeastern also excels in numerous academic fields. It has an outstanding engineering faculty, and excellent engineering centers in electromagnetics, communications, and digital signal processing. With its newly created graduate program in Applied Science and Engineering, Northeastern is poised to engage in breakthrough scientific research.

Northeastern is also a leader in creating partnerships with community organizations, educators, and businesses to deal with critical issues such as domestic violence and women's health. In 1990, Professor Clare Dalton founded the Domestic Violence Institute which works with community agencies to protect women and children who are victims of domestic violence. Recently, the Institute's initiatives were enhanced by a three-year grant from the Centers for Disease Control and Prevention for this critically important work.

Northeastern's first hundred years have been filled with outstanding accomplishments and contributions to our state, our country, and the world. I am sure that in the years ahead, Northeastern will continue this proud tradition of excellence, and I congratulate the university on this auspicious centennial anniversary.

Mr. LOTT. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 183) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 183

Whereas on October 16, 1997, Northeastern University marked the beginning of its centennial celebration;

Whereas Northeastern University began providing higher education in conjunction with the Boston Young Men's Christian Association (YMCA) in 1898;

Whereas Northeastern University currently enrolls over 27,000 full time students and boasts an alumni in excess of 137,000 individuals;

Whereas Northeastern University has attained a national reputation for cooperative education that prepares students to transition successfully into the workplace;

Whereas Northeastern University provides access to higher education for students from all backgrounds;

Whereas Northeastern University has achieved growing recognition as a major research institution; and

Whereas the Senate supports Northeastern University's efforts to offer exceptional educational opportunities to individuals from throughout the world: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and congratulates Northeastern University as an outstanding educational institution that has produced exceptional alumni during the past 100 years and gives every indication of doing so for the next 100 years; and

(2) wishes Northeastern University a successful and memorable centennial celebration.

ORDERS FOR THURSDAY, FEBRUARY 26, 1998

Mr. LOTT. I now ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Thursday, February 26, and immediately following the prayer the routine requests through the morning hour be granted and there then be a period for morning business until 11 a.m. with the time equally divided between the two leaders or their designees for debate prior to the cloture votes.

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

PROGRAM

Mr. LOTT. Tomorrow morning there will be 1 hour of morning business, then, to be followed by two consecutive cloture votes. The first cloture vote will begin at approximately 11 a.m. and will be on the McCain-Feingold amendment, to be followed by a cloture vote on the underlying bill, S. 1663. All Senators should be prepared for these two consecutive cloture votes at approximately 11 a.m.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator DASCHLE.

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

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

THE EVOLVING SITUATION IN IRAQ

Mr. DASCHLE. Mr. President, I want to address the evolving situation relating to Iraq and talk briefly about the circumstances surrounding the agreement reached between Secretary General Annan and Iraq as we know them now. I am concerned about some of the comments made in the media and on the floor about the situation in Iraq. I think it is important to review the situation as the President, Secretary of State, Secretary of Defense, National Security Adviser and the Chairman of the Joint Chiefs of Staff have laid out in the last 24 hours.

First, with respect to what we are seeking, from the outset of this crisis the fundamental goal of the United States has been very simple. The goal has simply been to assure that UNSCOM has unconditional and unfettered access to all suspect sites as called for in the U.N. Security Council resolutions. Period; that's it. All we needed was simply an opportunity to visit sites that we think are suspect.

We were denied that, which triggered this whole affair, beginning, as everyone now knows, several months ago. Diplomacy, backed by the threat to use overwhelming force if required, has moved us forward and closer to achieving that goal. There can be no doubt that the presence of a military force of the magnitude that is currently in the gulf had everything to do with the fact that we now have an agreement. General Secretary Annan has said that. Others have noted it. There is no question that the combination of diplomacy and military force gave us the opportunity to bring about this agreement over the last 72 hours.

Iraq precipitated this crisis, as we all know, by trying to avoid its obligations under the Security Council resolutions. It attempted to dictate to the international community where UNSCOM could hold inspections, the manner in which they could be conducted, and the length of time that they would continue. Iraq's effort has failed. We were clear about what we were seeking: Unfettered access. Iraq objected. Iraq obfuscated. Iraq clearly was at fault in not allowing access to the sites in question. Diplomacy was used, force backed up that diplomacy, and the results are now in hand.

Let's look at what we have achieved with this agreement. The government of Iraq has made a written commitment to provide immediate, unrestricted, unconditional access for the UNSCOM inspectors to all suspected sites. So, regardless of the rhetoric, regardless of whether it was framed in exactly the way we might have it framed, what matters is the bottom line. What matters is what is now to be the order. And the order is very clear. The order is to provide immediate, unrestricted, unconditional access for inspectors to all suspected sites. If fully implemented, this commitment will allow UNSCOM to fulfill its mission: First, to find and destroy all of Iraq's chemical, biological and nuclear weapons; second, to find and destroy the missiles that could deliver these weapons; and, third, to institute a system for long-term monitoring to make sure Iraq doesn't do it again.

This commitment applies to all sites anywhere in the country, including eight so-called ''Presidential Sites'' that have now been precisely delineated, as well as the so-called sensitive sites that until now Iraq has tried to claim were off limits to UNSCOM. Any and all of these sites are subject to repeat visits. There are no deadlines to complete the work. In short, for the first time Iraq has committed explicitly to open every site throughout the country to weapons inspectors. Again, that has been our bottom line. That will continue to be our bottom line. And we now have it in writing that Iraq will agree.

For the eight ''Presidential Sites'', the agreement allows diplomats to accompany the UNSCOM inspectors, and that is acceptable if the inspectors are free to conduct rigorous and professional inspections. All other sites will be open to inspection under the existing UNSCOM procedures. The Secretary General has assured us that UNSCOM Chairman Butler remains in charge of UNSCOM and all weapons inspections. He has also made that abundantly clear to the Iraqis themselves.

Questions have been raised about the Memorandum Of Understanding between Annan and Iraq. There are issues that still need clarification and we want to clarify them, notably with respect to the inspection procedures for the eight ''Presidential Sites''. The United States has made clear that we expect all aspects of this agreement to reinforce the fundamental requirement that the investigators be permitted to carry out their inspections in a rigorous and professional manner.

We have received important assurances from the Secretary General that clarify aspects of the MOU, notably with regard to the eight ''Presidential Sites''. UNSCOM and Chairman Butler will preserve their independence. The special team for the ''Presidential Sites'' will be part of UNSCOM. The team leader will be an UNSCOM Commissioner who is an expert in Iraqi weapons of mass destruction, chosen by the Secretary General and UNSCOM Chairman Butler. The special team leader will report to Chairman Butler. The diplomats will be observers only, with UNSCOM retaining operational control. Procedures for these inspections will be developed by UNSCOM and the Secretary General, not by Iraq. And, as has been the case since 1991, Chairman Butler will continue to report to the Security Council through the Secretary General.

So, the more clarification we get, the better the agreement looks, the clearer the understanding we have about the success of this effort. The bottom line is that we have access in Iraq that we didn't have last week at this time.

So what is next? We support a U.N. Security Council resolution that will make it clear to Iraq that any violation of its commitments would have the most serious consequences. That would be a useful but not necessary signal from the international community. We also need to test and verify Saddam's intent. In the days and weeks ahead, UNSCOM must robustly test and verify this commitment. It is one thing to have it in language. It is one thing rhetorically to agree. It's another thing to allow it to occur. Failure to allow UNSCOM to get on with its job would have serious consequences. The United States will keep its military forces in the gulf at a high state of preparedness while we see if Iraq lives up to its commitment that it has signed.

The United States remains resolved to secure, by whatever means necessary, Iraq's full compliance with its commitment to destroy its weapons of mass destruction. So again, it will be diplomacy backed up by force. So long as diplomacy works, force will not be necessary. At the very moment diplomacy appears not to be working, force will be employed. So, let there be no mistake. This is not a question of breathing room. This is not a question of simply delaying and somehow, then, obviating the need for the use of force should it be required. It will be there.

Iraq's commitments are an important step forward, but only if matched by its compliance. They have made an important step forward in word. Now they must step forward in deed. As the President has said, ''the proof is in the testing.''

This agreement can be a win-win. Either Iraq implements the agreement or it does not. If it does, the weapons inspectors will for the first time have unrestricted, unconditional access to all suspect sites in Iraq with no limits on the numbers of visits or deadlines to complete their work. If Iraq does not cooperate and we need to take action, we are in a stronger position internationally than ever. After two crises provoked by Iraq in 4 months, the international community has certainly lost its patience and will not stomach another bout of Iraqi defiance. And there will be no doubt in anyone's mind about who will be responsible for those consequences.

This agreement is backed up by an immediate test that Saddam Hussein will either clearly pass or clearly fail. Our response will be swift. It will be strong. It will be certain.

So, Mr. President, we have made great progress on paper over the last 72 hours. Again, I give credit to the United Nations Secretary General Annan, to the administration, to all of those responsible for bringing us to this point. I respect the President's decision and believe it was the correct one, to keep our forces there, because, as we say, there is only one option for Saddam Hussein: Comply with his agreement. Allow access. Allow us the opportunity to complete our work.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 10 a.m. tomorrow morning, Thursday, February 26, 1998.

Thereupon, the Senate, at 7:58 p.m., adjourned until Thursday, February 26, 1998, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 25, 1998:

DEPARTMENT OF DEFENSE

SUE BAILEY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE STEPHEN C. JOSEPH, RESIGNED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WILLIAM C. APGAR, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MICHAEL A. STEGMAN, RESIGNED.

DEPARTMENT OF COMMERCE

MICHAEL J. COPPS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE RAYMOND E. VICKERY, JR., RESIGNED.

POSTAL RATE COMMISSION

RUTH Y. GOLDWAY, OF CALIFORNIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING NOVEMBER 22, 2002, VICE H. EDWARD QUICK, JR. TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

DEIDRE A. LEE, OF OKLAHOMA, TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY, VICE STEVEN KELMAN, RESIGNED.