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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF SESSIONS, a Senator from the State of Alabama.

PRAYER

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

Sovereign God, help us to know what we mean when we call You our Sovereign. May this name for You, used so frequently by our Founding Fathers and Mothers, become an experienced assurance in our lives. Abigail Adams' own words written to her husband John on June 20, 1776, become our motto: ''God will not forsake a people engaged in so right a cause, if we remember His loving kindness.'' O Divine Master, help us to be engaged in causes that You have assigned and never forget Your faithfulness.

Belief in Your sovereignty gives us a sense of dependence that leads to true independence. All that we have and are is Your gift. When we are totally dependent on You for guidance and strength, we become completely free of fear and anxiety. What You guide, You provide. Trust in Your sovereignty provides supernatural power to accomplish what You give us to do for Your glory. And acceptance of Your sovereignty gives us courage. This is Your Chamber. It is holy ground; keep this Senate sound. May Your sovereign authority abound. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEFF SESSIONS led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 29, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF SESSIONS, a Senator from the State of Alabama, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. SESSIONS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. MCCONNELL. Mr. President, today the Senate will resume consideration of the DeWine amendment regarding issue advocacy ads. There will be up to 15 minutes of debate prior to a vote at 9:45. Following the vote, Senator HARKIN will be recognized to offer an amendment regarding volunteer spending limits. By previous consent, there will be up to 2 hours of debate on the amendment. Senators should be aware that the vote on the Harkin amendment is expected to occur prior to noon today.

Further amendments will be offered throughout the day. There will be numerous votes, with the goal of completing action on the bill by this evening.

I yield the floor.

Mr. REID. Mr. President, I have been in contact with the two managers of the bill, and I have indicated that Senator DODD and I have worked to cut down the list. We have several amendments. I think there has been a civil debate in this 2-week period of time. There have been very few quorum calls in effect. We are going to do what we can.

I alert everyone, to finish this bill today is going to be extremely difficult. We had 21 amendments yesterday on this side. We are down now to about 14. We picked up two during the night. I am sure most of them will work with time limits on the amendments. But that having been said, it is going to be very difficult to finish today. I think the leadership should consider we will have to have something else either going into tomorrow or Saturday or finishing next week.

Mr. MCCONNELL. I must say while the amendments seem to be multiplying on the other side, they are vanishing on this side. There are a couple of amendments, but there is really only one, I think, that has any serious drama attached to it, and that is the nonseverability amendment which we hope to vote on later today, to be offered by Senator FRIST, in coordination with a member of the Democratic Party from the other side of the aisle.

I say to my friend, the Democratic whip, we don't have many amendments left to go over here, so we may at some point just be dealing with Democratic amendments.

Mr. REID. We will do our best to cooperate with the manager of the bill.

Mr. MCCAIN. Will the Senator yield?

Mr. MCCONNELL. I am happy to yield.

Mr. MCCAIN. Over the last 2 weeks, literally every day I have been standing on the floor with the Senator from Kentucky and the Senator from Nevada saying we are going out early, we have a lot of amendments to go, and we need to get this done, and everybody wants to get it done by the end of this week, particularly by this evening. Apparently that is going to be very difficult to do.

My suggestion to the Senator from Kentucky and the leadership on both

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

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sides is stay in tonight until we get it done or—that is my first choice. My second choice would be tomorrow and then on Saturday. I think we are all aware that the leadership wants to move to the budget debate. I think that is appropriate. We all agreed at the beginning that 2 weeks was sufficient time to address this issue.

One thing I suggest to the Senator from Kentucky and the Senator from Nevada is tabling motions, but clearly first-degree amendments have at least an hour and a half, even if all time is yielded back on the other side.

I hope most Members appreciate that there are a couple or three issues, the main one being severability, but the rest of them either have been addressed in some fashion or are not of compelling impact, even though the authors of the amendments may believe that is the case.

I urge my colleagues to be prepared to stay in very late tonight because we need to finish this legislation.

I yield the floor.

Mr. MCCONNELL. Mr. President, I say to my friend from Arizona, he will notice I have not filed a cloture motion. I have said that there is only one major amendment left, the nonseverability amendment, which will be offered on a bipartisan basis, and that there are few to no amendments left on this side.

From my point of view, as someone who is certainly unenthusiastic about this bill and will vigorously oppose it, nevertheless I realize it is time to get to final passage sometime today. I say to the Senator from Arizona we will not have a problem getting to final passage because of this side. We cleared things out on our side and are ready to go to final passage. I am happy to finish it up sometime today.

Mr. MCCAIN. I thank the Senator from Kentucky.

Mr. REID. Mr. President, I don't want to belabor this. I briefly say to the Senator from Arizona, the votes for this reform have been supplied by this side of the aisle. We appreciate its bipartisan nature. We are doing our very best, and we have people who believe in campaign finance reform who have amendments. They believe they strengthen the bill, and we will work with them to try to cut down their time. Some of them have waited, they haven't been off the Hill doing something else, they have been waiting to offer these amendments. We will do everything we can to protect them so they can offer these amendments for what they believe will strengthen this bill.

Mr. MCCAIN. Hopefully, we can collate the number of the amendments, perhaps work out some time agreements on each one, so we can have an idea as to when we can finish.

Mr. REID. We will do our very best.

Mr. MCCONNELL. Mr. President, one final item: I want to notify the Senate that about 4 o'clock I am planning to address the Senate on the implications of this bill on our two parties. I know we frequently don't show up to listen to each other's speeches, but I recommend that Senators who are interested in the impact of this bill on the future of the two-party system and on their own reelections might want to pay attention to what I have to say. My current plan is to deliver that speech around 4 o'clock, and I want to notify people on both sides of the aisle and the staffers who may be listening to the proceedings on the Senate floor.

I think this is one speech that maybe Senators on both sides of the aisle ought to listen to. So maybe just to give notice, I ask unanimous consent I be allowed to address the Senate for up to 30 minutes, beginning at 4 o'clock.

Mr. REID. I have no objection as long as there is 30 minutes reserved to respond to the Senator from Kentucky by someone from this side of the aisle.

The ACTING PRESIDENT pro tempore. Does the Senator so modify his request?

Mr. MCCONNELL. I say to my friend from Nevada, I don't think there will be anything to respond to. I am sure it will be a factual presentation of the impact.

Mr. REID. I am sure that will be the case, but we ask for 30 minutes.

Mr. MCCONNELL. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the DeWine amendment, No. 152, on which there shall be 15 minutes for closing remarks.

First, the clerk will report the bill.

The legislative clerk read as follows:

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

Pending:

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

DeWine amendment No. 152, to strike certain provisions relating to noncandidate campaign expenditures, including rules relating to certain targeted electioneering communications.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

AMENDMENT NO. 152

Mr. DEWINE. Mr. President, I yield myself 4 minutes.

Mr. REID. Will the Senator yield for a minute?

Mr. DEWINE. I yield.

Mr. REID. Mr. President, I yield, on behalf of the opponents of this measure, 7½ minutes to the Senator from Maine.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for 4 minutes.

Mr. DEWINE. Mr. President, in a few moments the Senate will have an opportunity to vote on an amendment I have offered along with Senator HATCH, Senator HUTCHINSON from Arkansas, Senator BROWNBACK, and Senator ROBERTS. This amendment is a very simple amendment. It strikes title II from this bill.

This will be the last opportunity that Members of this Senate will have to strike what is blatantly and obviously a unconstitutional provision of this bill. We all take an oath to support and defend the Constitution. I think it is one thing to say we are not sure how a court is going to rule. That is certainly true. We are never totally sure. It is one thing to say a provision of a bill may be held unconstitutional. But I do not know how anyone can look at the amended bill, which is no longer Snowe-Jeffords—it is now Snowe-Jeffords-Wellstone; it is fundamentally different—I don't know how anyone can look at this bill and not know it is blatantly unconstitutional. I think everyone knows when it leaves here it will be held unconstitutional and that is why we will have, later today, a debate about this whole issue of severability. We would not have to have that debate if people did not believe this provision is unconstitutional.

What does it do? What does Snowe-Jeffords-Wellstone do? What will the bill say unless we amend it by striking this provision? It will draw an arbitrary, capricious, and I submit an unconstitutional line in the sand 60 days before an election, and it will say that within 60 days of an election free speech goes out the window. No longer can a corporation, no longer can a labor union, and most important and clearly the most unconstitutional part, no longer will citizen groups that come together to run ads on TV or radio be able to do that if they mention the candidate's name. That is an unbelievable restriction on free speech at a time when it is the most important, when it has the most impact—60 days before the election—and in the most effective way, on TV and radio.

This Congress will be saying in this bill, if we pass it and if we keep this provision in, that we are going to censure that speech, we are going to become the free political speech police corps and we are going to swoop in and say you cannot do that.

Groups that want to run an ad criticizing MIKE DEWINE or criticizing any other candidate will then go into a local TV station to run an ad talking about an issue and mentioning the name or putting up our picture on the screen and will no longer be able to do that. The station manager will have to say: I am sorry, you can't run that ad.

People will say: Why not?

The Congress passed a ban on your ability to do that.

That is clearly unconstitutional.

What is the criterion? What have the courts held necessary, before Congress can abridge freedom of speech? There

are certain areas where clearly we can do it and the courts have held we can do it. What is the test?

There must be a compelling State interest to do it. If it is done, it must be done in the least restrictive way. Least restrictive? What could be more restrictive than to say you can't go on TV, you can't communicate to people? If this remains in the bill, we will end up with a situation in this country where the only people who can speak in the last 60 days, to the electorate, will be the Tom Brokaws of the world, the TV commentators, the radio commentators, and the candidates. This is not a closed system. It is not an exclusive club. It is something in which everyone should be able to participate. That is the essence of free speech.

The courts have held all kinds of things to be part of free speech. But the most pure form of free speech, the thing that absolutely must be protected, the thing that obviously the Framers of the Constitution had in mind when they wrote the first amendment, is political speech in the context of a campaign when we talk about issues and when we talk about candidates.

I do not like a lot of these ads. My colleagues who come to the floor—and by the way, every colleague who came to the floor to oppose the DeWine amendment, everyone except Mr. WELLSTONE—voted against the Wellstone amendment. Every single one of them did. I don't know why they did. I know why Mr. EDWARDS did. He said it was unconstitutional, and I think everybody in this Chamber knows it is unconstitutional. But that is what the restriction will be. It is blatantly unconstitutional. It does not pass the Supreme Court's test of a compelling State interest.

What is the compelling State interest to smash free speech within 60 days before an election? I will stop at this point and reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Maine controls the time in opposition.

The Senator from Maine.

Ms. SNOWE. I yield 2 minutes to the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized for 2 minutes.

Mr. FEINGOLD. Mr. President, I rise to oppose the DeWine amendment. I believe the Senator from Ohio raises serious and legitimate issues about the Snowe-Jeffords amendment. The fact is, to put it in plain terms for the people around the country, they are being subjected to ads that about everybody knows are really campaign ads. They are what many people call phony issue ads. They know very well they are not just issue ads.

What Senators SNOWE and JEFFORDS have done is to try to come up with a formula to get at the heart of the problem, to have the Supreme Court have an opportunity for the first time in many years to look at legislative language from the Congress, to ask the question: Are these ads that are supposed to be protected under the first amendment or are they really electioneering ads that everyone would concede have to be subject to some kind of regulation in order for there to be fair elections in this country?

That is the question. The only way we can find the answer to the question is to pass a bill. We cannot call up Chief Justice Rehnquist and say: Say, if we did this, would it be constitutional? We are prohibited from asking for those kinds of advisory opinions.

I believe this is constitutional. I believe it is very carefully crafted with a very strong respect for the difficult first amendment questions that are involved. But I do think it would be held constitutional.

I expect some of the Justices might find it is not constitutional. But that is not how the Supreme Court works. It does not have to be unanimous. The question is, What do a majority of the Justices believe? I believe a majority of the Justices who see these ads on television would conclude, as I do, that they are not issue ads but that they are really campaign ads and are appropriately regulated in this manner.

For that reason, I believe this is an extremely valuable addition to the bill. It is the second big loophole in the system. No. 1 is the soft money loophole. No. 2 is the phony issue ads. And that is exactly what the distinguished Senator from Maine and the distinguished Senator from Vermont are opposed to. I thank the Senator from Maine.

The ACTING PRESIDENT pro tempore. Who yields time?

Ms. SNOWE. Mr. President, I now yield 2 minutes to the Senator from Vermont.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized for 2 minutes.

Mr. JEFFORDS. Mr. President, I am disturbed at the DeWine attempt to solve a problem that is not there. I was one of those back in my last election—not the last but the one before that—who was exposed to this kind of advertising, who has had to face seeing ads on television which totally distort the facts and say terrible things. You watch a 20-percent lead keep going down and you do not know who is putting them on. You know what they are saying is totally inaccurate, but you have no way to refute it, other than to try to get people convinced that nobody knows who put it there, who is behind it.

The constitutionality of our provisions is common sense. How can you say that something which merely asks the person who put out the ad to let everybody know who they are is unconstitutional? How in the world can you say that it is unconstitutional to require somebody to disclose who they are and what they are?

That is all we are doing in Snowe-Jeffords.

The Wellstone amendment does make things a little more confusing in that regard.

Let's remember what we are doing if we vote on this bill without leaving in the very critical provisions of Snowe-Jeffords, which say that anyone who does ads and does so in a way to attack a candidate, they have to let people know who they are. What is wrong with that? I think everybody believes that is a positive addition.

The Snowe-Jeffords provisions also make sure that when the time comes down to the very end, that unions and corporations are not precluded from ads by any means. But they are required to disclose from where the money came and use individually donated hard money.

It can't be unconstitutional in the sense of the corporations or unions using individually donated funds instead of their own funds to run these ads. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. DEWINE. Mr. President, let me briefly respond to my colleague from Vermont.

Look, no one likes these ads. No one likes to be attacked. My friend said he is disturbed by these ads; they say terrible things, and they are inaccurate. I understand that. All of us have had that experience. All of us have been in tough campaigns. All of us have been attacked by what we consider to be unjustifiable. All of us have faced attacks where people have said things that we just shudder about and just can't believe that it is running on television. Our families do not like it. Our mothers do not like it. Our kids do not like it. But do you know something. That is part of the system. That is part of democracy. This is not some other country where we restrict campaigns and what can be said at the time campaigns take place.

It might be easier. It might be cleaner. It might be easier to look at. No one ever said democracy was easy and wasn't sometimes messy. But that is the first amendment. That is not a justification to put a clamp on freedom of speech.

My friends talk about disclosure. That is not the biggest problem with this bill. It is not a disclosure problem so much as it is a restriction on free speech within 60 days of an election.

Let me repeat what it does.

Within 60 days of an election, you can't run an ad that mentions a candidate's name or that has the candidate's image unless you are the candidate for that particular office.

That is what it says. It is wrong to make it unconstitutional.

I reserve the remainder of my time.

Mr. FEINGOLD. Mr. President, it is my pleasure to speak in support of the provision originally crafted by the distinguished Senators from Maine and Vermont, Senators SNOWE and JEFFORDS, and in opposition to the DeWine amendment. When the debate on campaign finance reform reached a stalemate in the fall of 1997, Senator SNOWE

and Senator JEFFORDS first came together to draft this language, and it has been a vital contribution to reform effort. I thank them both for their continued dedication to closing the issue ad loophole which, next to soft money, is surely the most serious violation of the spirit of our campaign finance laws.

Snowe-Jeffords gets at the heart of the issue ad loophole. Right now wealthy interests are abusing this loophole at a record pace. They are flouting the spirit of the law, there is no question about it. They advocate for the election or defeat of a candidate, even though they don't say those ''magic words,'' such as ''vote for,'' ''vote against,'' ''elect'' or ''defeat.'' These ads might side-step the law, Mr. President, but they certainly don't fool the public. One recent study decided to see how the public viewed sham issue ads. They wanted to see if people thought they were really about the issues, or whether they were about candidates. The results were definitive.

Take a look at this chart, which cites the results of a study conducted by David Magleby at Brigham Young University. Nearly 90 percent of respondents in the study thought that phony issue ads paid for by outside groups were urging them to vote for or against a candidate.

People didn't need to hear the so-called magic words to know what these ads were really all about. That was just as true for issue ads paid for by the parties as it was for ads paid for by outside groups.

Party soft money ads were just as clearly crafted to influence the voters. When respondents reviewed party soft money ads, 83 percent ranked those ads as ''clearly intended to influence their vote.'' And this is perhaps even more interesting, more respondents thought the parties' ads were intended to influence their vote than the ads paid for by the candidates' campaigns. The party ads, the sham issue ads paid for with soft money, were more obviously advocating for or against a candidate than the ads the candidates made themselves. That is a great example of how soft money and the issue ad loophole have come together to warp the current campaign finance system.

As you can see in this next chart entitled ''Political Party Soft Money Ads Overtake. . .'', party spending on soft money ads has now overtaken candidate spending on ads in the presidential race. You can see on this chart how this shift has taken place between the 1996 and 2000 elections. The parties are now spending phenomenal amounts of soft money on sham issue ads.

Again, on this chart, you can see how party spending on ads has overtaken candidate spending in the race for the Presidency, and dwarfs spending by outside groups. And here is the kicker: None of these party ads mention party label, but all of them mention the candidate. They mention the candidate because they are advocating for the election or defeat of that candidate. And yet the law says that doesn't count.

This doesn't make sense. The magic words test is completely helpless to stem the tide of sham issue ads, ads from the parties, ads from unions or corporations, or ads from outside groups that are acting on behalf of those unions or corporations. We need to close the loophole, and Snowe-Jeffords does just that.

Here is how Snowe-Jeffords navigates the difficult political and constitutional terrain of this debate. Here I am talking about the original Snowe-Jeffords provision, before adoption of the Wellstone amendment. The first thing that the provision does is define a new 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 TV, including satellite and cable. Second, they refer to a clearly identified Federal 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 original Snowe-Jeffords 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 believe that this approach will withstand constitutional scrutiny, because corporations and unions have long been barred from spending money directly on Federal elections.

The Supreme Court upheld the ban on corporate spending in the Austin v. Michigan Chamber of Commerce case. It noted that a Michigan regulation that prohibited corporations from making independent expenditures from treasury funds prevented ''corruption in the political arena: the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas.'' 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 provision that 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 provision goes on to permit spending on these kinds of ads by non-profit corporations that are registered as 501(c)(4) advocacy groups, by 527 organizations, and by other unincorporated groups and individuals. But it requires disclosure of the spending and of the large donors whose funds are used to place the ads once the total spending of the group on these ''electioneering communications'' reaches $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 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, of any other group that exercises control over its activities, and of the custodian of records of the group, and of the amount of each disbursement and the person to whom money was paid.

Second, disclosure is triggered by spending a total of $10,000 or more on these kinds of ads. So a small group that spends only a few thousand dollars on radio spots will never have to report a thing.

Third, the disclosure of contributors required is quite limited. Only large donors—those who contribute more than $1,000—must be identified, and they must be identified only by name and address. And a group that receives donations for a wide variety of purposes, including some corporate or labor treasury money, can set up a separate bank account to which only individuals can contribute, pay for the ads out of that account, and disclose only the large donors whose money is put in that account.

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. And if a group is just a shell for a few wealthy donors, then we will know who those big money supporters are and be much better able to assess their agenda.

On the other hand, if an established group with a large membership of small contributors wishes to engage in this kind of advocacy, it need not disclose any of its contributors because it can pay for the ads from small donor money that has been raised for the special bank account for individual donors.

Mr. President, I believe that these disclosure provisions will pass constitutional muster. The Buckley case, it should be remembered, rejected limits on independent expenditures but upheld the requirement that the expenditures be disclosed. Rules that merely require disclosure are less vulnerable to constitutional attack than outright prohibitions of certain speech. The information provided by these disclosure statements will help the public find out who is behind particular candidates. This disclosure can help prevent the appearance of corruption that can come from a group secretly spending large amounts of money in support of a candidate.

Some have argued—the Senator from Kentucky among them—that even

these reasonable disclosure requirements violate the Constitution. They cite the case of NAACP v. Alabama from 1958. That is a very important case, and one with which I fully agree, but the conclusion that the Senator from Kentucky draws from it, with respect to the Snowe-Jeffords provision, is simply wrong.

In the NAACP case, at the height of the civil rights struggle, the state of Alabama obtained a judicial order to 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 it members to freely associate to advance their common beliefs would be violated by the forced disclosure of its membership lists. It pointed out many instances where revealing the identities of its members exposed them to economic reprisals, loss of employment, and even threats of physical coercion. The Court held that the state had not demonstrated a sufficient interest in obtaining the lists that would justify the deterrent effect on the members of the NAACP exercising there rights of association.

Snowe-Jeffords is totally different from what the State of Alabama tried to do in the NAACP case. Snowe-Jeffords doesn't ask for membership lists, it asks for the very limited disclosure of large contributors to a specific bank account used to pay for electioneering communications. Most membership groups won't have to disclose anything if they receive sufficient small donations to cover their expenditures on these type of communications. Contributors to the groups that don't want to be identified can simply ask that their money not be used for the kind of ads that would subject them to disclosure. And 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.

The Supreme Court has shown much more willingness to uphold disclosure requirements in connection with election spending than opponents of Snowe-Jeffords have been willing to recognize. In the Citizens Against Rent Control v. City of Berkeley, a 1981 case, for example, the Court struck down a limit on contributions to committees formed to support or oppose ballot measures. But the Court noted specifically, and I quote, ''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.'' It is worth noting that the opinion in that case was by Chief Justice Warren Burger and the vote was 8–1. The dissenter, Justice White, thought the limit on contributions should be upheld.

In U.S. v. Harris, the Court upheld disclosure requirements for lobbyists, despite the alleged chilling effect that those requirements might have on the right to petition the government. And, of course, the Buckley Court upheld disclosure requirements for groups making independent expenditures.

Now it is of course true that the Court will have to analyze the disclosure requirements in Snowe-Jeffords, 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 that the provision is unconstitutional. But to say that there is no chance that this provision will be upheld is just not right. There is ample constitutional justification and precedent for this provision.

That conclusion is supported by a letter we have received from 70 law professors who support the constitutionality of the McCain-Feingold bill, including the Snowe-Jeffords provision. This is what they write with respect to Snowe-Jeffords:

> [T]he incorporation of the Snowe-Jeffords amendment into the McCain-Feingold Bill is a well-reasoned attempt to define electioneering in a more realistic manner while remaining faithful to First Amendment vagueness and overbreadth concerns. . . . While no one can predict with certainty how the courts will finally rule if any of the these provisions are challenged in court, we believe that the McCain-Feingold Bill, as current drafted, is consistent with First Amendment jurisprudence.

As the Brennan Center for Justice wrote in an analysis of Snowe-Jeffords:

> 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 indisputedly designed to influence their votes.

The opponents of our bill speak with great disdain of the Snowe-Jeffords provision and act as if it is certainly and indisputably unconstitutional. Now I will not pretend that there are not difficult constitutional issues raised, but I simply do not think it is accurate to say, as our opponents do, that there is no hope for this provision before the Supreme Court. And the Supreme Court is going to decide this issue, that we know for sure. All the lower court decisions in the world on state statutes that don't have a bright line approach as Snowe-Jeffords does, don't mean much of anything. The Supreme Court has not yet addressed this issue; if we enact this bill, it undoubtedly will.

It is important to note that Snowe-Jeffords contains provisions designed to prevent the laundering of corporate and union money through non-profits. 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.

Anyone who opposes this provision must defend the rights of unions and corporations using their treasury money, not just citizen groups like the National Right to Life Committee or the Christian Coalition, or the Sierra Club, to run what are 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.

Second, they must argue that the public is not entitled to know, in the case of advocacy groups that run these ads so close to the election, the identities of large donors to group's election-related effort. Many opponents of McCain-Feingold have trumpeted the virtues of full disclosure. I have at times doubted how serious they were about disclosure because they would never acknowledge the important advances in disclosure already included in our bill.

I have discussed here the original Snowe-Jeffords provision. The Wellstone amendment, in effect, broadens that provision to cover ads run by corporations and unions. I voted against adding that amendment. I thought and still think that it makes Snowe-Jeffords more susceptible to a constitutional challenge, but it passed when many Senators who oppose the bill and the Snowe-Jeffords provision voted for it. In any event, the Wellstone amendment was written to be severable from the remainder of the Snowe-Jeffords provision. That gives even more significance to the vote we will have today on severability. But if we win that vote, Snowe-Jeffords will survive even if the Wellstone amendment is held to be unconstitutional.

Let me again commend Senators SNOWE and JEFFORDS for crafting a provision that treats labor unions and corporations equally. Rather than try to give one side or the other an advantage, this provision tries to bring back some sanity to our system by recognizing that both sides have played fast and loose with the spirit of the election laws by running ads that claim to be about issues, but are really candidate specific campaign ads.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Maine.

Ms. SNOWE. Mr. President, how much time is remaining on both sides?

The ACTING PRESIDENT pro tempore. There is 1 minute 47 seconds for the Senator from Ohio, and 3 minutes for the Senator from Maine.

Ms. SNOWE. Thank you, Mr. President.

I urge my colleagues to vote against the motion to strike that has been offered by my good friend from Ohio, Senator DEWINE. Make no mistake about it. A vote to strike the Snowe-Jeffords provision specifically would be a vote against disclosure.

It is interesting to hear my colleague describe the amendments and the provisions that are contained with the McCain-Feingold legislation; that it is a restriction on the first amendment

right, the right to free speech. That is not only a mischaracterization, but it is false.

The Supreme Court never said you can't make distinctions in political campaigns in terms of what is express advocacy and issue advocacy. That is what we have attempted to do with the support of more than 70 constitutional experts—to design legislation that is carefully crafted that says if these organizations want to run ads, do it as the rest of us. Use the hard money that we have to raise in order to finance those ads 60 days before an election that mention a Federal candidate.

We are seeing the stealth advocacy ad phenomenon multiplying in America today—three times the amount of money that is spent on so-called sham ads in the election of 2000, and three times the amount in 1996. Why? Because of what they have done to skirt the disclosure laws because they do not use the magic words ''vote for or against.'' They mention a candidate.

Is it no coincidence that they are mentioning the candidate's name 60 days before an election? What for? It is to impact the outcome of that election.

What we are saying is disclose who you are. Let's unveil this masquerade. Let's unveil this cloak of anonymity. Tell us who you are. Tell us who is financing these ads to the tune of $500 million in this last election. The public has the right to know. We have the right to know.

That is what this amendment is all about. It is not an infringement on free speech. It is political speech. Even my colleague from Ohio said it is political speech, political speech you have to disclose.

That is what we are talking about in this amendment.

I ask unanimous consent to have printed in the RECORD a study entitled ''The Facts about Television Advertising and the McCain-Feingold Bill.''

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

THE FACTS ABOUT TELEVISION ADVERTISING AND THE MCCAIN-FEINGOLD BILL

(By Jonathan Krasno and Kenneth Goldstein)

The McCain-Feingold bill and its House counterpart sponsored by Representatives Shays and Meehan are universally regarded as the most significant campaign finance legislation under serious consideration by Congress in a generation, perhaps since the 1974 amendments to the Federal Election Campaign Act (FECA). This legislation would not expand on the 1974 reforms but instead restore them by regulating the two mechanisms that have developed in the intervening decades to circumvent FECA, so-called ''soft money'' and ''issue advocacy.'' Together and separately soft money and issue advocacy have become an enormous part of many federal campaigns, in some cases even eclipsing the efforts of candidates operating under FECA's rules.

That popularity, naturally, has created a powerful group of donors and recipients who have exploited these loopholes and now oppose any attempt to close them, even as some contributors have begun to complain of the relentless pressure to give money. These political forces, coupled with the putative relationship between soft money, issue advocacy and several core constitutional values, have made McCain-Feingold among the most controversial bills facing Congress.

This paper uses a unique source of data about television commercials to examine some of the most important issues raised in connection to this proposal. It is appropriate that we focus on television advertising since it is the largest—and most discussed—single category of expenditures by candidates, parties and interest groups in federal elections. McCain-Feingold's chief impact would surely be seen on the nation's airwaves, on the hundreds of thousands of issue ads paid for with soft money. Indeed, many of the arguments for and against McCain-Feingold are rooted in different interpretations of those very ads.

For its critics, the huge outlay on issue ads is a dangerous scam perpetrated on democracy, a scam predicated on twin falsehoods that issue ads promote issues and soft money builds parties. For its defenders, the spending on issue advertising is a sign of democracy's vitality and any attempt to limit issue ads or soft money is inherently hamhanded and dangerous. Fortunately, many of these claims are empirical questions; given the proper data they can be carefully dissected and weighed. That is precisely what we do here by using the most extensive data set on television advertising ever developed to explore some of the core assumptions invoked by proponents and opponents of McCain-Feingold.

MONITORING THE AIRWAVES

The sheer amount of television advertising—on approximately 1300 stations in the nation's 210 media markets over the 15 or 16 most popular hours in the broadcast day—makes commercials extremely difficult to study. Fortunately, using satellite tracking first developed by the U.S. Navy to detect Soviet submarines, a commercial ad tracking firm, the Campaign Media Analysis Group (CMAG), is able to gather information about the content, targeting and timing of each ad aired. CMAG tracks commercials by candidates, parties and interest groups in the nation's top 75 media markets. Together these markets reach approximately 80 percent of households in the U.S. CMAG's technology recognizes the seams in programming where commercials appear, creates a unique digital fingerprint of each ad aired, then downloads a version of each ad detected along with the exact time and station on which it appeared. The company later adds estimates of the average cost of an ad shown in the time period.

With funding from the Pew Charitable Trust, CMAG's data for 1998 and 2000 were purchased. These data are literally a minute-by-minute view of political advertising across the country—along with ''storyboard'' (a frame of video every 4–5 seconds plus full text of audio) for each ad detected during these two election cycles. The storyboards were then examined by teams of graduate and undergraduate students at the University of Wisconsin (2000) and Arizona State University (1998) who coded the content of each commercial.

Some of the questions—such as whether an ad mentioned a candidate for office by name or urged viewers to ''vote for'' or ''defeat'' a particular candidate—were objective. Others were subjective. These included items asking coders to assess the purpose (to support a particular candidate or express a view on an issue) and tone (promote, attack, or contrast) of an ad. Both types of questions elicited nearly identical responses from different students who assessed the same ad, indicating a reassuring degree of intercoder reliability. In addition, we also took special care to examine the disclaimer in each commercial, the written portion appearing usually at the end of each commercial noting its sponsor (''Paid for by . . .''), where possible. From this we were able to determine whether an ad is sponsored by a candidate, party or interest group, and, if paid for by a party or group, whether it is an issue ad or not.

Coders ended up examining approximately 2,000 different federal ads (eliminating ads referring to state and local candidates or ballot propositions) in 1998 and nearly 3,000 in 2000. As Table One shows, these ads fell into different campaign-finance categories and appeared on the air hundreds of thousands of times. Most of the astonishing growth from 1998 to 2000, of course, is attributable to the presidential election, but the number of ads in congressional elections also rose in this two-year period from 302,377 to 420,656 and expenditures nearly doubled. Most of this upsurge came from parties and interest groups.

TABLE ONE.—TELEVISION ADVERTISING IN TOP 75 MARKETS

[Estimated cost/number of spots in parentheses]

	1998	2000
Candidates:		
Total	$140,617,427 (235,791)	$334,571,178 (429,747)
Parties:		
Issue ads	20,526,340 (37,386)	163,586,235 (231,981)
Hard $ ads	5,296,318 (7,488)	29,166,653 (37,938)
Interest Groups:		
Issue ads	10,371,191 (20,431)	95,893,837 (139,577)
Hard $ ads*	421,222 (1,281)	....
Total	$177,232,508 (302,377)	$623,217,897 (839,243)

*The vast majority of commercials sponsored by interest groups were issue ads. We are continuing to examine the data to determine how much groups spent on hard money ads (independent expenditures) in 2000.

WHOSE OX IS GORED:

The first question the professional politicians in Congress are asking about McCain-Feingold is who will it affect. Such questions are always perilous since advertisers will undoubtedly try to adapt to any new regulations, searching for new loopholes to exploit. Which direction their search will eventually take them is at best an educated guess. What is more than guesswork, however, is the matter of how much has been spent on issue ads by the parties and their allies over the last two cycles.

Figure One (not reproducible in the Record) breaks down the issue ads in Table One by party, showing the total number run by various Democratic and Republican party committees and their allies. While Republicans had a noticeable advantage in issue ads in 1998, Democrats claimed a small lead in 2000. This modest reversal illustrates the unpredictability of soft money. Since contributions (to either parties or interest groups) for issue ads are unlimited, the generosity of a relatively small number of well-heeled donors may shift the tide. But equally striking is the near equality between the parties. Total soft money spending for the Democrats and Republicans is separated by no more than $5,000,000 in either year, a relatively small amount among the hundreds of millions spent on political advertising in both years. That is not to say, of course, that no candidates would have been particularly helped or hurt had McCain-Feingold been in effect earlier, only that the Democrats' and Republicans' gains and losses come fairly close to balancing out across the country.

REGULATING ISSUE ADVOCACY

The working definition of issue advocacy comes from a footnote in the Supreme

Court's seminal decision in Buckley v. Valeo (1976) that limited FECA's impact by defining campaign communications as those ''expressly advocating'' the election or defeat of a particular candidate by using words like ''elect,'' ''defeat,'' or ''support.'' The purpose behind the footnote was to protect speech about ''issues''—lobbying on bills before Congress, pronouncements or debate over public policy—from the financial regulations affecting partisan electioneering. The need to distinguish the two is obvious, but whether use of specific words of express advocacy (now widely known as ''magic words'') is an effective way to do so is less clear.

We sought to evaluate this standard by looking at ads purchased by candidates' campaigns. Candidates are a perfect text case since the purpose of their advertising is so obviously electioneering that the magic words test does not apply to them. Thus, candidates must live with FECA whether or not they use magic words. That might lead one to assume that candidate ads unabashedly urge viewers to vote for one person or defeat another, but it turns out that such direct advocacy is exceedingly rare. In 2000 just under 10 percent of the nearly 325,000 ads paid for by federal candidates directly urged viewers to support or oppose a particular candidate or used a slogan like ''Jones for Congress,'' the full list of magic words in Buckley. Earlier we found just 4 percent of 235,000 candidate ads in 1998 used any of the verbs of express advocacy; 96 percent did not ask viewers to vote for or against any candidate. Any device that fails to detect what it was designed to find 9 times out of 10 is clearly a flop. The magic words test simply does not work.

The failure of the magic words test does not mean, of course, that all issue ads are necessarily electioneering. But several things suggest that a great majority of them are. To begin with, the issues raised in commercials by candidates and in issue ads are virtually identical. Table Two lists the top five themes appearing in both types of ads in 1998 and 2000. While occasional variations occur, the overwhelming impression is that issue ads mimic the commercials that candidates run. This may be mere coincidence, but it is a suggestive one. At very least, it contradicts the argument that issue ads by parties and interest groups introduce policy matters into the political arena that are otherwise ignored. The truth is that candidates' agenda is generally the only thing addressed by any advertiser, particularly in the final hectic weeks of the campaign.

TABLE TWO.—COMPARING THE ISSUES IN CANDIDATE ADS AND ''ISSUE ADS''

	Percent
CANDIDATE ADS	
1998:	
1. Taxes	28
2. Education	26
3. Social Security	23
4. Health Care	14
5. Crime	9
2000:	
1. Health Care	34
2. Education	31
3. Taxes	26
4. Social Security	24
5. Candidate background	24
ISSUE ADS	
1998:	
1. Taxes	31
2. Social Security	23
3. Health care	20
4. Education	14
5. Defense	10
2000:	
1. Health care	30
2. Medicare	21
3. Social Security	16
4. Education	16
5. Taxes	16

Note.—Ads may mention multiple themes so percentages do not sum to 100.

There is also the matter of timing. If issue ads were intended only to pronounce on important policy matters we would expect to see them spaced throughout the year or concentrated in periods when Congress is most active. As Figure Two (not reproducible in the Record) demonstrates, however, that is far from the case. While in both 1998 and 2000 members of Congress cast a steady stream of votes and a series of what Congressional Quarterly labels as ''key votes'' throughout the year, the greatest deluge of issue ads began appearing after Labor Day (about week 36). Indeed even the most casual inspection of the number of issue ads that appeared each week indicates that this line is much more closely related to the activity of candidates, not the activity of Congress. This relationship of issue advertisers and candidates, repeated over two years, is far too strong to be coincidental. There is no doubt that issue ads are largely inspired by the same cause that motivates candidates, the slow approach of Election Day.

Despite the overwhelming evidence that the vast majority of issue ads are a form of electioneering, there were commercials in each year that our coders took to be genuine discussion of policy matters (22 percent of issue ads in 1998, 16 percent in 2000). Would the definition of electioneering created by McCain-Feingold—any ad mentioning a federal candidate by name in his or her district within 30 days of the primary or 60 days of the general election—inadvertently capture many of these commercials? We addressed this question by comparing the issue ads that would have been classified as electioneering under McCain-Feingold to the coders' subjective assessment of the purpose of each ad. In 1998 just 7 percent of issue ads that we rated as presentations of policy matters appeared after Labor Day and mentioned a federal candidate; in that figure was lower still, 1 percent. In 2000 that number was less than one percent. Critics may argue that chance of inadvertently classifying 7 percent, or even 1 percent, of genuine issue ads as electioneering makes this bill overly broad. In contrast, these percentages strike us as fairly modest, evidence that McCain-Feingold is reasonably calibrated. In addition, our examination suggests that these errors may be reduced with some small additions to the bill.

PARTY SOFT MONEY

Just as the rules on issue advocacy are intended to safeguard free speech, soft money is also intended to achieve a worthy goal, in this case to strengthen political parties. Parties are a frequently underappreciated fact of political life in democracies. Political scientists have sought ways to buttress them for years, to augment their ability to communicate with and mobilize the public, and to magnify their impact as political symbols.

The most obvious place to start assessing the value of parties' advertising is with a simple objective question: does the ad mention either political party by name? It is hard to imagine how a commercial might strengthen a party if it neglects to praise its sponsors or at least malign the opposition. Yet, party ads are remarkably shy about saying anything about ''Democrats'' or ''Republicans''—just 15 percent of party ads in 1998 and 7 percent in 2000 mentioned either political party by name. By contrast, 95 percent of these ads in 1998 and 99 percent in 2000 did name a particular candidate. It seems fairly clear that these ads do far more to promote the fortunes of individual candidates than the fortunes of their sponsors.

A piece of supporting evidence for this conclusion comes from the perceived negativity of each ad. Coders found ads by parties to be much more likely to be pure attack ads (60 percent in 1998, 42 percent in 2000) than ads by candidates. While we remain agnostic about whether attack advertising is somehow better or worse than other forms, we do note that there is little hope that this flood of negative commercials magically strengthens either party.

Finally, some defenders of party soft money also argue, in conflict to the claims about building parties, that these commercials help provide vital information to voters in various places and about various candidates which they would not otherwise receive. This is a complicated assertion to unravel. It is obviously debatable whether any particular ad conveys much information to viewers. If we assume—quite charitably—that all political ads help educate voters then the question becomes a matter of allocation. Do party ads appear for candidates about whom little is known or in otherwise neglected districts and media markets? If the answer is yes, then it is fair to conclude that party ads may play an important role in informing the public.

The truth, however, is that the best predictor of the number of commercials aired by parties in a particular contest and media market is the number of ads aired by candidates in the same location. There are exceptions—the RNC sponsored all of the pro-Bush advertising in California and neither party ran commercials in New York after the two Senate candidates agreed to forgo soft money—but parties overwhelmingly concentrated their efforts in swing states and districts, the very places already saturated by the candidates. One indication of how focused party advertising in congressional races is that in both years the majority of party ads appeared in just three Senate races and a dozen House contests, even though the CMAG system tracks advertising in scores of states and districts. As a result, the educational value of party ads is inevitably limited, as is any effect they might have on the competitiveness of elections.

CONCLUSION

Our examination of television commercials in 1998 and 2000 shows that the current campaign finance system is unmistakably flawed. The magic words test supposed to distinguish issue advocacy from electioneering is a complete failure. The rules allowing parties to collect unlimited amounts of soft money to build stronger parties have instead allowed parties to spend on activities unrelated to that goal, and perhaps even in conflict with it. The evidence for both of these conclusions is, in our view, overwhelming. The plain fact is that any contention that most issue ads are motivated by issues or that most soft money builds political parties must ignore a veritable mountain of conflicting evidence. We find such claims completely unsustainable.

Whether that conclusion should translate automatically into support for McCain-Feingold and Shay-Meehan is a different matter. These decisions inevitably involve a number of factors, starting with the judgment whether these bills are the best response to the manifest weaknesses of our campaign finance laws. We cannot be sure that it is, but our analysis suggests two important facts in its favor. First, the experience of the last two elections suggests that neither Democrats nor Republicans would be disproportionately harmed by a ban on soft money or a stricter definition of issue advocacy. Indeed, neither party stands to gain or lose much against their counterparts since the Democrats' relative financial weakness is proportionately smaller in soft money than in hard, and their allies outspent Republicans' in both years. Past experience suggests that neither party would gain an advantage on TV if the McCain-Feingold bill becomes law.

Second, we found no evidence that the new dividing line between issue advocacy and electioneering in McCain-Feingold is overly broad and would affect many commercials that we found to be genuine attempts to advocate issues, not candidates. Some critics will surely complain that we have no objective standards for determining which commercials are genuine issue advocacy, but that is untrue. The standards offered in McCain-Feingold are objective. The fact that they perform so well against the subjective judgment of our coders, each of whom examined hundreds of ads, is extremely reassuring. We are always eager to consider improvements, but there is no reason not to conclude that the definition of electioneering in McCain-Feingold is, at the very least, an excellent start.

Ms. SNOWE. Mr. President, ninety-nine percent of the ads that were run in that 60-day period mention Federal candidates. They tested the Snowe-Jeffords language. Guess what. Ninety-nine percent were ads that mentioned a Federal candidate. Only 1 percent were genuine issue advocacy ads. They can run all of the ads they want, but they have to disclose.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Ohio.

Mr. DEWINE. Mr. President, we will be voting in just a few minutes. Let me make a couple of comments.

First of all, the disclosure that is required in this bill is constitutionally suspect. I don't think there is any doubt about that. But that is not the worst part of this bill. My colleague from Maine keeps skipping over what is the worst part. The worst part is this.

Let's go through one more time what it does because it is so unbelievable.

It basically draws an unconstitutional line of 60 days before the election that says labor unions can't run ads, corporations can't run ads, nor can any other group run ads if a candidate's name is mentioned or if a candidate's image appears on the screen.

Yes, it is political speech. Yes, they are trying to affect an election. They are trying to affect the political discourse as the most effective way to do it right before the election when everyone is paying attention.

This bill arbitrarily says that at the most crucial time when free speech and political speech is the most important, we are going to arbitrarily say you can no longer do it. It is absolutely unbelievable.

This is the last time on this vote that Members of the Senate are going to have the opportunity to strike out what obviously the courts will later strike out. That is not Snowe-Jeffords, but it is now Snowe-Jeffords-Wellstone. It is unconstitutional.

A vote for the DeWine amendment is a vote for freedom of speech, for the first amendment, and for the Constitution.

I ask my friends when they come to the floor in just a minute to remember the oath that all of us took to support the Constitution.

It is one thing for us to vote on things that are close. This one is not close. This one is unconstitutional. It needs to come out of the bill.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to have 40 seconds to respond to my colleague, if he would be so gracious.

Mr. DEWINE. I have no objection.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DEWINE. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WELLSTONE. I ask the Chair if I don't use the 40 seconds to give me 5 more.

The ACTING PRESIDENT pro tempore. The Senator asked for 40 seconds.

Mr. WELLSTONE. Ready, go.

This is not about a constitutional question. There are lots of groups and organizations—left, right, and center—that want to put soft money into these sham ads. Any group or organization can run any ad they want. They just have to finance it out of hard money. We don't want there to be a big loophole for soft money. Not constitutional? The League of Women Voters says it is. Common Cause says it is constitutional. The former legislative director of ACLU says it is constitutional. The House of Representatives passed Shays-Meehan, which includes Snowe-Jeffords-Wellstone, that says it is constitutional. In all due respect, there are many who think this is constitutional. This is all about spending groups and organizations that want to be able to use this as a loophole to run sham issue ads.

Thank you.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to amendment No. 152. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 28, nays 72, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—28

Allard	Gregg	Roberts
Allen	Hagel	Santorum
Bennett	Hatch	Sessions
Bond	Helms	Shelby
Brownback	Hutchinson	Smith (NH)
Bunning	Inhofe	Thomas
DeWine	Kyl	Thurmond
Enzi	McConnell	Voinovich
Frist	Murkowski	
Grassley	Nickles	

NAYS—72

Akaka	Burns	Cleland
Baucus	Byrd	Clinton
Bayh	Campbell	Cochran
Biden	Cantwell	Collins
Bingaman	Carnahan	Conrad
Boxer	Carper	Corzine
Breaux	Chafee	Craig
Crapo	Inouye	Nelson (FL)
Daschle	Jeffords	Nelson (NE)
Dayton	Johnson	Reed
Dodd	Kennedy	Reid
Domenici	Kerry	Rockefeller
Dorgan	Kohl	Sarbanes
Durbin	Landrieu	Schumer
Edwards	Leahy	Smith (OR)
Ensign	Levin	Snowe
Feingold	Lieberman	Specter
Feinstein	Lincoln	Stabenow
Fitzgerald	Lott	Stevens
Graham	Lugar	Thompson
Gramm	McCain	Torricelli
Harkin	Mikulski	Warner
Hollings	Miller	Wellstone
Hutchison	Murray	Wyden

The amendment (No. 152) was rejected.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, for the information of all Senators, the next amendment will be from Senator HARKIN, who is in the Chamber and ready to go. I want to also announce that the Republican amendment after that will be offered by Senator FRIST of Tennessee, along with a Democratic cosponsor, on the subject of nonseverability, which is one of the most important, if not the most important, amendments remaining before we complete this bill at some point—the leader says—today.

With that, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa, Mr. HARKIN, is recognized to offer an amendment on which there shall be 2 hours of debate.

Mr. SPECTER. Mr. President, my distinguished colleague from Iowa has consented to let me take just a few minutes at this point to introduce a bill. I have checked with the distinguished manager, Senator MCCONNELL, and it is agreeable.

Mr. SPECTER. Mr. President, I ask unanimous consent to proceed for up to 10 minutes for the introduction of a bill as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I could not hear the request.

The PRESIDING OFFICER. May we have order in the Senate, please.

Mr. SPECTER. My request was to proceed for up to 10 minutes as in morning business for the introduction of a bill.

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

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

I ask unanimous consent that the full text of an extensive statement be printed in the RECORD and that the RECORD reflect—sometimes the RECORD does not reflect the actual language;

there is a cutoff. The statement is printed, and there is repetition and redundancy. But I ask that the RECORD show that there is a unanimous consent request made that the text be printed in the RECORD, even though there is some redundancy with what has been summarized orally.

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

(The remarks of Mr. SPECTER pertaining to the introduction of S. 645 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SPECTER. I thank the Chair, and I thank my distinguished colleague from Iowa for yielding to me.

The PRESIDING OFFICER. The Senator from Iowa is recognized to offer an amendment on which, as I stated earlier, there shall be 2 hours of debate. The Senator from Iowa.

AMENDMENT NO. 155

(Purpose: To amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits with respect to Senate election campaigns)

Mr. HARKIN. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN), for himself and Mr. WELLSTONE, proposes an amendment numbered 155.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. HARKIN. Mr. President, I am proud to have as my cosponsor the Senator from Minnesota, Mr. WELLSTONE.

I want to recap where we are in this week-long debate on campaign finance reform. We have come a long way in the last week and a half on this campaign finance reform bill.

We have debated a wide range of amendments, accepted some, rejected others. The good ones we have adopted are: To stop the price gouging on TV ads, the Torricelli amendment; to require up-to-date inspection of all reports on the Internet, the Cochran-Landrieu-Snowe amendments; stronger disclosure rules by the Senator from Nebraska, Mr. HAGEL; bringing all organizations under the issue ad ban; the Wellstone amendment.

And we rejected some amendments. Attempts to preserve soft money were rejected; an attempt to dramatically increase hard money was rejected; provisions to silence the workers of America, paycheck protection, were rejected. I am a little disappointed that yesterday we did, unfortunately, increase the amount of hard money we can raise for campaigns. I do not believe increasing the amount of money one can raise from hard dollars is reform, but that was adopted by the Senate.

But, there is something missing in this debate. There is something that has been missing for a week and a half from this debate. It is like the crazy uncle in the basement who no one talks about. What kind of reform can we have when all we are talking about is how we raise the money and how much one can raise when we don't talk about how much we spend and what can be spent? What I am talking about is the kind of reform that includes some limits on how much we can spend.

With the increase in the amount of hard money we can raise —and we have banned soft money, which is good; I voted to ban soft money—that just means all of us now will be running our fool heads off raising more hard money. We do have the Torricelli amendment that says TV stations have to sell us their ads at the lowest unit rate based upon last year, and that is fine; I am all for that. It just means we can buy more ads. We will raise more money, and we will buy more ads.

It has gotten so that now we hire ad agencies. They write the ads and sell us like soap. We are just a bunch of bars of soap to the American people; that is all we are. They see these ads, one ad after another come election time, and it is just like selling soap. Can we be surprised when the American people treat us like soap, that we are no more important in their lives, for example; that we are irrelevant except when we annoy them by ban barding them with ads in the weeks before the election. What I hear from the American people time and time again is: When are you going to talk about the issues in your campaigns rather than having all these ads out there?

We are really missing a serious part of campaign finance reform by not talking about it and doing something about it.

I do not know about any other Senator, but one of the things I hear a lot in Iowa and other places around the country when people talk to me about campaign finance reform is: When are you going to get a control on how much money you spend?

In the last election cycle, just in Federal elections, we spent over $1 billion, I think about $1.2 billion. The American people are upset about this. Are they upset about raising soft money and corporations and special influence? Yes, they are. They are equally upset about the tremendous amount of money we are spending in these campaigns, buying these ads and flooding the airwaves.

We have to think about how we can limit how much we spend on campaigns so all of us aren't running around, weekend after weekend, week after week, month after month, to see how much hard money we can raise to hire that ad agency to buy those ads.

That is what this amendment Senator WELLSTONE and I have offered does. It is very simple and straightforward. It puts a voluntary limit on how much we can spend in our Senate campaigns.

The formula is very simple. It is $1 million plus 50 cents times the number of voting-age residents in the State. Every Senator has on his or her desk the chart that shows how much you would be limited in your own State. With that limitation, there is a low of $1.2 million in Wyoming to $12 million in California. My own State of Iowa would be limited to $2.1 million for a Senate campaign. I say to the occupant of the Chair, in Virginia the limit would be $3.6 million. I don't know how much the Senator spent this last campaign, but I know for myself in Iowa, $2.1 million runs a good grassroots campaign as long as your opponent does not spend any more than that. I bet the same is true in Virginia at $3.7 million.

The amendment also says if you have a primary, you can spend 67 percent of your general election limits. If you have a runoff, you can spend 20 percent of the general election limit.

I'd like to stress that this is a voluntary limit. Why would anyone abide by the limit? You abide by the limit because the amendment says if one candidate goes over the voluntary limits by $10,000, then the other person who abided by the limits will begin to get a public financing of 2–1. For every $1 someone would go over the limit, you get $2.

For example, in Virginia, if the limit is $3.6 million and the Senator from Virginia voluntarily agrees to abide by that limit, if the person running against the Senator from Virginia went over $3.6 million—say they spent $4 million, which would be $400,000 more—the Senator from Virginia would get $800,000. Two for one. Now, that is a great disincentive for anyone to go beyond the voluntary limits because the other person gets twice as much money as the person who went over the limits.

I point out the difference between my amendment and the one offered earlier by Senator BIDEN and Senator KERRY. Their amendment included public financing from the beginning. This amendment does not. This amendment says, raise money however we decide to let you raise money. That is the way you raise it. PACs, personal contributions, whatever limits we decide on around here, you raise that money. There are no public benefits. The only time public benefits kick in is if someone went over the voluntary limits.

My friend from Kentucky said the other day on the floor that all of the polls show the American people don't like public financing. They don't want their tax dollars going to finance Lyndon LaRouche and other such people.

First of all, the money we use here to counter what someone might spend over the limits is not raised from tax dollars; it is a voluntary checkoff and from FEC fines.

Second, if the Senator from Kentucky is right, and I think he may well

be—I don't know—that the American people don't want public financing of campaigns, then that is a second hammer on discouraging someone from going over the voluntary limits. If someone goes over the voluntary limits, that person is responsible for kicking in public financing. That person is responsible for kicking in public financing, not from a tax but from a voluntary checkoff and from FEC fines.

There are two prohibitions here to keep someone from going over the voluntary limits. One, your opponent gets twice as much money as whatever you spent over those limits; second, there would be a built in public reaction against someone who did it because it would cause public financing to kick in.

Another issue was raised regarding this limit. Someone said: You have the voluntary spending limits, but what about all the independent groups out there? They are buying all the ads running against you; you are limited but they are not.

With the Snowe-Jeffords provision and the Wellstone amendment we adopted and just reaffirmed this morning, that is not the case. Those independent groups cannot raise that kind of money from the corporations and they cannot run those ads with your name in them.

Someone said: That is all well and good, but what if the Supreme Court throws out the Wellstone amendment, throws out Snowe-Jeffords, and says that is unconstitutional? Then we are left with your limits and these independent groups can go ahead and raise all this money and run those ads.

The amendment says if the Supreme Court finds the Wellstone amendment or the Snowe-Jeffords provisions unconstitutional, my amendment falls. It will not be enacted. It will not be part of the campaign finance reform law.

If the Supreme Court finds the Wellstone amendment is unconstitutional and these groups go ahead and raise that money and run those ads against you, then the limits in my amendment do not pertain. All bets are off. But as long as Wellstone is constitutional, as long as Snowe-Jeffords is constitutional, then the voluntary limits would be there and the provisions of a 2-for-1 match, if you went off, would also pertain.

Bob Rusbuldt, executive vice president of the Independent Insurance Agents of America, said recently, ''campaign finance reform is like a water balloon; You push down on one side, it comes up on the other.''

I think that is what will happen. We ban the soft money; we increase hard money. Push down one side, it goes up the other side. Who are we kidding? We are going to continue to raise hundreds of millions, billions of dollars for these campaigns. My amendment will burst that water balloon and make the existence of loopholes irrelevant, by creating voluntary spending limits and providing a strong incentive for candidates to comply with them. That is what this amendment is about.

Again, I am going to be very frank. The voluntary limit for my State of Iowa would be about $2.1 million. In 1996, when I ran for reelection, I spent $5.2 million. Can I abide by $2.1 million? You bet I can. As long as my opponent has to—fine. We can run our campaigns the old fashioned way—at the grassroots. Then we will not have to be buying ad after ad after ad, countering back and forth and all that stuff. Then maybe we will get down to real debates about issues and things people care about, without just hiring ad agencies to buy all these ads.

On each desk is a copy of basically what the amendment does, and a list by State of what the limits would be.

I conclude this portion of my remarks by saying, again, this is the crazy uncle in the basement no one wants to talk about. Everybody wants to talk about stopping how we raise money, getting rid of soft money, but no one wants to talk about cutting down on how much we spend. Let's start talking about it. Now is the time to do something about it. This voluntary limit is constitutional and it will answer the other side of the campaign finance reform debate that heretofore we have not addressed.

I yield whatever time the Senator from Minnesota requires. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 44 minutes remaining.

Mr. HARKIN. I yield 15 minutes to the Senator.

Mr. WELLSTONE. I may not need 15 minutes. The Senator from North Dakota is here, as are others.

First, I say to my colleague from Iowa and other Senators, I do want to talk about the amount of money we spend. I am very honored to be a cosponsor of this amendment with the Senator from Iowa. I think this is a great amendment. This amendment could very well pass in the Senate because it makes a lot of sense. It is just common sense.

My colleague from Iowa has described what this amendment is about. I do not know that I need to do that again. We are talking about voluntary limits. Then what we are saying is, if you agree to that voluntary limit but the opponent doesn't, then you get a 2-to-1 match for however many dollars your opponent goes over this limit. This amendment makes the McCain-Feingold bill, which deals with the soft money part, quite a strong reform measure.

I say to my colleague from Iowa, I believe so strongly in this amendment for a couple of different reasons. First of all, here is something else we have not talked about, and we need to, as incumbents. In all too many ways the system is wired for incumbents. This amendment probably comes as close as you can come to creating a more level playing field. It really does. Many more people would have an opportunity to run with this amendment part of the law. They really would.

I think there is quite a bit of pressure on people. It seems to me, if this is the law of the land and candidates step forward and say, absolutely we will agree to this limit because we do not want to be involved in this obscene money chase, we will agree with this limit because we want there to be more debate and fewer of these poison ads and all the rest, we will agree because we know people in Iowa and Connecticut and North Dakota and Minnesota do not like to see all this money spent, I think it is going to be much more difficult for another candidate to say, no, I won't agree with this limit; I want to buy this election. Then you have the additional disincentive of the 2-to-1 match.

This is a perfect marriage. In one stroke, it dramatically reduces the amount of money spent, dramatically reduces the power of special interest groups, dramatically reduces the cynicism and disillusionment people have about politics in the country, and dramatically increases the chances of a lot of citizens thinking they can run for the Senate, that they might be able to do this, they might be able to raise this amount of money and they would not lose because someone could just carpet bomb them with all sorts of ads and all sorts of resources. This is a great reform amendment.

I also make another point. I just finished saying the system is wired for incumbents but that I think all of us are going to want to support this amendment. The truth is, in one way it is wired—but it is so degrading. Who wants to have to constantly be on the phone asking for money? Who wants to be traveling all around the country constantly having to raise money? Who wants, every day of the week during your reelection cycle when you want to be out on the floor debating issues and doing work for people on your State, to have to be on the phone for whatever time, every single day, making these calls?

None of it is right. This amendment is just a commonsense amendment, such a modest amendment, yet it has such major, major ramifications, all in the positive and all in the good for how we finance campaigns.

This is really one of the great amendments. I thank Senator HARKIN for his work on it, and I am very proud to be a part of this effort.

I am going to finish by making two other quick points. I say this being a little facetious, but I do not think it is a bad point to make. I say to Senator HARKIN and Senator DORGAN, this should be called the good food amendment. The reason I think it should be called the good food amendment is when you no longer have to go to these hotels for the $1,000—oh, I forgot, now it is $2,000, actually $4,000—when you no longer have to go to these hotels for these $2,000 and $4,000 contributions

and eat the rubber chicken meals, now you get to campaign in the neighborhoods. I get to eat Thai food and Vietnamese food and Somalian food and Ethiopian food and Latina and Latino food. You get to be at real restaurants with real people out in the neighborhoods, out in the communities. You get to stump speak. You get to debate. This is the good food amendment. We will all be healthier if we support this amendment. I am trying to get to my colleagues through their stomachs, I guess.

This is the last point I want to make because I want to end on a very serious note. The voluntary spending limit for Minnesota would be $2,604,158. Could I campaign and have a chance to ''get my message out'' on $2.6 million if we would have both candidates agree? Absolutely. Do I, today on the floor of the Senate, want to make a commitment that if this amendment is agreed to and becomes the law of the land that I will abide by this voluntary spending limit if my opponent would do so or—I am sorry, it doesn't matter. The answer is: Yes, I am ready to do this. This would be a gift from Heaven, from my point of view, because I am tired of all of the fundraising. And I haven't even started. I am not even doing what I am supposed to do. I am tired of it. So I am ready to say right now, if this amendment becomes the law of the land, I am going to abide by it. I want to be one of the first Senators to step forward and say I agree.

I think a lot of Senators will. I think it will be a lot better for us, whether we are Democrats or Republicans. It will be a lot better for the people we represent. It will be a lot better for Iowa and Minnesota. It will be a lot better for representative democracy. It will be a lot better for our country.

This is a great amendment. I hope it gets overwhelming support.

I yield the floor.

Mr. HARKIN. I thank my friend from Minnesota. The Senator makes a good point. I am going to have some more data on how much money was raised in the last cycle and what this might mean, but in terms of time, let's be honest about it. How much time do we spend on the phone raising money and traveling on weekends, going here and there? This would help us because now we can spend more time in our States, meet with people, spend more time, as you say, around the coffee tables in the small cafes and restaurants rather than running all over the country trying to raise money all the time. I think the Senator makes a good point on that. It will bring us closer to representative democracy.

Mr. WELLSTONE. It would bring us closer to the people we represent and bring the people closer to us, all of us, in whatever State.

Mr. HARKIN. Mr. President, so far as I see, we have done a lot of good things in the McCain-Feingold bill. We rejected a lot of bad amendments. It looks good. But all in all, the way our campaigning financing system is today, it is still an incumbent protection system. It is still incumbent protection.

For example, in the 2000 election, the average incumbent raised $4.5 million, while the average challenger raised $2.7 million. This helps to level that playing field a little bit.

I also point out the statistics that in the 2000 election cycle, Senate candidates spent $434.4 million in hard money. If we had had this voluntary limit in existence in the 2000 election, Senate candidates would have spent $113.4 million, a difference of $321 million less than Senate candidates would have had to raise in the 2000 election.

I think we would have had better campaigns, and we would have had better issue-oriented campaigns in the 2000 election cycle. That $321 million represents how many hours, how many days, and how many times Senators have to travel all over the country and have to get on the phone to raise the money, as Senator WELLSTONE said, when those Senators could be in their home State meeting with their constituents?

I yield 10 minutes to my colleague from North Dakota.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I thank the Senator from Iowa for yielding the time.

Mr. President, there are some who continue to insist that, gosh, there is not too much money in politics. In fact, they say there is not enough. What we really ought to do is make sure that everything is reported and let anyone contribute any amount at any time they want to contribute. I think that is a fairly bankrupt argument.

I ask the American people if they think, in September or October of an election year as they turn on their television sets, that there is too little politics or too little money in politics. They understand there is far too much money in this political system. We ought to change it.

The Supreme Court, in a rather bizarre twist, which happens from time to time across the street, said Congress can limit contributions. That is constitutional. But it cannot limit expenditures of campaigns. That would be unconstitutional. The Supreme Court struck down a provision in a previous reform that had some limits and said: We are going to limit contributions, but you can't limit expenditures.

In this debate for nearly 2 weeks about campaign finance reform, there are no serious discussions about limited expenditures, except for the discussion initiated today by Senator HARKIN from Iowa. You can't get at this problem unless you begin to talk about trying to find a way to limit expenditures in campaigns. How do you do that?

Some stand up and want to test the waters. Some want to make waves. Fortunately, the Senator from Iowa wants to make waves. There is a big difference. He wants to do something that works.

There are some in this debate who want to do just enough to make the American people think they have done something but not so much that we would solve the problem.

I am for campaign finance reform, some would think, but I am really not for that which has enough grip to solve this problem.

You don't solve this problem unless you find a way to deal with this question of campaign spending.

This has become, as some of my colleagues have said, almost like auctions rather than elections, with massive quantities of money moving in every direction—hard money, soft money, $1 million here, $500,000 there, and $100,000 in this direction.

So we have McCain-Feingold. I support McCain-Feingold. But I must say it has changed in the last 6 or 8 days. I regret that yesterday the McCain-Feingold bill was changed by my colleagues who said we need to add more hard money into the political system. That is not a step forward. That is a retreat. Nonetheless, I will still vote for McCain-Feingold.

But the Harkin amendment makes this McCain-Feingold bill a better bill. It addresses the bull's eye of the target by saying we can construct a set of voluntary spending limits with mechanisms that will persuade people to stay within those limits. Because if someone waltzes in and says they are worth a couple billion dollars, that they intend to spend $100 million on the Senate seat, if they do not like it, tough luck. We have a series of mechanisms now described by my colleague in this amendment that says that is going to cost them. They have every right to spend that money, but, by the way, their opponent is going to have the odds evened up because their opponent is going to get twice as much as they are spending over the voluntary limit through fees that are through checkoffs of income tax, from a fund that provides some balance in our political system.

The funding of politics has almost become a political e-Bay. It is kind of an auction system. If you have enough money, get involved, and the bid is yours. We bid on a Senate seat. Here is how much money we have. We have big friends and bank accounts. So this Senate seat is ours.

That is not the way democracy ought to work. That is not the way we ought to have representative government work.

Some while ago, I was in the cradle of democracy where 2,400 years ago in Athens, the Athenian state created this system of ours called democracy. This is the modern version of it. What a remarkable and wonderful thing.

But democracy works through representative government when you have the opportunity for people to seek public office and the opportunity to win in

an election in which the rules are reasonably fair.

There are circumstances where that still exists.

I come from a family without substantial wealth. I come from a family without a political legacy. I come from a town of 300 people. I come from a high school class of nine students. I come from a rural ranching area in southwestern North Dakota, and I pinch myself every day thinking: What a remarkable privilege it has been for the many years that I have had the opportunity to serve in the Congress. It still happens.

But I must say that in modern elections, in cycle after cycle, it is less and less likely that someone without massive quantities of money is going to be able to be successful against other candidates who have access to barrels of money that they can pour into the television commercials, along with their partners and the independent organizations that can pour massive amounts of unlimited money into the same election and affect the result.

My colleague says we can change that. I like the mechanism that he establishes to do that. I don't think it does violence to the McCain-Feingold bill at all. In fact, this bill is reform. If you come to the Senate floor and say you support McCain-Feingold because you stand for reform of campaign finance, then you must, it seems to me, come to this floor and say you stand for this amendment because this amendment is real reform added to this bill.

I will not diminish the McCain-Feingold bill. I have great respect for Senators MCCAIN and FEINGOLD. And I have long supported this legislation and have not wavered from that support. I commend them for what they have done and for establishing leadership on this issue. Were it not for them, we would not be on this floor at this time discussing this subject.

Make no mistake. While this may not lead in the polls, this subject is important to the preservation and strength of this democracy of ours.

But, I say again, I don't want people to tell me that we must oppose this amendment because we must keep this fundamental bill pure. This bill will be better, this bill will be strengthened, and this bill will move further in the direction of reform with the amendment offered by Senator HARKIN.

In the last debate some 6 or 8 years ago in the Senate on this subject, I offered an amendment that was reasonably similar to this. It said that you establish voluntary spending limits, and if someone goes over the spending limit, they pay a fee equal to 50 percent of that which they are over the spending limit, and the FEC collects the fee and transmits that fee to the opponent, which I thought was a delicious and wonderful way to penalize those who want to spend millions and millions and millions of dollars in an attempt to buy a seat in the U.S. Congress.

We ought not have advantages for incumbents. We ought to have elections that are contests of ideas between good men and women who want to offer themselves for public service. The outcome should not always be determined by who has the most money.

The amendment offered by my colleague from Iowa is a very significant step in the right direction. It is voluntary spending limits, but spending limits that are attached to a construction of a pool of money that would be available through checkoffs available to help challengers and others in circumstances where one candidate says they are going to open the bank account and spend millions and millions in pursuit of purchasing a seat in the U.S. Congress.

I am happy to come today to support this amendment. I say to my colleagues, if you have been on the floor talking about reform in the last 2 weeks, do not miss this opportunity to vote the way you talk. This is reform. This adds to and strengthens McCain-Feingold, make no mistake about it.

So I am very pleased to support this amendment. I hope my colleagues will support this amendment. I hope we can adopt this amendment because this is a significant step.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. How much time does the Senator from Iowa have remaining on this side?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. DODD. I inquire of my friend and colleague from Kentucky, I presume if we need some additional time, as Members come over, we can let it flow. Two and a half hours, is that what we have agreed to on this amendment?

The PRESIDING OFFICER. Two hours evenly divided.

Mr. DODD. Two hours.

If we need a little time for some reason—obviously, Members may want to be heard—I presume we will follow some rule of comity.

Mr. MCCONNELL. Yes. I say to my friend from Connecticut, there should not be a problem. I do not think we will be swamped with speakers on this side. We will be glad to try to work to accommodate this and have the vote before lunch.

Mr. DODD. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. I ask for 10 minutes.

Mr. HARKIN. I am happy to yield it.

Mr. DODD. Mr. President, I commend my colleague from Iowa and my colleagues, as well, who have spoken today—Senator DORGAN and Senator WELLSTONE—for their support of this amendment. I, too, support this amendment.

Senator DORGAN has said it well. Senator WELLSTONE has said it well. This is true reform. If we are really interested in doing something about the money chase, both in terms of contributions and the rush to spend even more in the pursuit of political office in this country, then the Harkin amendment offers a real opportunity for those who would like to do something about this overall problem by casting their vote in favor of his amendment.

Senator HARKIN has explained this amendment very well. It is a voluntary provision. It does level the playing field. I, too, over and over again over the past week and a half have expressed my concerns and worry about the direction we are going. I made the point the other day that we are shrinking the pool of potential candidates for public office in this country.

At the founding of our Nation, back more than 200 years ago, the only people who could seek public office and could vote were white males who owned property. Pretty much those were the parameters. Of course, we abandoned those laws years ago. Nonetheless, that restricted the number of individuals, obviously, who could seek a seat in the Congress—the Senate or the House—or a gubernatorial seat.

Unfortunately, what has happened over the years, particularly in the last 25 years or so, is we have created new barriers to seeking public office. The largest of those barriers is the cost of running for public office, the cost of raising the dollars, and the cost of getting your voice heard. One of the reasons that has occurred, and one of the difficulties we have had, is because of the Supreme Court decision back in 1974 that said money is speech.

Justice Stevens, to his great credit, in a minority opinion in that decision, said money is not speech; money is property. He was exactly right. But the majority of the Court held otherwise. And because of that decision, we have been plagued with our inability to come up with a structure that would slow down and provide some ability to manage what has become a reckless system, in my view, that is only available to those who can afford to ante up and enter it.

There are those, obviously, who will be able to emerge in this process, even though they do not have the financial resources. But the problem is those are going to become more the exceptions than the rule. That is my great concern and worry; there will be fewer and fewer people, who have great ideas, great ambition, great energy, a great determination to do something, who can even think about holding or running for a seat in the Senate or the House of Representatives.

We have taken the concept that is included in the Harkin amendment and applied it to Presidential contests—not exactly, but at least the notion of public financing. Every single Presidential candidate for the last 25 years has embraced public financing for Presidential races. Even the most conservative of those candidates has taken the

public moneys in order to try to keep down the cost of running for the Presidency, and that is an expensive undertaking. It has not made it inexpensive to do it, but I would suggest, in the absence of those provisions—and it is a voluntary system—President Bush, the present occupant of the White House, did not take public moneys during the primary season, but when it came to the general election, he did. There will be reasons you will hear of why he did, but the fact is, by doing so, he accepted limitations on how much would be spent in those races.

Ronald Reagan, to his great credit, one of the great heroes of the conservative movement, accepted public moneys in both the primary and the general election, as has every other candidate. But what Senator HARKIN has offered, and those of us who are supporting him—while not applying that same set of rules—is the same philosophical idea.

Mr. HARKIN. No public financing.

Mr. DODD. No public financing, but the notion that we have public controls, in a sense, limitations on how expenditures are made, if you are faced with challengers who are going to spend unlimited amounts of their own personal resources in order to be heard.

I happen to believe, as I said a moment ago, that money is not speech, anymore than I think this microphone that is attached to my lapel is speech or anymore than the speaker system in this Chamber is speech. Those are vehicles by which my voice is heard; it is amplified. You can hear me better than you would if I took this microphone off and the speakers were turned off. If I spoke loud enough, you might hear me, but in the absence of those technological assistances, my voice would be that of any other person without the ability to have it amplified.

Money allows your voice to be amplified. It is not speech. It just gives you a greater opportunity to be heard. So I fundamentally disagree with the Court's decision on the issue of money being speech.

In fact, the notion of free speech in American politics today is, as one editorial writer in my home State of Connecticut said, an oxymoron. There is nothing free about political speech in America today. It belongs to those who can afford to buy it. That is what it is. There is nothing free about it.

So this amendment really does give us an opportunity to control the expenditure side, which is tremendously valuable. As some have said repeatedly over the last several days, we may not get back to this subject matter again, considering how difficult it was to get here. It may have been Senator DORGAN who made the point we owe a debt of gratitude to our colleagues from Arizona and Wisconsin, Senator MCCAIN and Senator FEINGOLD, for insisting that this debate be part of the public agenda this year; and that if their opponents, or even some of their supporters, are accurate, it might be another quarter century before we come back to this debate again, and then the appropriateness of the Harkin amendment is even more so. Because if we do not come back to the expenditure side of this, at some future date our successors in these seats will be looking at campaigns that are double and triple and quadruple the amount we are spending today.

If you look at what we were spending 25 years ago—the Senator from Iowa and I arrived on the very same day in the Halls of Congress; both a little leaner and had a little more dark hair in those days——

Mr. HARKIN. That is true.

Mr. DODD. But we have been here together for those many years.

In those days, statewide races in Iowa and Connecticut were a fraction of what they are today. If we extrapolate those numbers and advance them 20 years or so down the road, we are doubling it, which would probably be around $10 to $13, $14 million to seek a seat in Iowa or Connecticut in a contested contest, maybe more. Imagine how difficult it would be for some young person, some young man or woman in Iowa or Connecticut today, thinking one day they might like to be a candidate for the Senate. We ought to tell them today, if they are thinking about it, in the absence of the Harkin amendment being adopted, they had better be prepared to finance themselves or have access to something in the neighborhood of $10 to $15 million.

The pool of people I know in my State and, I suggest, in Iowa—and the Senator knows his State better than I do—is a relatively small number of people who could even think about coming to the Senate under that set of circumstances.

I applaud the Senator for this amendment. I urge my colleagues to support it. I am fearful we are not going to get very far with this. I hope I am wrong on that, but I tell the Senator from Iowa, if we don't pass this today, someday we will. It will take some other outrageous set of circumstances, much as it did in 1974, to provoke this institution to do what it should have done before then. Unfortunately, it will probably take that happening again to bring this body and the other Chamber around to the point the Senator from Iowa has embraced with this amendment.

I commend him for it. I support it. I am hopeful our colleagues will join him in adopting the amendment. This will add immensely to the label "reform" on the McCain-Feingold legislation.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that an outstanding column by George Will on the subject we have been debating for the last 9 days, from this morning's Washington Post, be printed in the RECORD.

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

[From the Washington Post, Mar. 29, 2001]

THE SENATE'S COMIC OPERA

(By George F. Will)

The overture for the Senate's campaign finance opera—opera bouffe, actually—was indignation about President Bush's decision against cutting carbon dioxide emissions. Reformers said the decision was a payoff for the coal industry's campaign contributions. But natural gas interests, rivals of the coal interests, suffered from Bush's decision—yet they gave Republicans more money ($4.8 million) last year then coal interests gave ($3.37 million).

The "reforming" senators began their reforming by legislating for themselves an even stronger entitlement to buy television time at a discount, and by voting themselves a right to take larger contributions (up to $6,000, rather than just $1,000) when running against a rich, self-financing opponent. The Supreme Court says the only permissible reason for limiting political speech by limiting money is to prevent corruption or the appearance thereof. The Senate did not explain why it is corrupting to take $6,000 when running against an opponent with a net worth of X but not corrupting when running against an opponent with net worth of 10 times X.

The Senate refused to ban, as nine states do, lobbyists from contributing to legislators when the legislature is in session. John McCain, at last noticing the Constitution, and this inhibition on political giving is constitutionally problematic, presumably because it restricts the rights to political expression and to petition for redress of grievances.

Constitutional scrupulousness is a sometime thing for McCain, who once voted to amend the First Amendment to empower government to do what his bill now aims to do—ration political communications. For example, his bill would restrict broadcast ads by unions and corporations and groups they support in the two months before a general election or 30 days before a primary if the ads mention a candidate.

In a cri de coeur revealing the main motive for many "reform" politicians—a motive having nothing to do with corruption or the appearance of it—Sen. Pat Roberts (R–Kan.) said: "I'm suffering an independent expenditure missile attack, and I don't have my shield." Campaign finance reform is primarily an attempt by politicians to shield themselves from free speech—from, that is, the consequences of the shield James Madison wrote to protect the people from politicians: "Congress shall make no law . . . abridging the freedom of speech."

Last Saturday McCain's partner, Wisconsin Sen. Russell Feingold, delivered the Democrats' response to President Bush's weekly radio address. With the reformer's characteristic hyperbole, Feingold attempted to reconnect reform with "corruption." He said: "Members of Congress and the leaders of both political parties routinely request and receive contributions for the parties of $100,000, $500,000, $1 million."

Well. There are 535 members of Congress. In the last two-year (1999–2000) election cycle, there were 1,564 contributions of $60,000 or more from individuals and organizations. So all those legislators supposedly "routinely" receiving such contributions for their parties receive, on average, fewer than two a year. The total value of all 1,564 was $365.2 million, a sum equal to one-fourteenth the amount Procter & Gamble spent on advertising during the same period.

The New York Times accurately and approvingly expresses McCainism: "Congress is unable to deal objectively with any issue, from a patients' bill of rights to taxes to energy policy, if its members are receiving vast

open-ended donations from the industries and people affected.'' Oh. If only people affected by government would stop trying to affect the government—if they would just shut up and let McCain act ''objectively.''

If you doubt that reformers advocate reform because they believe that acting ''objectively'' means coming to conclusions shared by the New York Times, read ''Who's Buying Campaign Finance Reform?'' written by attorney Cleta Mitchell and published by the American Conservative Union Foundation. It reveals that since 1996, liberal foundations and soft money donors have contributed $73 million to the campaign for George Soros, founder of drug legalization efforts and other liberal causes, has contributed $4.7 million, including more than $600,000 to Arizonans for Clean Elections—more than 71 percent of the funding of ACE.

Soros and seven other wealthy people founded and funded the Campaign for a Progressive Future. One of those people, Steven Kirsch, contributed $500,000 to campaign ''reform'' groups in 2000—and $1.8 million against George W. Bush. Another reformer, Jerome Kohlberg, donated $100,000 to a group that ran ads saying ''Let's get the $100,000 checks out of politics.''

Let's be clear. These people have and should retain a constitutional right to behave in this way, putting the bouffe in the opera bouffe.

Mr. McCONNELL. Mr. President, a professor of law at the University of Kentucky College of Law also wrote an excellent op-ed piece in the Lexington-Herald Leader in my home State on Tuesday, essentially echoing many of the arguments a number of us have made against the underlying bill over the last 9 days. I ask unanimous consent that article be printed in the RECORD.

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

[From the Lexington-Herald Leader, Mar. 27, 2001]

CAMPAIGN FINANCE BILL TREADS ON OUR RIGHTS

(By Paul Salamanca)

I've heard it said that more than a hundred legal academics agree that the McCain-Feingold campaign finance reform bill does not violate the First Amendment. I'm not one of them.

Believe it or not, political parties are expressive associations. The First Amendment protects one's right to speak freely, to write freely, to assemble peaceably and to petition the government for redress of grievances (in other words, to complain). The first, second and fourth of these precious, hard-fought liberties are most effectively exercised through association.

That's because almost all of us—me included—are too busy, too poor or too inarticulate to speak effectively by ourselves. But when we pool our time, talent and treasure, we can move mountains, expressively speaking. And the third of these liberties, peaceable assembly, explicitly protects association.

Because political parties are dedicated to the discussion and formulation of ideas, and to the identification and promotion of people who will implement those ideas, the First Amendment protects the American Civil Liberties Union, the Sierra Club, the National Association for the Advancement of Colored People and the National Right to Life Committee. Like these associations, the Democratic and Republican parties are expressive. Thus, limitation on the amount of money people can give to political parties is constitutionally indistinguishable from a limitation on the amount of money people can give to the ACLU or the NAACP.

The upshot of this is simple: The giving of ''soft money'' to political parties is an exercise of First Amendment rights, and a flat ban on soft money is unconstitutional.

One argument to the contrary is that soft money is a weak form of bribery. But this argument operates from the implausible assumption that political parties are, in fact, the government. But this cannot be true. If an association formed to criticize the government is, in fact, the government, then we have a case of a shark trying to eat itself.

Another provision of McCain-Feingold would ban or sharply limit advertising by private groups that refers to a candidate by name. This too would violate the First Amendment. At its core, the First Amendment is designed to facilitate discussion of political issues and candidates by the ultimate sovereign in the United States: ''We the People.'' So, if the First Amendment doesn't protect a group's right to say ''Vote for X because of X's position on such-and-such issue,'' it wouldn't be worth the toner it takes to print it.

Thus, issue advertising, so much maligned these days, is an important form of advocacy. In fact, it's the most effective form of speech available to non-profit expressive associations, such as the NAACP.

To preclude such groups from running ads that refer to candidates before elections—or to impose so many regulations on their ability to do so that many would give up trying—would seriously interfere with free speech.

There are those who say that issue ads—ads that end by saying something like ''Please call X and tell X that such-and-such a policy is bad'' (in other words, the very ads that McCain-Feingold would limit or ban)—are nothing more than thinly veiled pieces of express advocacy.

But this couldn't be a more cruel irony because non-profits would love to expressly advocate the election of X or the rejection of Y without mincing words. The only reason they don't is fear of overly aggressive interpretation of existing federal law by the Federal Election Commission.

Indeed, this state of affairs gives rise to two distinct anomalies. First, people watching TV are annoyed by issue ads that don't come right out and express a preference, when the associations running the ads would dearly love not to mince words. Second, people, like Sens. John McCain and Russ Feingold can use this annoyance, which itself is the product of federal regulation, to justify further regulation of speech.

And make no mistake: McCain-Feingold would regulate speech. To the extent the bill would fall short of literally banning issue advertising, it would accomplish about the same thing, at least with regard to small associations and associations whose members want to remain anonymous, by imposing onerous accounting and reporting requirements on issue advertisers.

McCain-Feingold is unconstitutional. If it passes Congress, the president should veto it—with or without paycheck protection, with or without a severability clause. And Kentucky's senior senator, Mitch McConnell is right to oppose it.

Mr. McCONNELL. Mr. President, there is much not to like in the Harkin amendment and one provision that has some appeal. I will talk about the provision that has some appeal at the end.

As I understand the Harkin amendment, it is taxpayer funding with a little different twist. What the Senator from Iowa has shrewdly done is suggest that the spending limit in his amendment is voluntary.

What in fact happens is, you have candidate A and candidate B. Let's assume candidate A, who is a well-known incumbent who doesn't need to spend as much to get his message home, is up against an unknown challenger, and that unknown challenger knows he needs to spend more to have a chance to win. As soon as that unknown challenger encroaches above the Government's specified spending limit, the Treasury of the United States provides $2 out of our tax money for every $1 the noncomplying candidate gets to spend. In other words, a hammer comes down on a noncomplying candidate just as soon as they encroach above the Government-specified speech limit—hardly voluntary.

That is sort of like a robber putting a gun to your head and saying: I would like to have your wallet but you, of course, really don't have to give it to me.

If you choose to exercise your right to speak beyond the Government-prescribed limit, bad things happen to you. The Federal Treasury of the United States gives you $2 for every $1 your opponent is spending to bludgeon you into submission.

The second part of the Harkin amendment is interesting in that it relies on volunteered tax money to provide the funding. This is different from the Presidential system where, as we know, we are able, if we choose, to check off $3 of tax money we already owe and to divert it away from things such as children's nutrition and food stamps and other worthwhile activities into a fund to pay for the Presidential elections. As I understand the Harkin checkoff, the taxpayer is actually asked to volunteer an additional sum of money from his return.

I predict to my friend from Iowa, there is going to be darn little participation in that. We know what the checkoff rate has been among taxpayers when it doesn't even add to their tax bill. The high water mark was in 1980, when it was slightly under 30 percent of taxpayers. There has been a steady trend downward to the point last year there were 11.8 percent of taxpayers volunteering money they already owed—it didn't add to their tax bill; it was money they already owed—to go to pay for buttons and balloons and campaign commercials and national conventions.

My colleagues get the drift. There is not a whole lot of interest on the part of the American taxpayer to pay for our political campaigns. In fact, we have a huge poll on that every April 15. The most massive poll ever taken on any subject is taken on the subject of using tax dollars for political campaigns. That poll is taken every April 15 on our tax return. Even when it doesn't add to our tax bill, about 10 percent of Americans choose to participate; 90 percent choose not to.

I say to my friend from Iowa, I don't think this will be a very reliable source of funds if the taxpayer actually has to ante up and provide money for a candidate he doesn't know. The chances of an American taxpayer choosing to donate money to a nameless candidate is virtually nil, I suggest.

A slightly differently nuanced version of taxpayer funding than we had before us earlier, the Kerry amendment, got 30 votes. I hope this amendment will get no more than 30 votes.

We have come a long way on this subject. Earlier in the Senate careers of the Senator from Connecticut and the Senator from Iowa and myself, we were actually debating taxpayer funding of elections and spending limits for campaigns on the floor of the Senate. That kind of bill actually passed the Senate in 1993. We have come a long way.

It is noteworthy that the underlying McCain-Feingold bill does not have any PAC ban in it. It doesn't have any tax money in it. It doesn't have any spending limits on candidates in it. We have come a long way.

Now all we are debating is whether or not we are going to destroy the great national parties, which I think is a terrible idea. We will get back to that issue later.

The Senator from Iowa sort of resurrects one of the golden oldies, one of the ideas from the past that sort of moved right on out of the public debate, by offering once again an opportunity for the taxpayers to subsidize candidates. There is a serious constitutional problem in the Treasury of the United States bludgeoning a noncomplying candidate who chooses to speak as much as he wants to with a 2-for-1 match out of the Treasury, $2 out of the Treasury for every $1 the poor challenger is trying to raise to get his name out. It seems to me that has serious constitutional problems.

There is one provision in the amendment of the Senator from Iowa I do find intriguing, and I commend him for it. That is the importance of the principle of nonseverability in this kind of debate. As I think our colleagues may remember—if they don't, let me remind them—the last three campaign finance reform bills that cleared the Senate, that actually got out of this body, had nonseverability clauses in them. In fact, on this subject of campaign finance, it is more common to have nonseverability clauses in them than out of them. The norm has been to have nonseverability clauses in campaign finance reform bills.

The Senator from Iowa—I commend him for this—links his amendment to the Snowe-Jeffords language in a nonseverability clause. And I commend the Senator from Iowa for doing that because it is a clear understanding that these kinds of bills are fraught with constitutional questions—fraught with them. And it is entirely appropriate to have linkages within these bills. It doesn't necessarily have to apply to the whole bill. And the amendment that the Senator from Tennessee, Mr. FRIST, will be offering early today does not link the whole bill. But it is entirely common and appropriate to add nonseverability clauses in these kinds of bills. I commend the Senator from Iowa for recognizing that principle. Even though I don't like the substance of his amendment, I do think the recognition of the importance of that principle is worthy of commendation. I commend him for that.

Mr. President, beyond that, I find not much to like about the amendment of the Senator from Iowa. I hope it will not be approved. I don't know if we will have other speakers on this side. For the moment, I reserve the remainder of my time, which is how much?

The PRESIDING OFFICER. The Senator has 51 minutes.

Mr. DODD. Before my colleague from Iowa speaks, I wonder if we might do this. For the purpose of informing our colleagues who are inquiring as to when this vote might occur, is it a noon vote? Is that how my colleague feels about that, another half hour?

Mr. HARKIN. That is fine.

Mr. DODD. A noon vote. To let people know, why don't we do a unanimous consent request.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at noon a vote occur on the Harkin amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I want to respond and maybe get in a little colloquy with my friend from Kentucky. I appreciate the struggle he has had with the logic of his argument. But, quite frankly, I think the logic is somewhat unsound. My friend from Kentucky talks about a challenger out there, someone who wants to run for the Senate who has a message, such as Senator DODD talked about, someone who has an idea, some convictions and issues they want to bring out. They want to run for the Senate.

The Senator from Kentucky says, rightfully, that they need some money to get that message out and, by putting this limit on it, they would not be able to spend any more to get their message out than, say, an incumbent. Of course, we have access to the airwaves and the newspapers and all that kind of stuff. So a challenger might want to have more money.

Well, again, to attack the logic of that is to look at the facts. In the 2000 election, the average incumbent raised $4.5 million—the incumbent—us—to get our message out. The average challenger raised $2.7 million. So under the present system, the challenger can't get that message out. He is swamped by what we can raise.

Mr. MCCONNELL. Will the Senator yield?

Mr. HARKIN. Yes, I will, in a second.

Now in the amendment I am offering, they would be equal in terms of how much they could raise to spend. In fact, this amendment would help any of those challengers out there to get the message out.

Mr. MCCONNELL. I say to my friend from Iowa, the problem is that spending is not important to the incumbent. As the Senator pointed out, the incumbent is already well known at the beginning of the campaign. If you liken this to a football field, the incumbent is down on the opponent's 40-, maybe 35- or 30-yard line at the beginning of the race, the typical challenger is back on his own 5. If they both have the same amount of money to spend, the incumbent wins. Spending beyond the Government-prescribed amount is way more important to the challenger than it is to the incumbent.

So simply adding up the figures doesn't tell you much. I mean, it is true that incumbents spend more than challengers; but it is almost irrelevant to the problem of the challenger, which is to have enough to get his message across. Having enough clearly is in the eye of the beholder. We incumbents, of course, will always set the limits low enough to make it very difficult for anybody to get at us.

For example, I believe the spending limit in Kentucky is $2.5 million under the Senator's proposal. That is about $300,000 or $400,000 more than I spent 17 years ago in a race in which I was outspent by the incumbent and won. That is about what two competitive House candidates spent last year, each, in one of our six congressional districts.

The proposal of the Senator from Iowa would be a big advantage to me, unless I happen to have been running against Jerome Kohlberg, about whom we have been talking every day. I will get back to that later today in another context. That billionaire put this full-page ad in the Post a couple days ago. These kinds of people are going to be more and more running the show—people of great wealth. This may help you guys because most rich people are liberals. We are going to have to come up with really rich conservatives, too, unless I am running against Jerome Kohlberg, in which case I am going to clearly be outspent. I don't need the Government, if I am a challenger, telling me how much I can spend, and I certainly don't need the Government giving the incumbent $2 out of the Treasury just as soon as I am beginning to get my message across and trying to catch up with that guy to head toward the end zone.

So I understand what the Senator is doing. I appreciate his recognition of the importance of nonseverability clauses. But this won't help challengers at all. In fact, it will be a great boon to incumbents.

Mr. HARKIN. Mr. President, again, the Senator's reasoning flies in the face of facts. That is why his reasoning is specious. Look at the data. In the last election cycle, incumbents had $4.5 million, challengers had $2.7 million. I will tell you what; I dare my friend from Kentucky to go out and ask any

challenger who ran in the last race if they would have accepted this kind of a deal. They could spend as much money as the incumbent in the campaign. I will bet you, you would find very few who would turn that offer down, if they could keep the incumbent down, keep them at the same level. That is why I say I think the reason flies in the face of the facts.

Mr. MCCONNELL. The challenger might accept it, but it would be good for second place. The point is, if in a typical race, if you are a challenger, your biggest problem, unless you are very wealthy, or a celebrity, or war hero, is that nobody knows who you are. The Senator set the spending limits at such a level that almost no incumbent would ever lose.

Mr. HARKIN. Let's take this analogy of the football field. You are right. Both of us have been on the same side. I have been a challenger running against a sitting Senator, and so have you. And we have run as incumbents. We have seen both sides of this. Now, I suppose all things being equal, I would rather be an incumbent, obviously. But there are certain advantages to not being an incumbent. As I remember, when I ran, I had an open field. I am on the 5-yard line, the incumbent Senator is on the 30-yard line. But guess what. I am out there every day. I am in that State every day getting my message out from town to town, community to community, newspaper to newspaper, radio show to radio show. The person sitting here has to be in the Senate all year long. So I had a great advantage. The challenger has a great advantage. That field is open. The Senator starting on the 30-yard line goes from one side, to the other side, to the other side before he gets down to the end of the field. That challenger is open.

So I have to tell you that even though the incumbent has some advantages of being an incumbent in the newspapers and elsewhere, a challenger has advantages from being out there all the time. You know that as well as I do. We have done that in the past.

Mr. MCCONNELL. It may be an advantage to be out there all the time, but if you don't have the money to be on TV, and the Government tells you how much you can advertise, it is not much of an advantage up against the incumbent who is getting all this free coverage—the advantage that any incumbent will have no matter how you structure the deal.

Mr. HARKIN. You are getting that anyway.

Mr. MCCONNELL. It is a great asset.

Mr. HARKIN. Not only are you getting all of this free press and stuff from being a Senator, you are getting the money, too.

Mr. MCCONNELL. Right.

Mr. HARKIN. There is nothing I can do about you getting publicity. That comes with the territory of being a Senator. I am saying you should not have it both ways; you should not have the money and all of the protections that incumbents have. You can't do anything about all the stuff—the stuff a Senator gets. We can set voluntary limits.

I say to my friend from Kentucky I know how strongly he feels about public financing. Perhaps my friend was right the other day when he said polls show that people don't want their tax dollars used for public spending for people such as Lyndon LaRouche. My friend is probably right there. That is why I think there is another hammer—and you are right, this is a hammer—because there is no public financing in my amendment unless and until someone exceeds the limits. It is that person who triggers, then, the financing that comes from a voluntary checkoff.

Now, my friend says, well, there probably won't be enough money there because the people are not checking off as much money as they used to. Is that right? I think the Senator said that is what is happening. Well, the fact is, I have talked to a lot of people about the checkoff. Do you know why they don't want to give money to the checkoff? We just spend it.

We buy more TV ads, we hire more ad agencies, and the price keeps going up and up. They say: Why should I check off money to give to a candidate and all I do is see more of these soap ads, selling them like soap to me?

Under my amendment, a person checking off the money is putting money into a reserve fund to prevent that from happening. There is another hammer there because the person who exceeds the limits is the one who triggers the public financing.

If my friend is right, that people do not like public financing, that is another reason why someone would not exceed the limits. That is another reason why I think people would be more prone to check off the money because the money would basically be used to prevent this unregulated, unlimited spending on ads.

I say to my friend from Kentucky, I do not know if he listened to my argument on that, but this will get people to check off more money because then it would be used not to just add to the coffers of spending and buying more TV ads, but it would be put into a reserve fund as a hammer to keep us from spending more and more money.

Mr. MCCONNELL. I say to my friend from Iowa, he is counting on people who do not contribute to candidates they know to contribute to candidates they do not know, to contribute their money to a nameless candidate and cause with which they might not agree.

The Senator from Iowa is correct; under his amendment there would be no taxpayer funding provided you complied with the Government speech limit. The problem is, if you do not, your complying opponent gets tax dollars from the Government to counter your excessive speech. That is the constitutional problem with the proposal of the Senator from Iowa.

I do not think that makes the spending limit voluntary if, when you encroach above the Government-prescribed speech limit, the Government subsidizes your opponent. That is more than a hammer, that is a sledgehammer.

Also, it is worthy to note that all of the challengers who won last year, as far as I can tell—and the Senator from Iowa can correct me if I am wrong—I believe all the challengers who won last year spent more than the spending limits in his amendment, further proving my point that a challenger needs the freedom to reach the audience. To the extent we are drawing the rules, crafting this in such a way that we make it very difficult for the challenger to compete, we are going to win even more of the time. Of course, incumbents do win most of the time, but we would win more of the time if we had a very low ceiling.

In any event, my view is this is clearly unconstitutional. It is taxpayer funding of elections, more unpopular than a congressional pay raise, widely voted against every April 15 by the taxpayers of this country.

We have had this vote in a slightly different way on two earlier occasions. The Wellstone amendment got 36 votes; the Kerry amendment got 30. I hope the amendment of the Senator from Iowa will be roundly defeated.

I do applaud him, however, for recognizing the importance of nonseverability clauses in campaign finance debates.

UNANIMOUS CONSENT REQUEST—AUTHORITY FOR COMMITTEES TO MEET

Mr. MCCONNELL. Mr. President, I have 10 unanimous consent requests for committees to meet during today's session of the Senate. They have all have been approved by the majority and minority leaders. I ask that these requests be agreed to en bloc and printed in the RECORD.

Mr. DODD. Reserving the right to object, I ask my friend and colleague if he will withhold that request for a few minutes. I will share with him a message I am getting. I will let him know about it.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. At this juncture, at this particular moment.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—Continued

AMENDMENT NO. 155

Mr. DODD. Mr. President, I saw my colleague from Minnesota, but I guess he is not now on the floor. We have a couple minutes. My colleague from Kentucky and I talked about this the other day. He makes a very good point about the declining participation in the checkoff system. In fact, the dollar amounts have been raised. If my friend from Kentucky is correct, originally it was $1 for the checkoff. You are not

paying more in taxes. It is the money you send in. The checkoff of $1 of your tax returns would be used for the public financing of Presidential races. That number then went up to $3 because there were fewer and fewer people who were actually doing the voluntary checkoff.

His numbers, I believe, are correct. We have seen a decline in the number of people who are voluntarily checking off that $3 of their Federal taxes they are sending in or that are being withheld to be used for these Presidential races.

I am worried about that because I think there is an underlying cause for this. The debate we are having about campaign finance reform, while we are not going to adopt public financing for congressional races despite the fact there is a lot of merit going that route in terms of dealing with the constitutional problems that exist in the absence of having some public financing, there is an underlying reason that I think contributes to that declining statistic, and that is the people are disgusted with the whole process.

I do not think it is people's lack of patriotism or their lack of understanding how important it is to contribute to strengthening our democracy. People are getting fed up. Witness that last year despite the overwhelming amount of attention and advertising on a national Presidential race, a race that included Ralph Nader and the Green Party, there was Pat Buchanan and the Reform Party, the Democratic candidate, Al Gore, and his running mate from my home State, JOE LIEBERMAN; President Bush and RICHARD CHENEY. Out of 200 million eligible voters in this country, only 100 million participated. One out of every two eligible voters in this country decided they were not going to make a choice for President of the United States and Vice President, not to mention the congressional races, the Senate races, and gubernatorial races that occurred.

On the Federal election for the leader of the oldest continuous democracy in the world, one out of every two adults in this country said they were not going to participate. I know some may have had legitimate excuses, but I suspect a significant majority of those who did not participate knew it was election day, did not have some overriding family matter that caused them to miss voting. I think they made a conscious decision not to vote. I think they decided they were not going to show up, and I cannot express in our native language adequately the deep, deep concern I have over that fact and what appears to be a growing number of people.

I hear it particularly among younger people. I visit a lot of high schools in my home State of Connecticut. I get a sense that too many of our younger people are embracing the notions held by one out of every two adult Americans in the last election, that they are not going to participate by showing up to choose the leader of our country. I suspect that a good part of the reason is that people are just disgusted by what they see and how elections are run when they see this mindless advertising, these 30-second spots, the attack ads that go after each other as if this was somehow an athletic contest rather than a debate of ideas where we are talking about the future of our country and what the priorities of a nation ought to be.

I, too, am very concerned with the declining statistics that my friend from Kentucky has identified, but I think it is more a poll not about public financing, I think it is a poll we ought to pay attention to, what the American people are saying, at least in the majority of cases, I believe: We think the system is not working very well. We think the system is out of control. We think there is too much money in politics; that our voices do not get heard; that we cannot afford to participate in these contests where contributions of $1,000, now $2,000 per individual, that people can write a check now for $37,500 if this McCain-Feingold bill is adopted.

Last year—I said this over and over in the past week and a half—there were only 1,200 people in this country who wrote the maximum check of $25,000; 1,200 people out of 280 million Americans. We now have raised that because this hasn't been enough. We are told you can't finance these campaigns with maximum contributions of $25,000 in Federal elections. We are raising it to $37,500. That is per individual, per year. Double that for a primary election. That gets you to $75,000. Of course, if it is a husband and wife, it is $150,000. We had to debate that. I commend my colleague from California who negotiated that number down.

Those who wanted that number higher wanted $100,000 per individual, $200,000 for a husband and wife. We are told the system is financially bankrupt. We don't have enough money in politics, we are told.

That has more to do with these declining numbers of people voluntarily checking off for some of their tax dollars to be used to publicly finance the Presidential races in America. I am hopeful the adoption of the McCain-Feingold bill, if it is adopted, will at least turn people's opinion in a direction that says at least we are beginning to do something about these elections.

For those reasons, I commend, again, the principal authors of this bill and those who are supporting it. But I don't think it is enough. People are still turned off, to put it mildly, on how the races are run and on how politics is conducted. There will always be some; I am not suggesting we will get 100-percent participation. I oppose any laws that require people to vote as some countries do. We better do a lot better job in convincing more than just one out of two adult Americans they ought to participate in choosing the leaders of our Nation than we presently are.

If those numbers continue to decline and we trail the rest of the world as we lecture them about democracy and the importance of participating, I will say again, you put this country in peril and these institutions that have survived for more than 200 years, and the public support for them will decline. That, more than anything else, is what ought to preoccupy the attention of each and every one of us, regardless of our views on the particular aspects of amendments. Every single one of us privileged to serve in this Chamber, who have a voice and vote on how we might conduct the political debate in this Nation, needs to take notice of what the American public is saying when they go to the polls or don't go to the polls on election day and exercise their right that people have spilled blood for, for over two centuries, not only in our first great revolution but in a civil war that threatened to divide and destroy this country, through two world wars, wars in the 20th century and other such contests in which Americans, in countless numbers, lost their lives to protect and defend.

We are not asked to put our lives on the line. We voluntarily seek these positions. If we are fortunate enough to be chosen by our constituents to be here, we bear a very high degree of responsibility during the brief amount of time the Good Lord gives us to represent the constituencies that have chosen us to do what is right, not only for our own time but that future generations will inherit, as we have inherited, from the sacrifices of those who came before us, the privilege of being here to see to it that this wonderful ideal and vision of democracy is perpetuated throughout this country for, hopefully, centuries to come.

For those reasons, I hope while this amendment may be rejected, we could find more common ground between Democrats and Republicans on how to restore the public's confidence in the electoral process in this country. That is at the heart of what McCain-Feingold is all about, despite all the debates about various minutiae in the bill or ideas to be added to it. Our solemn responsibility, in addition to dealing with the issues of the day, is to see to it the process by which we choose people to make those decisions enjoys the broad-based support of the American public. It is in jeopardy today. We better take it more seriously than we are.

I yield the floor, suggest the absence of a quorum, and ask that the time be charged against the bill.

The PRESIDING OFFICER (Mr. BUNNING). Without objection, it is so ordered. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I rise today in support of the amendment

being offered by my friend and colleague from Iowa, Senator HARKIN. Earlier this week, Senator KERRY and I offered a similar amendment that called for voluntary spending limits and partial public financing. Senator HARKIN's amendment differs in some respects to the proposal that we offered, but it still seeks to alleviate the same problem: How can we reduce the obscene amount of special interest money that is being spent in Senate campaigns today? And while I know that Senator HARKIN's amendment will not pass, I nevertheless believe that it is truly needed to reform our campaign finance system.

Since 1976, while the general cost of living has tripled, total spending on congressional campaigns has gone up eightfold. For the winning candidates, the average House race went from $87,000 to $816,000 in 2000. And here on the Senate side, winners spent an average of $609,000 in 1976, but last year that average shot up to $7 million.

The FEC estimates that last year more than $1.8 billion in federally regulated money was spent on federal campaigns alone, and that doesn't even count the huge amount of soft money that went into attempts to influence federal elections. That has been roughly estimated to reach as high as nearly another $700 million.

I have been calling for public financing of congressional campaigns for a very long time: since 1973, my first year in this body. And, as my colleagues who have been here for a while know, I have taken to this floor again and again over the years to urge us to solve the public's crisis in confidence and do the right thing.

To be clear, I would prefer full public financing of campaigns that would reduce spending and completely eliminate the link between special interest money and candidates. I have long held that such a system is the only true, comprehensive reform that would help restore the American people's faith in our democracy and allow candidates to compete on an equal footing where the merits of their ideas outweigh the size of their pocketbook.

But as the problems in our system have escalated in recent years, so too has my despair over our failure to see real reforms enacted, not just debated. That is why I am here again to see that we take at least a step toward achieving these much needed reforms. Senator HARKIN's amendment is one such step, and urge my colleagues to support it.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 155. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. AKAKA) would vote ''aye.''

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

The result was announced—yeas 32, nays 67, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—32

Bayh	Dayton	Levin
Biden	Dodd	Lieberman
Bingaman	Dorgan	Murray
Boxer	Durbin	Nelson (FL)
Byrd	Feingold	Reed
Cantwell	Graham	Reid
Carper	Harkin	Sarbanes
Clinton	Hollings	Stabenow
Conrad	Inouye	Torricelli
Corzine	Kennedy	Wellstone
Daschle	Leahy	

NAYS—67

Allard	Fitzgerald	Miller
Allen	Frist	Murkowski
Baucus	Gramm	Nelson (NE)
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Breaux	Hagel	Rockefeller
Brownback	Hatch	Santorum
Bunning	Helms	Schumer
Burns	Hutchinson	Sessions
Campbell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Chafee	Jeffords	Smith (OR)
Cleland	Johnson	Snowe
Cochran	Kerry	Specter
Collins	Kohl	Stevens
Craig	Kyl	Thomas
Crapo	Landrieu	Thompson
DeWine	Lincoln	Thurmond
Domenici	Lott	Voinovich
Edwards	Lugar	Warner
Ensign	McCain	Wyden
Enzi	McConnell	
Feinstein	Mikulski	

NOT VOTING—1

Akaka

The amendment was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I ask unanimous consent that the Senator from Delaware be added as a cosponsor of the Harkin amendment.

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

Mr. LOTT. Mr. President, we have been prepared for 2 months now to have this full debate and votes on amendments, and to actually get to a conclusion. Senator MCCAIN and I have talked, and Senator MCCONNELL and I have talked, and the agreement all along was that we would have amendments, full debate for 2 weeks, and then we would go to a conclusion.

I assure the Senate that we are going to do that. We can do it tonight at a reasonable hour, we can do it at midnight, or Friday, Saturday, or Sunday. But I think we have a responsibility to complete action on this bill.

I hope the concern I have now that maybe amendments are going to start multiplying when, in fact, there are no more than one or two amendments that really are still critical that are out there to be offered and debated and voted on—maybe there are more. And I don't want to demean any Senator's amendment, but we have been on this now for the agreed-to almost 2 weeks. Anybody who thinks that by just beginning to drag this out and coming up with more amendments, we will carry it over until next week, that is not going to be the case.

Everybody has labored—sometimes with difficulty—to be fair with each other and give this thing a full airing and get some results, and you can debate about whether they are good or bad as long as you want to. At some point, we have to vote and move on.

We have very serious problems in this country. We need to address them. We have to pass a budget resolution. We have to take into consideration the needs of the country in terms of funding for programs, whether it is education, agriculture, defense, health care. We need to take whatever actions we can to provide confidence and a boost in job security and the economy. We have an energy crisis that will not go away. We need to get on to those issues.

Again, not to demean this issue at all—it is very important—but we will have done what we promised to do, and now it is time we begin to look for the conclusion and be prepared to move on to other issues next week. I just wanted to remind Senators on both sides of our discussion and my commitment to follow up with the agreement.

Mr. MCCAIN. Will the majority leader yield?

Mr. LOTT. Yes.

Mr. MCCAIN. I thank the majority leader, and I thank Senator MCCONNELL and Senator DODD, who have managed this bill, I think, with efficiency and, I believe, in a total environment of cooperation.

But as we said all during last week, a couple times when we only had two or three amendments, we intended to be done by tonight or the end of this week. We have disposed of some. We will have an amendment that I think is very important that is about to be addressed soon. After that, there are not any major issues. We should finalize this bill so that we can move forward and none of us has to stay here over the weekend.

I want to say the majority leader is correct. We all agreed that we could get this thing done in 2 weeks if we allowed the 2 weeks. So there is no reason whatsoever that we should not enter into time agreements on specific amendments and a time for a final vote on this amendment.

Mr. LOTT. I thank Senator MCCAIN. That discussion was not just between Senator MCCAIN and me, but also with the Democratic leader, Senator FEINGOLD—we were all in the loop. We all had an understanding of how we would bring this to an eventual conclusion.

Mr. MCCONNELL. Will the leader yield?

Mr. LOTT. I am glad to yield to Senator MCCONNELL.

Mr. MCCONNELL. I say to the distinguished majority leader, nobody more

passionately opposes this bill than I do, but I am prepared to move to final passage today. There is one important amendment left on nonseverability, which is about to be the pending business before the Senate.

I say to my friend from Arizona, we may have a few sort of cats-and-dogs amendments, as Senator DOLE used to call them, but we are basically through on this side.

Mr. LOTT. Can I inquire of Senator DODD, does he have any idea what might be outstanding and when we can move to a conclusion on this legislation?

Mr. DODD. I will be happy to, Mr. President. First of all, the past week and a half has been a rather remarkable week and a half in the Senate. We have had very few quorum calls. I do not know the total number of amendments we have considered, but they have been extensive, back and forth.

I find it somewhat amusing that someone else's amendment is a cat or a dog, but if it is your amendment, it is a profoundly significant proposal.

We dealt yesterday with the opposition's efforts to raise the hard number limits, and now a severability amendment from the opposition. Those are fundamentally important amendments but amendments that may try to enhance and strengthen the bill from those who support the legislation are a cat or a dog.

Our list has not expanded, I say to the majority leader. The list of amendments is about the same as it has been. There are about 12 or 13 amendments. There is a list of 21, which has been the consistent number for the past week. We just dealt with one of them—Senator HARKIN's—this morning. It was laid down last night. Senator BINGAMAN, Senator DURBIN, Senator DORGAN, and Senator LEVIN come to mind immediately. I think Senator CLINTON as well. These do not require much time.

We are prepared to move forward, I say to the majority leader, and if it takes going into tonight, going into tomorrow to finish it up, Saturday, or Sunday, whatever it takes, because I know we want to finish the bill, we fully respect that. I support that.

I have an obligation—if I can complete this thought. There are those on this side who support McCain-Feingold, and have for years, who have ideas they think will enhance and strengthen this legislation. While this is an important amendment we are about to consider, there are other amendments that should be heard.

I hope my colleagues will respect the rights of Members to offer amendments and be heard on them. There certainly is no effort over here to delay this at all. We will stay here however long, I am told by the leadership. Unfortunately, the Democratic leader cannot be here at this moment, but I am told he takes the position that if it takes being here all weekend, we will be here all weekend to complete it.

Mr. LOTT. I want everybody to understand that I am prepared to do that, too. Instead of that being a threat, it is a promise, No. 1, but No. 2, it is to urge Senators to work with the managers to identify the amendments we are going to have to consider, and if it can be done by voice vote, let us get time agreements on them. We should be prepared to move to table, if that is what is required, too.

We have an opportunity to make progress and complete this bill. We are going to do that. I want to make sure everybody understands it, so everybody needs to start making plans, if we are going to have to stay here Friday and Saturday, and take actions to allow that to happen.

Mr. DODD. A point, if I can, Mr. President. I am informed that we have dealt with 24 amendments about equally divided; 24 left, I am sorry, both Democratic and Republican amendments.

I know, for instance, Senator LIEBERMAN and Senator THOMPSON have an amendment, one of the outstanding amendments. Maybe it can be worked out. Senator BINGAMAN has one that has been worked out. It is important to note there is a good-faith effort obviously to complete this work, but I do not want to see us put in a position now, having considered a lot of these amendments, that we are going to start telling people who have had amendments pending—Senator DURBIN has been on me and talking to me for the past 10 days about when can he bring his amendment up; also Senator HARKIN and Senator LEVIN.

I have been trying to orchestrate this the best I can, but I do not want them put in the position of all of a sudden because we completed the amendments the opponents of the legislation care the most about, that we are going to deny or curtail in some way the rights of other Senators who care just as deeply about their proposals and not provide adequate time for them to be heard.

We are prepared to go forward. I know the next amendment is from Senator FRIST on severability. I have a number of requests, I say to the majority leader, from people who want to be heard on this amendment. I know the proponents of the amendment do as well.

Mr. REID. Before the majority leader leaves the floor——

Mr. LOTT. I will be glad to yield to Senator REID.

Mr. REID. I said this morning, I have been working trying to help Senator DODD. One of my assignments has been to work with individual Senators. We have had people, as Senator DODD indicated, who have been waiting the entire 9 days we have been on this floor to offer amendments. They come to me and Senator DODD a couple times a day.

Looking at simple mathematics, I say to the majority leader, it is going to be really hard to do this. If we cut down the time by two-thirds, it is still going to get us into sometime tomorrow. If that is the case, that is the case.

Senator BINGAMAN, Senator DURBIN—these people want to offer their amendments.

Mr. LOTT. I say to Senator REID, he always does good work, not just with Senator DODD but with this side, too. He is an ombudsman for us all. We do not want to cut off anybody, but all I am saying is we are going to complete this bill this week and everybody needs to know that. If we go into Friday, Saturday, or Sunday, I only have one commitment, and I really did not want to do it anyway, so I will be delighted to stay here.

With that, I yield the floor.

Mr. DODD. Is there some particular constituency in Mississippi the Senator wants to inform?

Mr. LOTT. Actually, it is in a State other than my home State.

Mr. DODD. I thought the majority leader might want to make that clarification. I think we are prepared now to go to the Frist amendment.

AMENDMENT NO. 156

Mr. FRIST. Mr. President, I ask for immediate consideration of my amendment, which I believe is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for himself and Mr. BREAUX, proposes an amendment numbered 156.

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

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

The amendment is as follows:

(Purpose: To make certain provisions nonseverable, and to provide for expedited judicial review of any provision of, or amendment made by, this Act)

On page 37, strike lines 18 through 24 and insert the following:

(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 a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

(b) NONSEVERABILITY OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—If one of the provisions of, or amendments made by, this Act that is described in paragraph (2), or if the application of any such provision or amendment to any person or circumstance, is held to be unconstitutional, then all the provisions and amendments described in paragraph (2) shall be invalid.

(2) NONSEVERABLE PROVISIONS.—A provision or amendment described in this paragraph is a provision or amendment contained in any of the following sections:

(A) Section 101, except for section 323(d) of the Federal Election Campaign Act of 1971, as added by such section.

(B) Section 102.

(C) Section 103(b).

(D) Section 201.

(E) Section 203.

(c) JUDICIAL REVIEW.—

(1) EXPEDITED REVIEW.—Any Member of Congress, candidate, national committee of a political party, or any person adversely affected by any provision of, or amendment made by, this Act, or the application of such a provision or amendment to any person or circumstance, may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that such provision or amendment violates the Constitution.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia granting or denying an injunction regarding, or finally disposing of, an action brought under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under paragraph (1).

(4) APPLICABILITY.—This subsection shall apply only with respect to any action filed under paragraph (1) not later than 30 days after the effective date of this Act.

Mr. DODD. Mr. President, can I have a copy of the amendment? We have not seen the amendment.

The PRESIDING OFFICER. It is on its way. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak to the amendment which has been offered by myself and Senator BREAUX that I believe gives us the opportunity—and I encourage my colleagues to pay attention to the debate over the next 2 or 3 hours because it gives us the opportunity to assess where we are today in the bill, as amended, and to understand the implications for each of us, for people who are interested in participating in the political process both today and also for years to come.

I am going to refer back, again, to set the big picture and then update my colleagues, to a diagram that I believe is important. It is simple, but sometimes when we look at all these lines, it is confusing, and that is the nature of the whole campaign finance apparatus. This chart summarizes that when you pull or push in one area, it has effects throughout the system. It is very important because the issue we are addressing is what is called the nonseverability and the severability clause in the underlying McCain-Feingold bill.

Money flows into the system from the top of my chart down to the bottom. This is the political process. At the top of the chart is where money comes from, and it is all these blue lines. My colleagues do not need to focus on what these blue lines are right now, but I do want them to focus on the funnels, where this money is collected and where it goes.

As I said before, there are seven funnels, when one looks at all the political money that comes in and where it goes to affect free speech, political voice.

We have the individual candidate who can receive money from individuals, and we will talk about what we did yesterday in increasing what I call the contribution limits in terms of the hard dollars, the Federal dollars.

There have been changes to the underlying McCain-Feingold bill that are very positive. What angers people the most is that the individual candidate is losing his or her voice today. It might be a challenger; it might be an incumbent. Over time, because of the erosion from inflation on the one hand, without any adjustments in the Federal dollars of the hard dollars, but also the increasing influence, this is what angers the American people, the influence issue groups, special interest groups have on the system, all of which, if it grows too much, will overshadow and overwhelm the voice of the individual candidate.

They might be talking education, Medicare reform, military defense of the country, but the issue group, the unions, the corporations right now that have to disclose very little, because very little is regulated in this arena, have become increasingly powerful at the expense of the individual candidate who is out there doing his or her best, traveling across Tennessee or across any State in this country with a voice that no longer is being heard.

I say that because it is this relative balance that has gotten out of kilter. Members on both sides of the aisle have been doing their best to address this over the last 2 weeks.

Political action committees, we talked a little bit about that, as long as we understand that corporations, unions, issue groups can all channel money, political action groups, to the individual candidates.

The Democratic Party and the Republican Party are in this box on this chart, and we traditionally have been able to collect both Federal hard dollars and soft or non-Federal dollars. Again, it all has been disclosed. Everything in the green on the chart is fully disclosed. You can hold people accountable to that.

That is where the party system has worked. Our party system has traditionally worked to accentuate or amplify the voice of the individual candidate. You can see that the party hard money goes to the individual candidate, the soft money subsequently will be used to reinforce that voice of the individual candidate.

It is very important to understand this role of the party has real value in a system today which has changed radically, which, unfortunately, has pulled the power away from the individual candidate over to the corporations, unions, the special issue groups, groups created specifically around an issue used to overpower the voice of the individual candidate.

Again, this part of the chart—the party hard and party soft money, PACs, and individual candidates—has very little disclosure by corporations, unions, issue groups—very little in terms of accountability or regulation.

What have we done? This is where we are today having not passed the underlying bill as of yet. What have we done over the last 10 days of the discussion? We have had good amendments today that have been debated in a very thoughtful way. We saw the earlier chart with the funnels still on the chart.

With the underlying McCain-Feingold and the amendments that have passed, we have the following:

Yesterday, we increased the contribution limits. We already had contributions defined historically but we increased the hard dollar limits for the individual candidates. We argued yesterday. Some people were for, some were against, and a compromise was reached. We have to point out the fact that the value of the individual contributions, even in what we approved yesterday, is not the same value we gave it in 1974 because it does not meet a correction for inflation. That was increased yesterday. That helps a little bit. Again, it is not up to 1974 standards, but it helps to give more voice to the individual candidate. That is why that is important. That is why you had the people who feel strongest about reform coming forward saying, absolutely, on both sides of the aisle, we have to increase these limits that individual candidates can receive.

Second, the underlying McCain-Feingold bill does something very important. I am spending time with this because we have to see that the compromise achieved in McCain-Feingold has resulted in a balance. We have to be very careful not to disrupt. Not us in the Senate. We have spoken on it through an amendment earlier this morning, but we had the careful balance disrupted by the courts, resulting in a detrimental impact on the overall system, which does the opposite of what we as elected officials want or the American people want—making the system worse.

No. 2, McCain-Feingold, as amended today, increased contribution limits but takes out party soft money from individuals, through corporations, unions, issue groups through sponsorships. All the soft money that comes to the parties is gone. That just about wipes out 50 percent of what the Republican Party, say, of the Senate, has, along with the impact it can have. So it diminishes our voice perhaps 20 percent, perhaps 50 percent, perhaps 60 percent. Whatever our voice is now, which, again, is fully disclosed, highly regulated, where we can be held accountable, aimed at giving voice to the individual candidate, it, today, if McCain-Feingold passed, now is gone. Why? Because we have eliminated the soft party money.

The third key point applying to our amendment, you can see we are wiping out the party soft money which gives

voice to the individual candidate. The balancing act achieved in the underlying McCain-Feingold bill is that, since we restricted speech, or we rationed political discourse, or we have in some way put restrictions on the use of resources that affect speech, you sure better do it out here as well. If you don't, I guarantee the money will keep coming to the system, and the money instead of coming here will all flow to the area of least resistance. That is, the special interest groups, the unions, the corporations.

It is not any more complicated than that, but I am building up to be able to answer why you have the nonseverability.

Now I have dollar signs indicated on this chart and I will come back to that. They don't mean anything in terms of overall quantity. Qualitatively, you can see the individual candidate spends money, the party spends money, the party soft money is gone under McCain-Feingold. The restrictions put in for constitutional reasons are the Snowe-Jeffords amendment; we voted on it earlier today.

Put restrictions on speech party soft money here, and you counterbalance that with restricting speech or rationing speech or basically saying 60 days before an election you can't engage fully in political speech under the Jeffords-Snowe provision.

It attempts to limit the role and influence of special interest versus candidates and parties through the electioneering provision. It doesn't take care of direct mail, phone calls, or get out the vote. That money can come over and include that, but the electioneering, the broadcast provisions are of Snowe-Jeffords. I will come back to that.

The careful balance, achieved by a compromise, no question. As we have gone through this process and as McCain-Feingold was developed in negotiation, it is a compromise, trying to achieve balance. The underlying bill tried to achieve balance and the two provisions we are talking about today are underlying provisions. They are not amendments added on, a poison pill, but two existing provisions we will link together in this narrow, highly targeted nonseverability clause. Those are linking party soft money with the Snowe-Jeffords provision.

McCain-Feingold has attempted to achieve balance by eliminating party soft money and having the Snowe-Jeffords provision. That balance has been achieved as crafted by the authors in the original bill and not altered by amendments. That is very important because people will say what about the Wellstone amendment. That is not part of this. It is the underlying provisions. McCain-Feingold is built on that basic understanding I have just outlined.

I argue that the last thing we want to do is upset that balance for the reasons I said. We have the potential for opening the floodgates if we allow party money to be eliminated and all of a sudden we remove, for constitutional reasons or a court does later, the Snowe-Jeffords amendment.

The next chart will show what would happen if all of a sudden we took the restrictions off here and said Snowe-Jeffords is unconstitutional, that is what the courts decided would happen. This is what, potentially, might happen if our amendment does not happen.

Again, this side of the chart is basically the same as McCain-Feingold. We have eliminated the party. As I have said, if you take the restriction on speech, the Snowe-Jeffords restriction on speech, off, the money is going to still come into the system and it can't go this way. It can't go to individual candidates because we have limits there, the hard money limits. It has nowhere to go but to flow to the area of least resistance, and the area of least resistance is corporations, unions, issue groups that all of a sudden have unregulated, no-limits, no-caps—for good constitutional reasons, I argue—and you can see the dollar signs. Ultimately, we do exactly what we don't want to do. We increase the interest and the role and the power of the special interests versus the individual candidates and the parties.

That is the impact. That is the big picture. I think that linkage is critically important.

As to the specifics of the amendment, first of all, it addresses this balance. Second, it is narrow, it is targeted, and it is focused. The media has been saying this is a poison pill because if you strike down one part of McCain-Feingold the whole bill falls. That is wrong. That is false. This is narrow and targeted. It does not apply to the whole bill. It links just the two provisions, the Snowe-Jeffords provision with the ban on soft money—nothing else. The linkage is for a good reason. It is because the impact on one has an impact on the other. They are complementary; they are intertwined. That is why that nonseverability is absolutely critical to prevent the possibility of this happening.

The nonseverability clause ties together just those two provisions and nothing else. When I say it is narrowly tailored, a narrowly tailored nonseverability clause, it is basically because everything else will stand. If the Snowe-Jeffords provision is ruled to be unconstitutional and therefore the cap is released, the party soft money elimination will be invalid; again, coming back to the original balance. Other provisions in the bill stand. It is just those two. The other provisions, which will not be affected by this nonseverability clause, are provisions such as the increased disclosure for party committees, the provision clarifying that the ban on foreign contributions includes soft money, the clarification of the ban on raising political money on Federal Government property. All of that stands. We are talking about just these two provisions to which I have spoken.

The provisions on independent versus coordinated expenditures by political parties are unaffected by this amendment. The coordination provisions of the bill, the portions of the bill such as tightening the definition of independent expenditures, the provisions providing increased reporting of independent expenditures—again, all of these provisions of the McCain-Feingold bill are not excluded as a part of our amendment today. It has to be one of the two provisions to which I have spoken.

Another point I want to mention, and it will probably be talked about over the next couple of hours, is the fact that this narrowly targeted nonseverability clause also provides a process for expedited judicial review of any court challenges to these two provisions. The purpose of that clearly is that challenges—we don't want to be held up in court with a lot of indecision over the years.

All this does, as part of this nonseverability clause, its purpose, is to provide that if the provisions of this legislation that restrict the ever-louder voice of the issue ads—which, again, are poorly disclosed and poorly regulated—are declared unconstitutional, just the Snowe-Jeffords provisions, then the provision that weakens the voice of the individual candidate and of the party would not be enforceable.

Simply put, sort of boiling it down: The person running for public office will not be left out here defenseless, without any voice, if our effort in McCain-Feingold as the Snowe-Jeffords provision falls, if the courts say no, we are going to take this cap off here—which clearly, just looking at the dollar signs, would put the individual candidates again at a point where they are almost helpless as they are trying to make their point.

The history of severability legislation I am sure we will go to. I will not address that.

Let me answer one question because we were talking as if this were a poison pill because people bring in editorials saying this is a poison pill. It is clear, a poison pill, to me, is if you give somebody a pill and they drop dead and they are gone. We are not adding a new entity or provision to the bill. All we are doing is linking two provisions that are already in the bill. They are in the underlying McCain-Feingold bill. They are not amendments that have been added that are trying to poison the bill.

The only thing we are doing is working with two underlying provisions that are already in the bill, saying they are inextricably linked and have an impact one on the other.

Proponents of the bill—we heard it a lot this morning—told us time and time again that this is constitutional, Snowe-Jeffords is constitutional, the ban on party soft money is constitutional. If people really believe that, I think proponents of the bill have nothing to fear by this linkage in our nonseverability proposal.

As we look at what I have presented, we should take this opportunity to look realistically at what is happening in campaigns and campaign finance reform: The sources of money, how it is being spent, whether or not it is disclosed, and where the money is going. In all this we need to make absolutely sure we do not muffle the voices and diminish that role of the individual candidates out there while increasing the role of the special interests or the unions or the corporations.

I hope all my colleagues will study this particular amendment, will carefully consider this balanced and narrowly tailored amendment that addresses what I believe is a critical, critical issue.

Mr. DODD. Mr. President, I yield 15 minutes to the senior Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 15 minutes.

Mr. THOMPSON. Mr. President, I thank my colleague from Tennessee, Senator FRIST, who has done his usual excellent job in laying out his case. I think the concern that is being expressed is a valid concern, in that we need to keep in mind the totality of the system as we are addressing this issue. That is one of the things that makes me feel good about what happened yesterday, because I think that is exactly what we were doing.

If we, for example, had lost Snowe-Jeffords somewhere along the way and just had a soft money ban without any increases in the hard money limit, I think the potential problem that my colleague expressed would really have been a significant one. I do not think that practical problem exists nearly as much as we feared, because even under a worst case scenario, if the disclosure and other provisions of the Snowe-Jeffords even were to fall and we lost soft money in the system—which I think would be a good happening—we have increases in the hard money limit. We have now doubled, under the original bill—we have doubled the amount of money the candidate can have for his own campaign, $1,000 to $2,000; $4,000 in a primary, $4,000 in a general election. We have also increased the amount of money that can go to parties.

We did not increase it as much as I would like, but we increased it. We also increased the aggregate amount. We also increased and doubled the amount that parties can give to the candidates. We indexed all of it.

It is not that we are not in the same position we were when McCain-Feingold started. We have taken some significant steps in order to get some legitimate, controlled, limited, hard money into the hands of candidates and into the hands of parties that they didn't have when this debate began.

The problem that is being addressed today is one of the very kinds of things we were trying to address yesterday. I think this body effectively and overwhelmingly addressed it in the compromise amendment that we have. The proponents of the current amendment for nonseverability, however, make the case that we shouldn't risk the situation where the soft money limitations or abolitions and the Snowe-Jeffords requirements with regard to unions, corporations, and others would be struck down; that there would be an imbalance. My first point is that we corrected and I think significantly corrected that imbalance yesterday.

My second point would be that it is not exactly as if Snowe-Jeffords were some kind of a major happening in terms of the overall picture of any given campaign. In the first place, none of it kicks in 60 days before an election. So anything goes up until 60 days. Part of Snowe-Jeffords is simply a disclosure requirement. It doesn't have anything to do with money. A part of Snowe-Jeffords has to do with corporations and unions within the last 60 days and their expenditures, and that is a money situation.

Let's say that was knocked out, hypothetically. We are all talking hypothetically because obviously none of us knows what a court will do. We have argued the constitutionality of Snowe-Jeffords in the past. For the moment, let's hypothetically say that a 60-day restriction with regard to what corporations and unions could do, and nobody else—no individuals, as Senator WELLSTONE pointed out, for example—is a part of this. I compliment my friend for narrowly tailoring this legislation so we didn't have to deal with all of that. But that is knocked out.

Then we are knocking out some corporate and union money in the last 60 days of the campaign. That is not insignificant. But I am not sure, in the total context of things, that it is all that important. It certainly doesn't justify doing what we may be doing here in terms of nonseverability.

The first thing we need to understand about nonseverability and Congress passing a bill with a nonseverability provision in this is that it is extremely rare. It is rarely done. We asked the Congressional Research Service about it. Their information is that there have been 10 bills introduced or considered in the last 12 years that have had a nonseverability provision in them. They further say that there has only been one bill in the last 12 years where we have passed legislation that contained a nonseverability clause. It is extremely rare in the thousands of bills that passed during that period of time of 12 years. I said: How many public laws were there? They said 12,962. Out of 12,962 pieces of legislation, only 1 of them contained a nonseverability clause.

That is some indication of the rarity and the significance of what we are doing here today, or what is being suggested that we do.

There was a principle established a long time ago in this country that is honored by Congress and is recognized by the judiciary—that in a piece of legislation, which more likely than not will contain several provisions, you can have some parts of it that are constitutional and maybe one part that is not. Strike the unconstitutional part, says the Court, and leave the rest intact.

That is the normal way we have handled things in this country. It is based upon a concept that I think all of us honor and adhere and we talk a lot about. That is the concept of judicial restraint. We have recognized in this country for a long time—and our courts have recognized for a long time—that they should exercise judicial restraint and make constitutional rulings only when necessary. The courts have adopted their own rulings that militate in that direction and cause them not to go off and even consider constitutional issues unless they really have to. It is for the reasons that I explained: Because of the concept of restraint and the benefit we get as a country and that the judiciary gets for adopting judicial restraint, not reaching out to take on more than it should and look for opportunities to strike down laws when they are not even really directly presented to them, and so forth.

I think the Court said it very well in the case of Regan v. Time, Inc., with the Supreme Court plurality decision in 1984. This is a little long, but I think it is important because it gets to the heart of what I am saying.

The Court said:

> In exercising its power to review the constitutionality of a legislative act, a Federal court should act cautiously. A ruling of unconstitutionality frustrates the intent of the elected representatives of people. Therefore, a court should refrain from invalidating more of the statute than is necessary. As this court has observed, whenever an act of Congress contains unobjectionable provisions separable from those found to be unconstitutional, it is the duty of this court to so declare and maintain the act insofar as it is valid. Thus, this court has upheld the constitutionality of some provisions of a statute even though other provisions of a statute were unconstitutional. For the same reasons, we have often refused to resolve the constitutionality of a particular provision of a statute when the constitutionality of a separate controlling provision has been upheld.

I think that states it very well. In summary, I think it has been the law and the practice of the United States for many years. It is a valid one. I think we would all agree that it is a valid one.

Those are the circumstances. No. 1, the extreme rarity of the situation; No. 2, these longstanding principles that our judiciary has. Those are the foundation blocks as we approach this issue this time as a Congress.

What will be the legal effects of a nonseverability clause? Not only has Congress not legislated a nonseverability clause once in the last 12 years, but there are no cases ever in the history of the country where Federal courts have been called upon to construe a nonseverability clause.

We really are in uncharted waters here in terms of how such a clause

might be interpreted. I fear we are getting into an area of unknown consequences, and potential perversive results that we don't fully appreciate.

What will be the probable result? As you think it through, you can see situations very readily that are going to produce perplexities, shall we say, that maybe we can resolve here on the floor—I don't know—and determine what intent the proponents have with regard to this amendment.

Article III of our Constitution says there must be a case in controversy before a person can bring a lawsuit, have it upheld. Any law professors out there, forgive me for my shorthand as I go through this. I want to touch on the general principles, and I hope I get them right.

If you are a litigant, someone challenging this act, you have to have standing. There is a criminal aspect to this statute; if you are a criminal and you are convicted, you have standing. As far as the civil aspects of it are concerned, in any kind of a situation, you have to have a case in controversy, and you have to have standing.

That means you have to be injured directly by the provision you are dealing with or have been convicted of. If the statute is in force, you will be injured, if you sustained injury or you face imminent injury, something like that, not just a general public kind of a potential injury. There was a case back in 1974 where some concerned citizens got together and sued the CIA because they were not disclosing their budget. The courts held that your interests are not any different from any other citizen. You have no standing in this lawsuit.

That little background has relevance because someone challenging these two provisions will refer to them as the soft money provision and the Snowe-Jeffords provision of the McCain-Feingold bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THOMPSON. I request an additional 10 minutes.

Mr. FEINGOLD. Mr. President, I yield an additional 10 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator is recognized for an additional 10 minutes.

Mr. THOMPSON. It has to do with how the cases would come up. If someone, let's say, was convicted under the soft money provision—in other words, somebody sent some soft money to somebody they weren't supposed to after this law was passed, and they got caught doing that and they got charged with and got convicted of it, if you had severability, then that person would clearly have standing with regard to the soft money provision they were convicted of. That is all that would be at issue.

Presumably, if you had nonseverability the way that the proponents of this amendment would suggest, that person who is affected by the soft money provision that he is convicted of, presumably he could also challenge the Snowe-Jeffords part of the bill that has no relevance to him. If so, are we telling the Court, by means of this amendment, to give standing to this person to challenge Snowe-Jeffords when they are not affected by Snowe-Jeffords? If so, we are running afoul of article III because the Congress cannot give people substantive jurisdiction or grant constitutional standing for anyone such as that. If we were trying to do that, we certainly would not be exercising judicial restraint.

During the course of this debate, I hope we can agree on what we are trying to do by means of this amendment. Do we want to be able to allow someone who is affected by one provision to be able to challenge the other provision? That is the question. If the answer to that is, yes, then we can talk about the constitutional implications of that. If the answer to that is, no, that they can only challenge the provision they are affected by, then what about a fellow who is convicted under the soft money provisions, which is held to be constitutional? He goes to jail. Another person comes along, he is sued under the Snowe-Jeffords provision. That is held to be unconstitutional, which wipes out the entire legislation, under this amendment.

So you have the first individual sitting in jail for a period of time under an act that has been declared unconstitutional. Is that what we desire to do?

It is not as easy as it seems. That is one of the reasons Congress has never passed such a law as is being suggested that would allow this particular result. There has never been a Federal case on this subject. There have been a few lower court Federal cases deciding State law. Surprisingly, in some of those cases, in interpreting nonseverability provisions, they have ignored them.

I say to my friends, even if this nonseverability provision passes, which I hope it does not, there is a good chance the Court would ignore it. And, if not a good chance, depending on how it is interpreted as to what Congress' intent is, that it will be declared unconstitutional.

For reasons set forth in Lujan v. Defenders of Wildlife, a 1992 Supreme Court case, the Court made this statement:

> Whether the courts were to act on their own or at the invitation of Congress in ignoring the concrete injury requirement described in our cases, they would be discarding a principal fundamental to the separate and distinct constitutional role of the third branch. One of the essential elements that identifies these cases in controversy is that they are the business of the courts rather than the political branches.

In other words, Congress, you can't tell us what is a case in controversy. You can't tell us that there is a case in controversy out there or that a person has standing in a case when he really doesn't. That is for us to decide. If you are attempting to intrude, you are violating the doctrine of separation of powers.

I hope my colleagues will not view this amendment favorably. It would be not only a reflection on us, but it wouldn't do the judiciary any good. We are in danger, if we pass this amendment, in one fell swoop, of doing something that would be hurtful to two branches of our Government: the legislative branch and the judicial branch—the legislative branch, us, because after all these years, after 25 years we finally get around to addressing this issue, after going through and agreeing or disagreeing, but let's say agreeing on some fundamental principles that we believe ought to be passed, at the same time, in some cases supporting amendments which, in my estimation, pretty clearly have constitutional problems. I don't think that reflects well on us in what we ought to be doing and how we ought to be doing it. It doesn't reflect well on us when we threaten judicial independence or judicial restraint.

There are some broader principles involved. Those principles are involved here. So while I appreciate the concern that has been expressed in terms of balance, in terms of the need for balance—and we saw part of that yesterday—the portion of Snowe-Jeffords that deals with money is a fairly limited segment: Never done this before; treading in uncharted waters; trying to accomplish things we probably cannot, in the end, do.

For all those reasons, I will respectfully urge defeat of the amendment.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I will turn to my colleague from Utah in a minute. First, I will take a moment to respond on our time to at least two of the comments made. It will take just a second.

I appreciate the comments that have been made. The first statement made was about the relative importance of the Snowe-Jeffords amendment. I think it is important because my whole argument is based on this balance of the linkage, the tie between the two. How important is Snowe-Jeffords—the significance of not being able to go on the air 60 days prior to an election. We should not underestimate that because, really, it is the balance between giving the candidate voice and the special interest voice.

Our whole argument is if you are going to take voice away from one, you ought to take voice away from the other. If you are going to give one voice, give the other voice. I point out that Snowe-Jeffords is very important, and that is why we are targeting it in this narrowly targeted amendment. If you just look at special interests, which is in red on this chart, versus party ads, the issue ads, I think, disturb a lot of people. I can't say that all of these ads were in the last 60 days, but anybody who has watched campaigns knows it is really in the last 2

weeks of most of these campaigns, not 3 weeks, 4 weeks, 6 weeks, 8 weeks. The Snowe-Jeffords provision is 60 days. This is just to show that Snowe-Jeffords is critically important, and if we disrupt Snowe-Jeffords, get rid of that limitation on free speech, there will be an infusion of money even greater than today. The special interest ads—again, the ads that Snowe-Jeffords is directed at—amounted to about $347 million in the campaigns we just finished.

The party ad money, which is predominantly soft money, non-Federal money, was only $162 million. What we are basically saying is that if you are going to take off the restriction of Snowe-Jeffords and you are going to allow this money to come flowing into the system, the least we can do for the candidate out there is to allow the party to participate without unilaterally being challenged and overrun by special interests. So Snowe-Jeffords is critical.

No. 2—and other people will comment on this—nonseverability may be rare, I guess, in the big scheme of things, but it has been done a lot—in fact, three times on campaign finance reform, where you do bring people together and you have this rich interaction. Three times we voted for nonseverability clauses on this floor.

Mr. MCCONNELL. Will the Senator yield for an observation?

Mr. FRIST. Yes.

Mr. MCCONNELL. Not only is the Senator correct that the last three campaign finance reform bills that cleared the Senate had nonseverability clauses in them, the amendment we voted on a few moments ago—the Harkin amendment, which was supported by 31 colleagues on the other side of the aisle—had a nonseverability clause in it. In fact, the Senator from Tennessee is entirely correct.

When the subject turns to the first amendment and to the constitutional rights of Americans in these kinds of bills, it is the exception not to have a nonseverability clause in it. I am sure the other Senator from Tennessee was not suggesting that nobody would have standing to bring a case affecting so many different people's constitutional rights. I am confident, I say to my friend, the junior Senator from Tennessee, there will be some Americans who will have a standing to bring a suit against this case. I will be leading them. I thank the Senator from Tennessee.

Mr. FRIST. I thank the distinguished Senator from Kentucky for his comments.

I yield 15 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I was interested to hear Senator THOMPSON say we are in uncharted waters, facing unknown results that we don't fully appreciate. That is the theme of my comments.

I go back to another philosopher, Mark Twain. I can't quote him exactly, but he has been quoted as saying something to the effect that ''prophecy is a very iffy profession, particularly with respect to the future.'' That is where we are. We are all trying to divine what is going to happen in the future if McCain-Feingold passes, as I expect it will, and if it should be signed and upheld by the Supreme Court. What would we face?

Well, I read in the popular press that on the Democratic side, one of their leading campaign attorneys is telling them if McCain-Feingold passes, the Democrats can kiss goodbye any chance of gaining control in the Senate in the 2002 election. That should cause everybody on this side of the aisle to stampede and vote for it. However, there is an equally qualified observer who has spoken to our Members and has said if McCain-Feingold passes, the Republican Party will go into the minority and stay there for 25 years.

Now, obviously, one or the other of these has to be wrong in terms of what is going to happen at the election. But neither one of these observers is an unqualified observer. The reason they have come to these two differing conclusions is that each one is looking at this issue through the prism of his own self-interest. If the Democratic campaign lawyer sees the destruction of the Democratic Party and the Republican campaign consultant sees the destruction of the Republican Party, I submit to you, as murky as our crystal ball may be, the chances are that they are both right—that we are going to see, as a result of the passage of this bill, not the destruction of the party—I won't go to that extent, but certainly a dramatic diminution of party influence in politics in this country.

One very practical example that we can expect is the scaling down, if not the elimination, of party conventions because party conventions now are financed entirely with soft money which, under this bill, would become illegal. So we may see party conventions disappear altogether, or we may see them become very truncated affairs, which the media may decide is not worth covering. This would be good news for an incumbent President. This would be bad news for a challenger trying to prevent a President from seeking a second term. He would be denied the opportunity of exposure that comes from a party convention.

One of the things we will not see as a result of the passage of McCain-Feingold is the elimination of corruption in politics. Corruption comes from the heart of the receiver, not the wallet of the giver. If an individual is corrupt, he is going to stay corrupt, whether or not the ''speech police'' are watching him. He is going to find some way to remain corrupt and to game the system to his advantage. The person of integrity is going to remain a person of integrity, regardless of how many people come waving bills at him to try to get him to change his position solely on the basis of money.

Integrity and corruption does not come as a result of participation in the political process. Integrity and corruption come from the way you were raised, from the way you make your decisions, from the hard commitments you make along the way in life.

There are corrupt people in entertainment and there are people of integrity in entertainment. There are corrupt people in the media and there are people of integrity in the media. There are corrupt people in politics and there are people of integrity in politics, and they will not change on either side just because we pass a bill. So that is the one prediction of which I can be confident. On these others, we are guessing.

I let my imagination run. If the political conventions disappear or become seriously truncated as a result of the passage of this bill, and if I were a special interest group with an unlimited wallet, I would anticipate holding a major convention of my own and invite certain favored speakers. I would gear it in such a way as to get maximum media attention, and those speakers could then get media attention that would come out of attending that convention.

I do believe that we are going to see an increase in political spending of soft dollars on the part of special interest groups in different and inventive ways that we at the moment cannot anticipate. Once again, in the newspaper there is a story of a fundraiser. He signed it himself. He said: Those of us on K Street are already figuring out ways to get around McCain-Feingold and use our soft dollars in a fashion to influence the political situation.

We are going to see, I am sure, an increase in Harry and Louise kind of advertising. Those of us who were on the floor through the debate on President Clinton's health care plan know how powerful those soft dollars were. We know how many those soft dollars were, and we know how totally outside the ambit of McCain-Feingold those soft dollars were. If McCain-Feingold says you cannot give those soft dollars to a party to pay its light bill, well, OK, we will give the soft dollars to Madison Avenue to influence politics in other ways.

One of the other ways the parties are going to be seriously disadvantaged by this bill is in candidate recruitment. Senator FRIST is the chairman of the Republican Senatorial Campaign Committee. When he goes out and tries to convince a reluctant candidate to challenge a Democratic incumbent, one of the first things that candidate says is: If I do this, will you be there for me? Senator FRIST can say now: Yes, we will commit X amount of activity in your behalf. Please, come do this. Do this for the party. Do this for your country. Come do it, and we will be behind you.

Senator MCCONNELL has already laid out the financial implications of McCain-Feingold in terms of the

amount of money that would be available to the senatorial committee if we had nothing but hard dollars based on actual experience. As Senator FRIST goes out to recruit candidates, or as Senator MURRAY goes out to recruit candidates on the other side, she is going to find her ability to attract candidates into this situation will be severely reduced.

The ultimate answer is: We want you to run, but when it comes to financial support, you are on your own; you are not going to get any significant help from the national party in any way because we simply cannot do it. We have to use our hard dollars for things for which we used to use soft money. We simply are not going to have the resources that we would like to have to help you. We will see many outstanding candidates decide they do not want to run under those circumstances.

Make no mistake about it, those in the press gallery who have been talking about the present system being an incumbent protection act, wait until we pass McCain-Feingold and I guarantee you an incumbent will really have to foul his nest in order to lose. This virtually guarantees that no challenger of any consequence will be able to raise the money and produce the organization to take on an entrenched incumbent because the restrictions are so severe that they will not be able to do that.

What does this have to do with the amendment? Simply this: At least as a result of the Wellstone amendment for which I voted, there is a degree of equal damage to the special interest groups. With the Wellstone amendment in the bill, the bill does not unilaterally damage parties and leave special interest groups totally free. Oh, it does leave special interest groups huge loopholes, but it at least, on the advertising phase, says the special interest groups have the same kinds of problems as the parties.

People said to me: Why in the world did you vote for the Wellstone amendment when it is clearly unconstitutional? I voted for it with my eyes wide open. I believe it is unconstitutional. I believe the other parts of the bill that it seeks equality for are equally unconstitutional. But I thought if the time should come, through some dark miracle, that McCain-Feingold survives the White House, the Supreme Court, and gets into the public stream, I do not want the loophole that the Wellstone amendment closed to stay open. If they are going to find some of it unconstitutional, I want them to find all of it unconstitutional. I want that loophole plugged.

If, indeed, we have the circumstance before the Court where the Court says the Wellstone amendment is unconstitutional, so the special interest groups are off the hook, but all of the corresponding pressures on parties are constitutional so that parties are under this kind of restriction, we are going to see a distortion in the political world that none of us is going to like.

I am supporting this amendment that says if the Supreme Court says, OK, we are going to strike down the Wellstone amendment as unconstitutional, as I hope they do, then we are going to strike down all the rest of it as unconstitutional because it all goes together, it fits together; it is a legitimate pattern.

I happen to think it is a total pattern of the violation of the first amendment. I have said before I think if James Madison were alive, he would be appalled at the debate, let alone the outcome. I have been ridiculed for that by members of the press who somehow think it is kind of funny to talk about the Founding Fathers, but I still believe the Federalist Papers are the best guide we can have as to how we make public policies around here.

As we look into our crystal balls, murky as they may be, we have to try to understand what the consequences will be if this bill passes and becomes law. I think the consequences are as I have stated: Parties will be seriously disadvantaged, special interest groups will be advantaged. But I do not want that to be done by the Supreme Court. I want the Supreme Court to tell us, all or nothing.

If the Supreme Court says an intrusion on first amendment rights is legitimate when you are dealing with political parties, then that intrusion ought to be legitimate when you are dealing with special interest groups. If, on the other hand, they say, no, the first amendment is so precious that we are going to leave it alone as far as special interest groups are concerned, why should they not then be required to say, we will leave it alone with respect to political parties?

Since when did the Constitution make a difference between the way people assemble themselves in their right of assembly and their right to petition and say: If you assemble yourselves in your right of assembly and right to petition in a political party, we are going to treat you one way, but if you assemble yourselves in your right to assemble and right to petition in a special interest group, we are going to treat you a different way?

The possibility exists that might happen if this amendment is adopted. If this amendment is adopted, then the Supreme Court will have to make the fundamental decision: Are they going to amend the first amendment by upholding McCain-Feingold, or are they not?

If they decide they are not, then they are not across the board. They cannot do it selectively. To me, that is the kind of outcome with which Hamilton, Madison, and John Jay would all agree. I make no apologies for calling them to this argument because I think this argument fundamentally is about the preservation of their handiwork which all of us in this Chamber have taken an oath to uphold and defend.

I do not take that oath lightly. I know my fellow Senators do not take that oath lightly. We should talk about it in those terms. I plead with my colleagues to think in those terms and, therefore, to support this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I yield 15 minutes to the Senator from Illinois, Mr. DURBIN.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. I thank the Chair.

Mr. President, the American people have had an incredible civics lesson these past few months. No novelist, no playwright, no movie director—not even the creator of the X-Files—could have dreamed up a more intricate, a more convoluted, or more fantastic plot than the one played out in our national political arena in last year's Presidential election.

For weeks on end, it seemed there was only one topic of conversation: Who won the election? And that conversation focused on some of the most arcane aspects of constitutional law.

What if Florida cannot send a slate of electors to the electoral college? What if they send two slates? Are contested elections a State or a national issue? Or for that matter, a county by county issue? Who ultimately decides the results of a disputed election? Congress? The Florida Supreme Court? Federal district court? The Supreme Court? What about the vote of the people? Doesn't that count?

Woven through every one of these questions is a crucial feature of our American style of democracy—the separation of powers. This is perhaps our Nation's most critical feature, our backbone, if you will.

For without a clear cut separation of powers—a separation between the Federal branches of Government, and between the Federal Government and the States—our system of Government founders and fails.

Prior to the creation of the Federal courts, Alexander Hamilton envisioned in Federalist No. 78 that ''the judiciary is beyond comparison the weakest of the three departments of power.'' Given the recent role the Supreme Court played in last November's Presidential election, Alexander Hamilton's vision was wrong.

Our delicate balance of power has tipped in favor of nine justices that have the power to legislate from the bench and have now elevated the Court as the most powerful of the three ''departments of power.''

Commenting on the Supreme Court's role in picking the President, Laurence Tribe noted that the Justices were ''driven by something other than what was visible on the face of the opinions.''

We will continue to ponder whether the Court's decision was derived from established legal and constitutional principles. Or whether the Court was ''results oriented'' and searched for a

rationale to substantiate a decision more political than legal.

In our Government this question of the separation of powers never goes away. It is here before us today, in this bill, with this amendment, with the issue of campaign finance reform. Specifically, it confronts us with the issues of severability and nonseverability.

When the Congress of the United States creates a new law of the land, how difficult should it be for another branch of Government to strike it down?

For the executive branch of Government, the answer has always been clear. The President can veto any law we pass. Congress can override a Presidential veto with a two-thirds majority in each house. The balance of power between Congress and the executive branch is part of our national strength.

But what of the balance of power between Congress and the Judiciary?

Federal courts have the authority to decide on the constitutional legitimacy of the laws passed by Congress, and to dispose of any provisions of the law they find unconstitutional. It is an ultimate authority dating back to Marbury v. Madison. If the Supreme Court declares a provision of law to be unconstitutional, it is conclusive.

Short of changing the Constitution itself, a step we have taken only 17 times since the passage of the Bill of Rights, there are no options. A finding of unconstitutionality by the Supreme Court effectively voids congressional and Presidential action. This, too, is a vital part of the balance of powers. And I respect it.

The nonseverability amendment would alter, even if only slightly, the balance of power between the legislature and the judiciary. Is this a wise change to make?

I have been grappling with this question these past few days. And grappling, as well, with some of the profound and, I must say, unsettling changes that have occurred at the Supreme Court in recent years.

My perception and I confess this is my own, of where the Court is today, and the direction in which it is heading, will carry great weight in my ultimate decision about the nonseverability issue.

A law professor at New York University wrote an interesting article on this very topic a few weeks back in the New York Times. The author's name is Larry Kramer, and his article, which could hardly be more to the point, was titled ''The Supreme Court v. Balance of Powers.''

His main point, which I think he makes quite convincingly, is that:

> the current Supreme Court has a definite political agenda—one devoted chiefly to reallocating governmental power in ways that suit the views of its conservative majority. . . .
>
> For nearly a decade, the court's five conservative justices have steadily usurped the power to govern by striking down or weakening federal and state laws regulating issues as varied as gun sales, the environment and patents—as well as laws protecting women and . . . the disabled.

Many of the Supreme Court's recent decisions have indeed been made by the conservative majority. Decisions are often carried on the basis of a single vote. Age discrimination—five to four. Gay rights—five to four. Warrantless police searches—five to four. The Federal role in death penalty cases—five to four. And of course, the selection of the 43rd President of the United States—five to four.

Justice John Paul Stevens, in his dissenting opinion to this last decision, said:

> Although we may never know with complete certainty the identity of the winner of this year's Presidential election, the identity of the loser is perfectly clear. It is the nation's confidence in the judge as an impartial guardian of the law.

This is my own starting point for reflecting on the nonseverability question. I agree with Justice Stevens. My confidence in the impartiality of the Supreme Court has been shaken. The American judicial system has been increasingly politicized. Politicized by the unseemly rejection by the Senate of qualified nominees to the Federal bench. Politicized by the recent decision by the White House to end the half century involvement of the American Bar Association in reviewing the qualifications of potential nominees to the Federal bench—a tradition that dates back to the Eisenhower administration.

With that as context—recognizing that for many the impartiality of the Supreme Court is being called into question—I return to the question of nonseverability. Is this a Supreme Court to whom we want to hand over the absolute authority to rewrite whatever campaign finance reform measure ultimately is enacted by Congress?

I am not enamored by the idea of granting to the Court—particularly this Court—such authority. Maintaining severability denies them the opportunity to sink the entire law on the basis of the constitutionality of one provision.

At the same time, I am not enamored by the prospect of allowing this Supreme Court to selectively dismantle our campaign finance reform measures, picking and choosing among the different provisions to find ones that suit their visions of reform, and rejecting the rest.

The last time we tried this in Congress and sent the law across the street, it had a pretty disastrous outcome. The Supreme Court at that time decided they would limit how we raise money for campaigns. They would not limit, as Congress wanted to, the ultimate amount of money spent on campaigns, and then they came in with a decision in Buckley v. Valeo in 1976 and said, incidentally, millionaires in America, when it comes to campaign financing, are above the law. Now that preposterous outcome was rationalized by them and has been capitalized on by candidates since.

Campaign finance activist Ben Senturia compared the Buckley decision by the Court relating to campaign finance reform to that of a large tree in the middle of a ball field. The game can still be played, he says, but it has to be played around the tree.

Despite my serious misgivings about this Supreme Court, the opportunity severability will give it to move beyond the role of constitutional arbiter, to actually craft their vision of campaign finance reform, I will vote against the Frist amendment for three reasons.

First, for the good of our Nation, the strength of our Government, and the future of the Court, I must still retain the faith and the hope that the Supreme Court will rise above any political consideration to judge this law on its constitutional merits.

Second, taking my misgivings about the distribution of the Court to their logical conclusion, Congress would have to raise this matter on every legislative issue we face. That would invite confrontation and chaos that would not serve our Nation.

Third and finally, I have supported McCain-Feingold and campaign finance reform from the start. I am prepared to set aside my heartfelt concerns over the issue of severability rather than jeopardizing this good-faith effort to clean up the tawdry campaign climate in America.

I support the severability provision in this bill and oppose the Frist amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before the Senator from Illinois leaves the floor, I express my personal appreciation for his speech. I say that, recognizing that he and I have been in Congress the same length of time. We came together to the House of Representatives. During that period of time, I have gotten to know him well and I recognize his history as being a real legislator, a parliamentarian as he was in the State of Illinois.

This debate has been a very good debate. During the past couple of weeks, we have had some very fine presentations made. But when we look back on the presentations made, there will not be any better than the one just made by the Senator from Illinois. Not only did he deliver it well, as he always does, the Senator from Illinois has no peer, in my estimation, as someone able to present facts. But here, not only did he do a great job in his delivery, the substance of what he said is really meaningful.

For someone such as me who struggled with this issue of severability, he certainly laid the foundation, in effect poured the cement. I have no question the Senator from Illinois is right on this issue. I am personally very grateful for having been present to listen to this brilliant presentation.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I yield to the Senator from Wisconsin for 15 minutes.

Mr. FEINGOLD. Mr. President, let me join in the comments the Senator from Nevada made about the presentation of the Senator from Illinois. I know he thought long and hard about this. I am grateful, not only for his decision on this but also for the rationale and presentation he made. I thank him for it.

I appreciate very much the way the Senator from Tennessee, Senator THOMPSON, kicked off the debate on our side. He made some very powerful points about how this issue of severability and nonseverability relates to the separation of powers and issues of judicial restraint. What I would like to do is use my time to talk about what this means for our effort to do something about the campaign financing system in our country.

Mr. President, the Senate is being asked to agree to an amendment that would make two provisions of this bill ''nonseverable'' from one another. What does ''nonseverable'' mean? What does it mean for this bill? And what does this vote mean for the cause of reform?

My friend JOHN MCCAIN has said that nonseverability is French for ''kill campaign finance reform.'' That is a pretty good short definition. But in simple legal and practical terms, the addition of this kind of nonseverability clause means that the soft money and Snowe-Jeffords provision, title I and title II of the bill, would become a single integrated unit for purposes of constitutional scrutiny, that its many separate sections would all stand or fall together if any part of it is challenged in court on constitutional grounds. So, if this amendment passes, and the bill passes into law in a form that includes this amendment, and some time later a federal court finds one provision of either the soft money ban or the Snowe-Jeffords provision to be unconstitutional, then both of those provisions will be struck down, and it will be as if we had never passed a campaign finance reform bill at all.

Our bill contains an explicit severability clause, added only for emphasis. We pass hundreds of bills in each Congress, and each of them is deemed implicitly to be comprised of severable parts, unless it contains ''nonseverability'' language. Two weeks ago we passed a bankruptcy bill, that ran on for hundreds of pages. I thought it was a bad bill, I wish it were not about to become law. Still, I understand that if some part of its hundreds of pages is struck down on constitutional grounds, the rest will stand. The same is true of nearly every bill we have passed or will in the future pass in this body. In fact, I am informed that during the last 12 years only 10 bills have been introduced, let alone passed, that contain a nonseverability clause. It is incredibly unusual.

The Supreme Court has repeatedly held that even without a severability clause, the presumption is that Congress intends for each provision of a bill to be evaluated on its own merits and severed from the bill if it is found to be unconstitutional. In Alaska Airlines v. Brock, for example, the Court said:

> A court should refrain from invalidating more of the statute than is necessary . . . Whenever an act of Congress contains unobjectionable provisions separable from those found to be unconstitutional, it is the duty of the court to so declare, and to maintain the act in so far as it is valid.

That is the general rule. In order to overcome that presumption there has to be specific evidence that Congress would not have passed the constitutional provisions without the unconstitutional provisions.

Senator MCCAIN and I have drafted a bill that we believe is constitutionally sound. My record is not the record of a legislator who is casual about the first amendment, but some people, out of legitimate concern, and some other people, seeking strategic advantage in their effort to kill reform, have raised first amendment questions about the Snowe-Jeffords provisions of the bill, which would place restrictions on the use corporate and union treasury of phony issue ads run on radio or TV within 60 days of general election. Similar questions have been raised about the Wellstone amendment that extends the Snowe-Jeffords restrictions to issue ads run by independent groups.

We knew that our bill would face this scrutiny and we drafted the Snowe-Jeffords provision with care and respect for the right to political speech, but if we, or the author of a successful amendment to our bill, has missed the constitutional mark, there are federal courts to rule on the question. Ultimately, under our system of government, there is a Supreme Court to give the final word about the constitutionality of any part of our bill that may be challenged. And if the Supreme Court says that some piece of our bill is unconstitutional, that's the last word, and we would have to accept that.

But this amendment goes much farther. It would mean that if the Supreme Court finds a defect in the Snowe-Jeffords provision, and strikes it down, then the soft money ban will be invalidated as well. This makes no sense. It respects neither the proper rule of the Court, nor the proper role of the Congress. We have a Congress to pass laws, in this case a set of laws. We have a Supreme Court to tell us when one of those laws is unconstitutional and must cease to have effect.

I try to avoid cliches in debate, but here I must implore my colleagues, don't vote for an amendment that obliges this Senate and the Court to throw the baby out with the bathwater. In this case, the bathwater is the Snowe-Jeffords provision that we have always known will face a constitutional challenge, and while we believe there is a strong argument for it being upheld, we cannot state with any certainty that it will. But the most important provision in our bill, the baby in our metaphor, is the soft money ban. The sponsor of this amendment knows that he will never get the Court to say that the soft money ban is unconstitutional. He holds out hope that Snowe-Jeffords will be found to be constitutionally flawed, so he pins his hopes on the extraordinary, mechanistic and, in this case, cynical device of non-severability. It is his only chance, because he knows he can't beat reform in the Congress, and he knows he can't possibly beat the most important part of it in the courts, not in any analysis on the merits.

So I urge my colleagues to vote against this amendment, and I add these words of caution: If you vote for this amendment, you are voting to place in peril the most important reform measure in this bill. If you vote for this amendment, you vote for a gross departure from ordinary legislative procedure. If you vote for this amendment, you vote to distort the usual proper role of and relationship between the courts and this Congress. If you vote for this amendment, you vote, and will be seen to vote, for maximizing the chances of the enemies of reform to prevail against the decisions of this Senate and against the will of the American people.

I must also point out to those of my colleagues who have told me privately, or have stated in public that they support a ban on soft money but cannot vote for the bill because they believe the Snowe-Jeffords amendment is unconstitutional, you should vote against this amendment. If you would vote for a bill that includes a soft money ban and no provision on issue ads, you should vote here to preserve the option for the Supreme Court to uphold a soft money ban and strike down the Snowe-Jeffords amendment.

I made this clear in the last few days. I believe this is the vote. This vote is the ultimate test for the Senate in this debate on campaign finance reform. It might be called the campaign finance reform test. The American people are standing by, waiting to see whether this body will pass or fail that test. Do not let them down my colleagues. There are no makeup exams.

This is the vote that will decide if we are going to be able to get rid of this awful soft money system—to really get rid of it, not just pass a bill in the Senate, not just pass a bill in the House, not just have the President sign it, but actually have it survive a court challenge and become the law of the land.

Before yielding the floor, I ask unanimous consent a letter sent to our Democratic colleagues of the Senate by Representative MEEHAN and Representative FRANK of the other body on March 22 be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, March 22, 2001.

DEAR SENATE DEMOCRATIC COLLEAGUE: We are writing to urge you to oppose any amendment to S. 27—the bipartisan campaign finance reform legislation introduced by Senators John McCain and Russ Feingold—that would invalidate all or other provisions of the bill were one such provision declared unconstitutional by the courts.

The House confronted amendments of this nature during debate on the similar Shays-Meehan campaign finance reform legislation in 1998 and 1999. These amendments were soundly defeated—in 1998 by a vote of 155 to 254 and in 1999 by a vote of 167 to 259. 188 of 194 House Democrats voted against a non-severability amendment in 1998, and 202 out of 210 House Democrats voted against this amendment in 1999.

The pro-reform majority in the House rightly perceived non-severability to be lacking in public policy justification and precedent. This amendment cedes enormous power to the courts to undo Congress's work in instances where that work is of unquestionable constitutionality. Under non-severability, if a court found one provision of a comprehensive bill to be unconstitutional, the entire bill would be invalidated. While we believe that judicial review is an essential part of our system of checks-and-balances, non-severability tilts the scales too far towards judicial domination. Indeed, we find it strange that some who have decided the prospect of so-called ''activist judges'' overriding the will of officials elected by the people apparently endorse such an assault on Congress's power and prerogatives.

The inclusion of non-severability provisions in enacted legislation is extremely rare. At the time the House considered the Shays-Meehan bill in 1999, only three bills had passed in the last decade that had non-severability clauses. Indeed, Congress has often inserted severability clauses in legislation to ensure that constitutional provisions remain in effect. For example Telecommunications Act of 1996 contained a severability clause. If Congress had instead inserted a non-severability clause in the Act, the entire Act would have been invalidated when the U.S. Supreme Court unanimously struck down its so-call ''Communications Decency Act'' provision. The Brady Bill was also protected by a severability clause.

Finally, non-severability is an unjustified threat to the laudable effort to clean up our campaign finance system. We believe that soft money contributions to the national political parties should be banned and that campaign ads masquerading as issue discussion should be subject to the same laws governing uncloaked campaign ads. Moreover, we believe that both of these elements of the McCain-Feingold bill pass constitutional muster. We do not believe, however, that tying the fate of one to a court's view of the other—or tying either's fate to a court's view of other provisions of McCain-Feingold—is justified. Soft money contributions at a minimum give rise to an appearance of corruption. That will be the case whether or not other provisions of McCain-Feingold ultimately survive judicial review. Accordingly, the public policy merits weigh strongly in favor of cleaning up as much of our disgraceful campaign finance system as we can. Non-severability may compromise our ability to do so, as well as create an incentive for opponents of reform to offer patently unconstitutional amendments in the hope of poisoning the prospects for reform's survival in the courts.

Thank you for you consideration.

Sincerely,

MARTY MEEHAN,
Member of Congress.

BARNEY FRANK,
Member of Congress.

Mr. FEINGOLD. Mr. President, I yield the floor.

Mr. MCCONNELL. Mr. President, how much time remains on the Frist amendment?

The PRESIDING OFFICER (Mr. FITZGERALD). The proponents have 53 minutes and the opponents have 44 minutes.

Mr. MCCONNELL. Mr. President, I have been listening carefully to the speeches on the other side of this issue. With all due respect, they are somewhat misleading.

The last three campaign finance reform bills that passed out of the Senate included nonseverability clauses—in 1990, 1992, and 1993. Members of the Senate who voted for that include 23 current Members who supported the bill with a nonseverability clause in it in 1990; 24 of the current Members supported the bill in 1992 with a nonseverability clause in it; and 28 of the current Members supported the bill in 1993 with a nonseverability clause in it.

It is wholly irrelevant whether most bills do or don't have nonseverability clauses. What we are talking about is campaign finance reform bills which are fraught with first amendment constitutional principles, and it has been almost always the rule rather than the exception that they include nonseverability clauses in them.

It is so common that the Harkin amendment we just voted on and was supported by 31 Members of the Senate on that side of the aisle had a nonseverability provision in it tied to Snowe-Jeffords; also, the amendment we had a couple of hours ago in which 31 Members of the Senate on the other side supported.

So this notion that somehow it is inappropriate and unwise to have a nonseverability clause in a campaign finance bill is utterly and totally baseless and without merit. In fact, that is what is typically done.

I say to my friends who support the underlying bill, what are you afraid of? There have been numerous discussions and hearings about how constitutional Snowe-Jeffords is. We have had lengthy discussion on the floor by various Members of the Senate.

Senator SNOWE, of Snowe-Jeffords fame, says it is constitutional. It is common sense. It is not speech rationing but informational, and so on. Senator SNOWE referred to 70, as she put it, constitutional experts.

Senator JEFFORDS says: My focus will be on reassuring you that Snowe-Jeffords is constitutional. He says they took great care in drafting their language.

Senator MCCAIN is, likewise, totally confident that Snowe-Jeffords is constitutional. Senator THOMPSON, the same.

Senator EDWARDS is on the floor now. He said he is totally confident that Snowe-Jeffords is carefully crafted to meet the constitutional test of Buckley v. Valeo.

Senator DEWINE offered an amendment to take Snowe-Jeffords out earlier today. That was defeated. It is a part of the bill.

Those who want to keep that in the bill are totally confident that it is constitutional.

What are they afraid of?

As the author of the amendment, Senator FRIST pointed out that there is a rationale for linking Snowe-Jeffords and the soft money ban. And it is this, I say to my friend from North Carolina: What if I am right and they are wrong, and Snowe-Jeffords is struck down, the Democratic Senatorial Committee loses 35 percent of its budget, and the Democratic National Committee loses 40 percent of its budget? If candidates are under attack by conservative groups from outside, who is going to rush to their defense?

The party is the only entity in America that will certainly support the candidates that bear its label. There is nobody else you can totally depend on to be there to defend you when you are under assault.

There is a rationale for linking Snowe-Jeffords and the party soft money ban; that is, if we eliminate it, and if all of the Senators who are confident, including the Senator from North Carolina, that it is constitutional are wrong, every group in America—conservative, liberal, vegetarian, and libertarian—will all have a right to come after our candidates and our parties will be largely defenseless.

I asked consent later this afternoon to have some time at 4 o'clock to describe to the Members of the Senate the impact of McCain-Feingold on our political parties. I am going to take the opportunity to do that at 4 o'clock. It will be chilling to learn what will happen to our parties under this underlying bill.

Let me sum up because I see the coauthor of the amendment is on the floor.

I don't think this is in any way inappropriate. In fact, it is common. If the proponents of Snowe-Jeffords are confident it will be upheld, I don't know what they are afraid of. We will need the political parties to defend our candidates if Snowe-Jeffords is struck down.

I yield the floor. I see the Senator from Louisiana is here.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Who yields time to the Senator?

Mr. FRIST. Mr. President, I yield 15 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the author of the bill, the Senator from Tennessee, for yielding time to me.

We have just heard a good explanation of the situation from the Senator from Kentucky about the concern of the so-called severability. Imagine most people in America scratching their heads and asking: What in the

world is the Senate talking about —nonseverability, severability, and everything else? When we talk about severability, back in Louisiana they think someone lost an arm or a finger. They get very confused when we start talking about severability in legislation as an integral part of a bill.

We have learned the mistake we make when we craft a carefully constructed compromise that people are allowed to vote for because it is carefully balanced with amendments through the legislative process and then have that legislation go to a court which says that one part of this bill we will take out and we are going to leave everything else, or the court will say they will take out half of it and leave everything else. We tried that in 1971 when we wrote the landmark Federal elections law. I was running for Congress then and was watching it very carefully, not knowing what in the world the results would be. But I looked at it at that time, as the people helped write it, as a carefully crafted compromise. It did not have a nonseverability clause in that legislation. When it left this body and it left the House, a lot of people said: This is a good balance; I got this in it; I got that in it; I got limits on contributions but we got limits on how they can spend it; therefore, I think this is a good package; it makes sense; it is reform.

Because it didn't have a nonseverability clause in it, which we are trying to add in this legislation, when it got to the Supreme Court, in its wisdom, said: Well, this can stand and this can't stand; we are going to eliminate this and we are going to keep that.

In essence, what they did was replace the role of the Congress in writing the legislation as they thought in their final words what was legitimate and what was constitutional.

Guess what. We ended up for all of these years with a bill that was totally different from what the Congress had carefully crafted. In essence, what we ended up with was a bill that limited contributions but had no limits on expenditures. What we thought we were doing was saying, all right, we are going to reduce the money in campaigns, we are going to eliminate expenditures, and limit contributions. What we ended up with was only one-half of the equation. This body, the other body, this Congress and past Congresses learned from that monumental mistake.

As the Senator from Kentucky pointed out, when we considered campaign finance legislation in subsequent Congresses, we didn't make that mistake. We considered it in the 101st Congress, the 102d Congress, and the 103d Congress. And in every one of those Congresses we did not make the same mistake that we made in 1971.

We took the position in those acts of the Congress that the carefully crafted compromise was going to have to be accepted or rejected; the Court could not piecemeal it. They could not rewrite it. They could not decide in their wisdom what they thought was legitimate and keep that and throw out what they thought was unconstitutional. We did not make the mistake in the previous Congresses that we did the first time.

I hope what we do here is to also recognize that we should say that this carefully crafted compromise, the ban on soft money to parties plus the restrictions on outside groups running sham ads 60 days before an election, are intricately tied together. They are part of the compromise. If you knock out one, you break the deal. Without this amendment, we will have perhaps only half of the deal being enacted into law and the other half disappearing because of a Court decision.

That is not what the role of legislators should be. We should be putting together comprehensive packages with intricate amendments and compromises woven together to create a package.

There are people who would not be for this legislation, I dare say, if they thought the Snowe-Jeffords legislation on money being spent on sham ads right before the election were not restricted in this bill. What do we say to those people who voted for it because of Snowe-Jeffords being part of it: That somehow it may not be there in the end? They would not have voted for the legislation.

It is so significant that we have this nonseverability clause. It is very restrictive, and I want to expand it. I will ask unanimous consent to offer an amendment to the Frist-Breaux amendment which will include the soft money ban plus the Snowe-Jeffords amendment plus the Thompson amendment which increased the hard dollar contributions, that if any one of those three would be found to be unconstitutional, all three would fall.

It makes no sense, I agree, to have the ban, for instance, on soft dollars to be declared unconstitutional, which it probably is not, but if it should be, then you would be left with a hard dollar increase. It makes no sense to say that, well, we could ban or declare unconstitutional the Snowe-Jeffords prohibition but yet still have the hard dollar increase. All three are integral parts of this compromise. I think the Frist-Breaux amendment should be amended to say that if either of those three essential ingredients is knocked down as unconstitutional, therefore, all three of them would fall. That would be the right thing to do.

That doesn't mean the whole bill falls. Everything else is still there: The millionaire's amendment, the lowest unit rate for television would still be there, the ban on foreign contributions, the ban on solicitations. Those are all still improvements in the current system.

When I try to explain nonseverability to people, it gets very confusing. I am probably as confused as anyone trying to explain it to our colleagues and to the press, and to the general public, who have to cover all of this. I try to use the analogy of ANWR which I think makes sense. The question of whether we drill for oil in the Arctic National Wildlife Refuge is a very controversial and contentious issue. Suppose we came to the floor of the Senate and someone said: All right, I am willing to allow for drilling in ANWR if you double the environmental requirements that would apply to that part of the United States. That amendment is adopted. People say: Well, with that amendment, I can support drilling for oil in ANWR because we have an amendment that doubles the environmental protections in that part of the world only.

But then that bill goes to the Supreme Court and the Supreme Court says: Oops, sorry, you are all wrong, you can't do doubling of the environmental protections in only one part of the country. That part of the bill is unconstitutional. But the drilling for oil is OK.

How would that treat all the Members of Congress who said: Well, I can vote for the carefully crafted compromise because at the same time we have doubled the environmental protections and therefore it is a comprehensive package and therefore it makes sense? To have the Court strike down the environmental protections while leaving the right to drill would be a sham on the Members of Congress who voted for the carefully crafted compromise.

The same is true with regard to this controversial, complicated, emotional issue of how we handle campaigns in this country. All of the ingredients are essential to the compromise. To allow the Court to knock out one or two and leave the rest is to put into effect through law something that was never intended by the people who voted on it to ever occur. When you vote for all of the parts of the bill, you have the right to expect that all of the parts will survive.

Someone said: Maybe we should do that for every piece of legislation. I say: Well, it may not be a bad idea, but certainly not a bad idea for things that are complicated and carefully crafted and subjected to numerous compromises that are part of the package.

I am extremely concerned that we have a situation where we are going to ban soft money to the two political parties and somehow leave all of these groups and organizations that are running ads, special interest groups, basically single-interest groups, who will be able to continue to use all of the soft money they want to attack candidates for 2 years prior to our elections. None of these groups represents, I argue, the more moderate parts of both parties; they tend to be more extreme. Not all of them, some of them are moderate, but most are single-issue, one-issue groups that generally run only negative advertising against candidates.

Addressing this with the Snowe-Jeffords amendment, saying that corporate and union contributions cannot fund any of these groups within 60 days of an election, is an important step. If we don't have the nonseverability and Snowe-Jeffords is knocked out, all of these groups could use corporate money to continue to blast candidates without us having the same ability to help our parties respond to those accusations.

I am talking about groups such as those that ran the Flo ads on Medicare. None of the people on my side liked those at all. I am talking about groups that ran the Harry and Louise ads which used corporate contributions to run negative ads all the way up to 60 days before the election, if this amendment goes down. I am talking about the National Rifle Association. To people principally on my side of the aisle, how many times do we have to see Charlton Heston talking about why Democrats should not be elected and having corporate contributions pay for those ads?

Those principally on my side who are saying we want to vote for this because it is a carefully crafted compromise ought to recognize that without the Frist-Breaux amendment, that carefully crafted compromise could cease to exist. What we have done is to abdicate our responsibility to legislate in a package, not with blinders on, and not looking at reality.

I strongly support the nonseverability amendment. I plan at the appropriate time to ask that the amendment be modified in order to add a third category in addition to the soft money prohibition to parties and the Snowe-Jeffords amendment. I would add the Thompson amendment reflecting the increase in hard dollars, that any one of those three being declared unconstitutional would bring down all three of those.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Reserving the right to object, I would like to get a copy of the modification.

Mr. BREAUX. Mr. President, if it is all right, I will hand a copy to my colleague, since he is managing the bill, and allow him the chance to review it.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, if I may, Senators have the right to modify their amendments. I thank my colleague.

Mr. President, I am prepared to yield 5 minutes to my colleague from North Carolina, Senator EDWARDS.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, let me speak in opposition to this amendment. I'll talk briefly about why I oppose the amendment, and respond to the comment by the Senator from Kentucky and the Senator from Louisiana, who has just modified his amendment.

First, it is very important for my colleagues who aren't on the floor, in looking at the precise language of these amendments, to recognize there are really only three provisions, with the modification, that are covered by this amendment. The soft money ban is number one; the Snowe-Jeffords ban on broadcast ads paid out of union and corporation treasury funds 60 days before the election is number two; number three is the raising of the hard money limit.

No one who has looked closely at this question would argue that either the soft money ban or the hard money limit increase is subject to serious constitutional challenge. The only thing the soft money ban has to do under the Buckley case is for the Court to find that there was a compelling State interest to support that ban. The Court, in fact, has already found in Buckley there is such an interest. So as these other Senators have recognized during the course of this debate, there is no serious question about the soft money ban. The soft money ban—if it passes from this Chamber, and is signed by the President and passed by the House—is going to become law.

The raising of the hard dollar limit also is not subject to any serious constitutional challenge. So what we are talking about is Snowe-Jeffords.

Now my friend from Kentucky points out that during the course of this debate I have argued that Snowe-Jeffords is constitutional. I don't want to repeat that argument, but I, in fact, believe that Snowe-Jeffords is constitutional. But I want my colleagues to understand, and not get caught up too much in the morass of this debate, that there is only one issue raised by this amendment as modified, and that is if Snowe-Jeffords were found to be unconstitutional by a Court at a later time, do we want the soft money ban and the raising of the hard money limits to stand? That is the simple question raised by this amendment.

Now I don't believe a Court will find Snowe-Jeffords to be unconstitutional. But the U.S. Supreme Court has done many things in the past that I didn't expect, including some things in recent times. So I have no way of predicting with certainty what the Court will do when confronted with this question. I do believe Snowe-Jeffords meets the constitutional requirements. So the argument that is made is, if Snowe-Jeffords is found to be unconstitutional, we create a strategic imbalance in our electoral process.

The difference I have with my friends from Kentucky and from Louisiana is why we are enacting campaign finance reform. I don't think that the focus of campaign finance reform, and the reason we are doing it, is to make sure the strategic balance that now exists is maintained. I think what we are trying to do is take these huge, unregulated soft money contributions out of the system. What we are trying to do is restore public faith in our campaign and election system in this country.

It is difficult for me to understand how removing these huge soft money contributions doesn't contribute to the restoring of that integrity. It obviously does. It may be that if one of these provisions—I think the only one in play is Snowe-Jeffords—is found to be unconstitutional, somewhere down the road there is a strategic imbalance. That may be true. But this debate and this law is not about us. It is not about what is good for Democrats, it is not about what is good for Republicans, and it is not about what is good for incumbent Senators; it is about the American people. It is about whether their voice is going to be heard and whether they believe they have some ownership in their Government; or, instead, whether we continue to perpetuate a system where huge amounts of money flow, unregulated, into the campaign process and ordinary people feel as if their vote makes no difference anymore. Senator DODD made an eloquent and passionate presentation yesterday, or the day before, on this very subject.

My point is this: The disagreement I have with my colleague from Kentucky—and it is a fundamental disagreement—is why we are trying to enact campaign finance reform. I don't think we ought to be focused on ourselves, or focused on how we are going to combat a particular ad that may or may not be run against us. I am as practical as anybody else. I understand the way the system works. All of us have lived with it. But the baseline for this debate, and what I hope all of my colleagues will use as their touchstone, is not what is good for us, not what is good for Republicans, not what is good for Democrats, but what is good for the American people.

I have great respect for all of my Senate colleagues, including the Senators who have authored this amendment, who I know are well intentioned, and I don't doubt that. I just think we have a fundamental difference.

Mr. BREAUX. Will my colleague yield for a question?

Mr. EDWARDS. I will yield for a question now.

Mr. BREAUX. I take it the Senator from North Carolina, who supports Snowe-Jeffords, which would prohibit all these groups on this chart from using corporate dollars to attack candidates—these single-issue special interest groups—is that not an important amendment, that if it were to be declared unconstitutional, the rest of the bill would go into effect? Does this not bother the Senator that without the Snowe-Jeffords amendment all of these groups would be able to continue to use corporate dollars to attack candidates with no ability for the parties to defend them?

Mr. EDWARDS. My answer to that question is, first, what we do, even without Snowe-Jeffords, is we prohibit candidates for political office from raising large soft dollar contributions for these very groups to which the Senator from Louisiana is referring.

If our focus is on restoring integrity to the process and the public's perception of ourselves, then getting us out of the process of raising soft money dollars, getting soft money, period, out of the system is a positive thing. And my view is that it helps restore integrity.

Mr. BREAUX. Does the Senator think that the Health Insurance Association of America, or the National Rifle Association really needs any help from Members of Congress in raising corporate money to run those types of ads? My point is that those groups don't need Members of Congress to help them raise money to do the Flo ads, and the Harry and Louise ads. Those are corporate dollars. The pharmacy industry doesn't need Members of Congress to raise money to pay for ads attacking everybody in Congress.

Mr. EDWARDS. Mr. President, reclaiming my time, my answer is the very answer I just gave the Senator from Louisiana. We can't stop these entities from running ads. What we can do, is stop Members of Congress from raising huge amounts of money and creating a public perception that we are involved in what is wrong with the system. You are absolutely right. As a matter of pure strategic balance, that there is the possibility there will be a strategic imbalance, I would not argue for a minute about that. But that is not what campaign finance reform is about.

What campaign finance reform is about is restoring integrity to the system and causing the American people to believe, once again, that the system has integrity, that it works, and this democracy belongs to them, and that it is their Government. That is the fundamental difference. Anything we do, I strongly suspect, with or without Snowe-Jeffords, or any of these other provisions, as we have learned from experience, may turn out a year, 5 years, 10 years from now to create some result that we don't expect. I think that is just realistic.

But the one thing we know for certain is that the public believes this system is awash in money. These huge, unregulated contributions that are being made to political campaigns are wrong, and we need to make a clear and unequivocal statement that we will not allow that to happen.

This debate is not about us. It is about the American people. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will take a couple of minutes, if I may. I think the Senator from North Carolina has eloquently framed what the present amendment would do and what the consequences are, should the Frist-Breaux amendment be adopted—and I am not sure it has been offered yet—even if you accept the modification that is about to be offered by our friend and colleague from Louisiana. This gets a little confusing. It is hard for people to even hear—despite the fact we live in this world—and to even understand the issues of severability, nonseverability, hard money, and soft money.

This can glaze over the eyes of even the most determined person to follow this debate. It is confusing, but it is very important.

Let me try, if I can, to frame this so people may have a clear understanding, at least as I understand it.

If Snowe-Jeffords—the union and corporate disclosure provisions; I will call that Snowe-Jeffords although they are often in different places—if that falls because it is ruled to be unconstitutional, then the ban on soft money also falls.

If the Breaux amendment modifies the Frist amendment, then so would, as I understand it, the Thompson-Feinstein amendment, which allowed for the increases in hard money.

With all due respect to my friend from Tennessee, who is also opposing this amendment—not the author of the amendment but the opponent of the amendment—and my friend from California, Senator FEINSTEIN, Thompson-Feinstein is not a reform. Thompson-Feinstein was the price we paid to have the votes together on the banning of soft money.

There is no illusion about this. That was not a reform. I know they want to call it that. I reluctantly voted for it, having spoken against the increases in hard money. My friend from Wisconsin and my friend from Arizona also took similar positions that they did not endorse or support those increases except that it was necessary to keep the votes together for the two reforms in this bill: Snowe-Jeffords, disclosure elements, and the ban on soft money. Those are the only two reforms in this bill.

Thompson-Feinstein is the price we paid for those two reforms politically. I will stand corrected if someone wants to tell me I am wrong.

Basically that is the deal. We have this increase in hard money, which I have a hard time accepting, but in exchange for that we get the two reforms of getting rid of unregulated money and the Snowe-Jeffords provisions. I believe, based on those who know far more about this than I do, Snowe-Jeffords should not fall for constitutional reasons, although my friend and colleague from North Carolina properly points out that we have been surprised lately by Supreme Court decisions where experts have told us they would rule one way and they ruled another.

I urge my colleagues to keep this in mind, that if, in fact, they have been a supporter of McCain-Feingold, understanding that this is not every reform of the process, and understanding there may be some imbalances created here—we are all very much aware of this. My colleague from Utah spoke eloquently about the fact that none of us can say with any certainty exactly where all of this is going to end up. If you took McCain-Feingold as modified up to now and it became the law of the land tomorrow, there is some uncertainty, except this: The certainty that soft money, the unregulated millions of dollars—billions of dollars now have been pouring into campaigns—is going to be stopped.

No one is suggesting the ban on soft money is unconstitutional, and that would be a major achievement. We may end up coming back at some future date, less than 30 years down the road, because we discover there have been unintended consequences in this legislation. Let's not lose sight of the fact that the ban on soft money and the Snowe-Jeffords provisions—assuming they survive—are worthy of this body's support. The issue of saying they both fall, the ban on soft money and the price we paid for it, as well, if Snowe-Jeffords falls is an unequal trade off. I urge my colleagues to reject it.

Lastly, I say to my friend from Kentucky, there are differences of opinion on how we voted on two previous campaign finance reform bills. There was tied severability in those two other bills. It was not nonseverability. We linked two provisions. We said if one fell, then the other would fall as well.

It was, if you will, a partial severability in those two bills for which 23 of us, who are still here, voted. We did not vote for nonseverability. That is a semantical game in a sense. We voted for tied severability, partial severability. That is a side question.

The basic issue is my colleagues ought to, with all due respect, reject the Frist-Breaux amendment if they believe, as I think a majority of us do, that the ban on soft money and Snowe-Jeffords are truly reforms. We fought too long and too hard not to succeed with those and to link severability is a mistake.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, listening carefully to the Senator from Connecticut trying to explain the previous nonseverability clauses that passed in 1992 and 1993, those nonseverability clauses included the whole bill, so that if any little portion of the bill that cleared the Senate in 1990, cleared the Senate in 1992, cleared the Senate in 1993, if any little portion of that bill was unconstitutional, the whole bill fell.

As I understand the amendment of the Senator from Tennessee and the Senator from Louisiana, the whole bill does not fall. It carefully tied the two relevant parts of the amendment, the Snowe-Jeffords language and the party soft money ban. The Senator from Louisiana has pointed out why those two are relevant and important. He has his whole list of people who are going to be attacking our candidates, and our parties are going to have no funds—none, none—to protect them from attack from outside groups.

Mr. President, I yield the floor.

Mr. BREAUX. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I ask the Presiding Officer whether it would be appropriate for me now—I have two requests. First, would it be appropriate for me to now ask unanimous consent for a modification to the Frist-Breaux amendment?

The PRESIDING OFFICER. That would be appropriate.

Mr. BREAUX. Further parliamentary inquiry: If there is an objection to the unanimous consent request to modify the Frist-Breaux amendment, would it not be in order at a later date to reoffer a Frist-Breaux amendment with that modification?

The PRESIDING OFFICER. That would be in order under this agreement.

Mr. BREAUX. Mr. President, I ask unanimous consent that the modification to the Frist-Breaux amendment that is pending at the desk be offered.

Mr. THOMPSON. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. THOMPSON. Reserving the right to object, and I do intend to object, I know my friend can bring this after—if this amendment survives a motion to table, of course, he can bring it back, or I suppose he can bring it back separately. My understanding is this amendment would cause the following result; that is, if either Snowe-Jeffords or the soft money portion of the bill were struck down, then the Thompson-Feinstein amendment language would fall also at that time. For that reason, I object.

Mr. FEINGOLD. Will the Senator withhold his objection?

Mr. THOMPSON. Yes.

The PRESIDING OFFICER. The Senator from Louisiana still has the floor.

Mr. FEINGOLD addressed the Chair.

Mr. BREAUX. I yield.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, was the objection finalized or did the Senator withhold?

Mr. THOMPSON. I will withhold momentarily.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. 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. FEINGOLD. Mr. President, I ask unanimous consent that the time be charged equally.

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

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

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

Who yields time?

Mr. DODD. I yield to my colleague from Tennessee 1 minute.

Mr. THOMPSON. Mr. President, I withdraw my objection.

AMENDMENT NO. 156, AS MODIFIED

Mr. McCONNELL. I renew the consent request of the Senator from Louisiana that his amendment and the amendment of Senator FRIST be modified.

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

The amendment, as modified, is as follows:

On page 37, strike lines 18 through 24 and insert the following:

(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 a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

(b) NONSEVERABILITY OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—If one of the provisions of, or amendments made by, this Act that is described in paragraph (2), or if the application of any such provision or amendment to any person or circumstance, is held to be unconstitutional, then all the provisions and amendments described in paragraph (2) shall be invalid.

(2) NONSEVERABLE PROVISIONS.—A provision or amendment described in this paragraph is a provision or amendment contained in any of the following sections:

(A) Section 101, except for section 323(d) of the Federal Election Campaign Act of 1971, as added by such section.

(B) Section 103(b).

(C) Section 201.

(D) Section 203.

(E) Section 308.

(c) JUDICIAL REVIEW.—

(1) EXPEDITED REVIEW.—Any Member of Congress, candidate, national committee of a political party, or any person adversely affected by any provision of, or amendment made by, this Act, or the application of such a provision or amendment to any person or circumstance, may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that such provision or amendment violates the Constitution.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia granting or denying an injunction regarding, or finally disposing of, an action brought under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under paragraph (1).

(4) APPLICABILITY.—This subsection shall apply only with respect to any action filed under paragraph (1) not later than 30 days after the effective date of this Act.

Mr. DODD. Mr. President, I suggest the absence of a quorum and ask that the time be divided equally.

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

Mr. FRIST. 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. FRIST. Mr. President, I yield 15 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I thank the Senator from Tennessee for yielding.

For nearly 2 weeks, the Senate has been engaged in an exhaustive but illuminating debate on reforming the campaign finance system of the Nation, the foundation of the rules by which a free people choose their government. The consequences could not be more enormous.

I believe the Senate has met the best expectations of the American people in this debate. It has been thoughtful, civil, and far reaching. Indeed, rather than simply engaging in a narrow changing of the rules, what has emerged from the Senate is genuinely comprehensive campaign finance reform. It may not have been our intention, I don't believe it was planned, but in the best traditions of the Senate, Members from both political parties, with good ideas, took some basic reform legislation and made it into a workable, comprehensive system.

That is what brings this question before the Senate. If these were simply individual changes in the campaign finance system, where some were enacted and some failed, it would be interesting but not of overriding consequence. That is not what the Senate has done. This is a series of reforms inextricably dependent on each other. If one or more is removed, the Nation will have a radically different campaign finance system and our system of choosing candidates, and even the people whom we elect, will be altered.

I understand in the rush to judgment there are some who are prone to reform for reform's sake. It is a question of pass anything, get something done, and we will live with the consequences. But the truth is, the campaign finance system of this country is changed only once in a generation. These rules will last, not simply for us but for those who follow us, not just in this decade but in decades to come.

The fact that we have seized this opportunity in these 2 weeks to write comprehensive changes, far-reaching in nature, is not only to the credit of the Senate but it is a genuine contribution to the country.

This is the last great debate of the campaign finance consideration. But in

some ways it is the most profound question because ultimately the question is whether we have simply decided on a series of ideas that will be thrown out to the American people to challenge in the courts where others will make the decision or whether we have really designed a new campaign finance system in the Senate, where it is our responsibility.

It is important to look at how each of these provisions is linked because, as one Member of the Senate, I am only voting for McCain-Feingold because of the different provisions and how they are all related. We eliminate soft money for the political parties. We also eliminate it from outside interest groups. But we do not want to deny the American people political debate, so we raise the hard money limits. We want to end the monopoly on candidates' time and the growing expense of campaigns, so we lower the cost of television advertising. Those are all related and they are all important.

My colleagues, what is to happen if the Supreme Court of the United States decides the Senate has decided upon six interrelated provisions but we do not like one—or two? Then the Senate is no longer writing campaign finance reform; we simply made a few suggestions, enacted them into law, and we will let someone else write them.

This would not be so perplexing to this Member of the Senate, that we might be yielding in our responsibilities on the question of severability, if not for the fact that the Senate has been at this moment before. This is exactly what happened in 1974. If you do not like the campaign system now in the United States of America, if you object to what has happened in public confidence, the rising expense, the dominance of powerful interests, the rise of soft money expenditures, then you have a responsibility to ensure these provisions are inseparable, or the Supreme Court will write this law just as they did in 1974.

Here is the most remarkable thing about the campaign finance system in the United States: No one ever proposed it, no one ever wrote it, and no one ever voted for it. Because the Supreme Court of the United States created it, and that is exactly where we are going again.

In 1974—a year in which I did not serve in government, but I remember the debate, and some of my colleagues were here—had the Senate been presented with the following proposition: We will limit contributions to $1,000 but we will allow unlimited soft money to political parties and we will allow outside groups to spend their money and we will allow wealthy candidates to spend unlimited amounts of money—if anyone had come to the floor of the Senate with that bill, it would have received no votes. There is not a member of the Democratic or Republican Party who would have voted to limit themselves to $1,000 contributions while wealthy individuals could spend unlimited money and outside groups had no restrictions at all, with no control on expenditures. No one would vote for such a system. But that is the law of the United States of America. It has governed our country for 25 years. If we fail today, it will continue to govern our country.

That has created all this outrage, and that is the product of not having a nonseverability clause. That was an attempt to have comprehensive reform. But when the Court ruled provisions unconstitutional, rather than meeting our responsibilities, returning to the floor of the Senate to rewrite the legislation consistent with constitutional guidelines, ensuring it was comprehensive and met our national objectives, the Senate failed to meet its responsibilities and this problem was created.

By what logic do we solve this problem now by returning to the same rules, the same yielding of responsibility, to ask the same Court to write campaign reform legislation once again? I ask my colleagues to think of the system that may not evolve from McCain-Feingold as we have voted upon it but which might evolve from a reasonable action by the U.S. Supreme Court.

I believe every provision we have agreed to in this Senate, absent possibly the Wellstone amendment, is constitutional. It is noteworthy the Senator from Tennessee does not put the Wellstone amendment in his nonseverability amendment that he offers the Senate at this moment. I believe the remainder is constitutional.

But if I am wrong and the U.S. Supreme Court decides that Snowe-Jeffords amendment controlling expenditures by independent groups by the use of unlimited soft money is unconstitutional, mark my words, the system we are creating in the United States of America is a radical change in how we govern this country and, for all practical purposes, it is the end of the two-party system financing national elections as we have known them in our lifetime. That is because under a McCain-Feingold bill that no one in this Senate voted for—and I suspect no one really supports—the system enacted in the United States will be the Democratic and Republican Parties will be limited to hard money expenditures only and independent groups will spend unlimited money with no restrictions or controls. Of all the thousands of organizations in America, civic and corporate and labor, of all the thousands of organizations, we will have chosen two for these restrictions: The Democratic Party and the Republican Party.

In the practical world in which we live, let's consider what this will look like. I, as a candidate, may choose to run for office on a progressive platform, wanting to describe my own views. And good allies that I believe in, such as organized labor or environmental groups or women's rights groups or civil rights groups, may decide to support me. But they will run my ads. They will decide what I am for, describe my positions, and run my advertising.

My Republican opponent will be in a similar position. The Chamber of Commerce or a business group, a gun advocacy group, will run advertising with soft money, saying what I am against.

American politics will be fought over the heads of the candidates—aerial warfare with the Democratic and Republican Parties in the trenches simply firing at each other. The real battle will be fought by surrogates, and political candidates in the Democratic and Republican Parties will be nothing but spectators in American politics.

This is not the system anyone here wants. Were I to offer it now, no one would vote for it. It sounds like 1974, doesn't it? It is. And we can have exactly the same result.

My colleagues, the Senator from Tennessee has offered an important, in some respects the most important, amendment in campaign finance reform.

It is the difference between a few ad hoc ideas to reform the campaign finance system and ensuring that this is comprehensive and fundamentally changes the entire system. Each becomes dependent on the other.

I asked the Senator from Tennessee to change his amendment in one more respect. I do not want my intentions questioned on the Senate floor. I have voted for campaign finance reform as often as any Member of this Congress in the last 20 years—as many times as Senator MCCAIN, as many times as Senator FEINGOLD. I will keep voting for reform.

My intention to ensure that this is constitutional and comprehensive is not because I oppose reform but because I want it to be genuine and complete. It is because of that that I asked the Senator from Tennessee to adjust his amendment. He complied. Under his amendment, not only are these provisions nonseverable, but there would be immediate Federal court review.

Upon action of the district court finding any provision of this legislation unconstitutional, there would be immediate appeal to the U.S. Supreme Court to ensure that this Senate had guidance immediately so we could return to session and correct any constitutional defects.

This, my colleagues, is exactly what this Senate has done in dealing with other legislation that was of questionable constitutional compliance. It is what the Senate and House of Representatives did in dealing only a few years ago with the Religious Land Use Institutionalized Persons Act. We ensured that the provisions would have to stand together, and that there would be immediate court review if they did not return to the Senate.

So I ask the Senate to do what it did to correct what it did wrong in 1974 and did correctly on three previous occasions to ensure constitutionality and

that the responsibility for writing this legislation remains here.

I do not understand, my colleagues, in fact, if we vote differently. The lessons of 1974 were learned in a very hard way. The American people lost confidence in this Government, and the campaign finance system evolved which took Members of the Congress away from their responsibilities and dispirited us and our constituents. It is not a system worthy of a good and great country—but it is the law—because we did not write it. We allowed others to write it. It evolved. It was not thought through or properly conceived.

I thought we learned that lesson in 1974 because on the last three occasions that we reviewed campaign finance legislation in this Congress, we ensured that there was a nonseverability clause.

What Senator FRIST does today, on three previous occasions this Congress assured was in campaign finance legislation. What he does is not the exception. It has been the rule, specifically because of what we learned in 1974. Now Senator FRIST brings it to the Senate again.

I urge my colleagues to act with caution. This vote has meaning, and it will last. It will change the complexity of this entire Congress as the years pass because the access to financing and how we govern this campaign finance system governs who rules, who wins, and who loses, and what issues come before their institution. It could not be more profound.

I urge my colleagues, no matter how they have viewed this question of severability in the past, to think carefully—not reform for reform sake, not a slogan, not a campaign statement, but a careful review of how this law will evolve and what it means to this Senate and to this country.

I compliment the Senator from Tennessee for offering it. I urge my colleagues to adopt it. I yield the floor.

Mr. MCCONNELL. Mr. President, before the Senator from New Jersey leaves, I listened carefully to his remarks, and I also say to the Senator from New Jersey that not only were nonseverability clauses a part of the three campaign finance reform bills that left the Senate in 1990, 1992, and 1993, it is a part of the Harkin amendment that we just voted on a couple of hours ago which had the support of 32 Members of the Senate on his side of the aisle.

So the notion that somehow nonseverability is unusual or inappropriate is absurd. It is more often the case that these are part of campaign finance reform bills that we deal with in the Senate.

Mr. TORRICELLI. I am glad the Senator noted that.

I yield the floor.

Mr. DODD. Mr. President, how much time remains for the opponents?

The PRESIDING OFFICER. The opponents have 21 minutes.

Mr. DODD. Mr. President, I yield 5 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, it continues to be such an excellent debate. I am proud to be a part of it. I commend my colleagues on both sides of the issue.

I believe it is fair to say that putting nonseverability clauses into bills is not at all unusual. Congress passing a bill with a nonseverability clause in it is very usual.

Let's make sure we are not comparing apples with oranges.

Are campaign finance laws so different from anything else that it should be looked upon differently? Because in everything else, severability is the norm. Nonseverability is very unusual. So we say we continually do it in these bills that we don't ever make into law. But we continue to put them into bills because they are campaign finance bills, and they are intricately woven.

I suggest if anybody who ever sponsored a bill—especially a large bill on the floor of this Senate—thinks this bill is pretty intricate, they think their bill was pretty intricately woven, also.

I don't think there is anything that unusual about campaign finance regulations except it pertains to how we raise money. That makes it unusual.

With regard to Buckley, my colleagues, of course, are correct to say the law that was passed in 1974 changed our campaign system in this country in the aftermath of Watergate. Buckley took a look at it and basically said: Congress, you can limit contributions but you can't limit expenditures.

I have often wondered what the Congress would have done had they known that.

My friend from New Jersey talks about soft money and all of that that was not relevant back then. That was in play. Certainly the so-called billionaire exception turned out to be in play with regard to Buckley, and limiting the expenditures was certainly in play. That was stricken.

But what would they have done? Would Congress, knowing they were going to have their expenditures limited, have raised the ceiling on the contributions? I don't think so. What they were doing was in response to Watergate. Would they have lowered the contributions? Basically, that is what you are talking about—contributions and expenditures. I do not know that Congress would have done anything any differently had they known what Buckley was going to do. And, if so, why didn't they?

We have been meeting regularly now for 27 years since they did that dastardly deed to us, as it has been described to us on the floor. I don't know of any serious attempt to go back and readdress the entire issue since that time.

I think the longstanding practice we have had in this country both legislatively and in our court systems to be restrained to have severability clauses in most cases is a wise one.

I say to my friends who talk about these outside groups that both sides have groups that support them and campaign against them. As far as I am concerned, let them come on as long as I have the right to go out and be happy when groups support me or oppose my opponent, and whatnot. And there will be plenty of each. There is plenty of robust debate out there. It makes us mad sometimes. These people have a first amendment right to do that.

According to an independent study, the House of Representatives the last time had more independent money spent on them than the Democrats did with independent ads.

They also said that Senate Democrats had more independent ad money spent on them than the Republicans did. Of course, in that battle, and the Presidential race, the Republicans won. And that is one race. If you look at these soft money donors—I say to my friend from Louisiana who is concerned about this aspect, if you look at the large soft money donors, of the top 10 of them, 6 or 7 are Democrats. They will find a way to support some of these organizations otherwise. In fact, that is a concern on our side of the aisle, that they will do that. The Democrats will have more support that way than the Republicans will have.

Democrats say: Well, the hard money limits will hurt us more than it will the Republicans.

We will never be able to figure out exactly who is marginally helped or hurt with all of these. We have never been able to do that before.

Mr. President, I ask for 1 more minute from my friend.

Mr. DODD. I yield an additional minute.

Mr. THOMPSON. We are in as much equilibrium now probably as we will ever be. Behavior changes. The reason we are so soft money oriented now is because we have neglected the hard money, the small dollars, for some time. I think both parties have. If we raise the hard money limits, as we have, and do away with soft money, you will see the concentration back toward the old-time way of raising money—in smaller amounts, legitimate, limited amounts—that we had since 1974.

Don't treat the legislation that was passed that year as a total abomination. The fact is, until the mid-1990s, the 1974 law worked pretty well. We didn't have any Presidential scandals. The money spent on each side was about the same. Sometimes the challenger won. Sometimes an incumbent won. We don't like it now because some people in the 1990s showed us some ways to get some whole new money into the process.

That is what we are reacting to now. It is not that law. It is what has been

done, not just by the courts but the FEC and the Justice Department and a few others.

It is a complicated issue, but it all boils down to this: Are we prepared to get rid of the multimillionaire soft dollars that are coming from corporations and unions and wealthy individuals in this country into our political process? That is what this vote is all about.

Mr. DODD. Mr. President, I commend my colleague from Tennessee. He made a very good point at the outset on the severability issue and precedence. We went back the other day and looked at legislation over the last 10 or 15 years. We are told that of the hundreds, thousands of bills that passed the Congress, there are about 10 or 11 examples where limited severability was involved, the point the Senator was making.

With that, let me turn to my colleagues who seek recognition. Senator WELLSTONE has been around all afternoon.

I yield Senator SCHUMER 7 minutes.

Mr. WELLSTONE. I ask unanimous consent that I follow Senator SCHUMER.

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

Mr. SCHUMER. Mr. President, I rise in adamant opposition to the nonseverability amendment. At the outset, let us be very clear about the unmistakable goal of this amendment. It has been signed, sealed, and delivered primarily by opponents of the bill for one and only one purpose: as a poison pill.

Of all the prescriptions for all of the poison pills that our friends on the other side of this issue have diligently mixed over the last 2 weeks, this one is the most lethal.

Why do I say that? Because it is aimed straight at the soft money ban, which is the heart and soul of this bill and has been at the core of cleaning up our campaigns since at least 1988. Banning soft money finally ends the practice, unhealthy in any democracy, whereby the wealthiest few pour millions and millions into our campaigns with no restriction at all and sometimes no disclosure, as long as the money is given to a State party.

The debate over how much advocacy groups can do is simply a sideshow. Only those who don't believe that banning soft money is key let it override the dominant purpose of this bill, to ban soft money once and for all. Banning soft money is the forest of this effort. It is far more important to the viability of our campaigns to ban soft money than regulate sham issue ads. There is no compelling reason to force the former to live or die based on the latter.

In medicine, it would be like killing the patient when all he has is a headache. In warfare, we would destroy the village in order to save it. In legislation, it is just plain bad policy.

The better policy, obviously, is to see what the Court does. And if we are left with an uneven system we don't like, fix it then. That is what we always do. That is why we never enact nonseverability clauses. Only once in the last 12 years has a nonseverability provision become law, though nearly 3,000 bills were passed during that time. Passing one now will just be a transparent way of saying we never wanted to ban soft money in the first place, and we found a clever way to pass the buck.

It would be particularly ironic to do this in the name of preventing the Court from writing our campaign finance laws instead of Congress. It is precisely this amendment that gives the Supreme Court too much power, not ordinary severability of the kind we always have and that is in McCain-Feingold.

If we approve this amendment, we will be asking the Court to dictate our campaign finance laws to a far greater extent than in McCain-Feingold because the soft money ban, which is constitutional, which we and the House have debated for years and which we are poised to enact right now, will disappear even if it is not considered by the Court, much less struck down.

Why would we concede that much power to the Court? Most of the time the Senators supporting this amendment talk about the danger of judicial activism, but we will be rubberstamping a peculiar and virtually unprecedented form of judicial activism with this amendment.

As the great Justice Robert Jackson once wrote of the Supreme Court's role as the final arbiter of our law:

> We are not final because we are infallible—we are infallible because we are final.

In the area of campaign finance, the Supreme Court has not been infallible, although it certainly is final. We should not tie this entire bill to the Court's final decision on any one of dozens of minor provisions.

I will close by reemphasizing what the Senators from Arizona and Wisconsin have so often and eloquently said in the course of this debate. I plead with my colleagues, we cannot let the perfect be the enemy of the good. On this side of the aisle, I say to my colleagues, even if you are unhappy with the delicate balance of 501(c)(4) organizations, even if you realize they may not be limited once the courts get hold of this, don't throw out the baby with the bath water. The good in this bill is more than just good, it is great. It is a landmark achievement, the first serious reform in a generation. And we should strive to preserve it, not kick the can across the street to the Supreme Court.

Mr. President, I yield back to the Senator from Connecticut my remaining time.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Minnesota is to be recognized.

Mr. DODD. That is right. We are down to a very limited amount of time. I have two or three people who want to be heard. I am going to ask the indulgence of my colleagues, unless the other side would like to give us a little time for people who want to be heard. How much time do the proponents have?

The PRESIDING OFFICER. Ten minutes.

Mr. DODD. May we have 5?

Mr. FRIST. I will yield 4 minutes.

Mr. WELLSTONE. I will do it in 3 minutes.

Mr. DODD. The Senator yields 3 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Although I don't like doing it in 3 minutes.

Mr. President, I think that some of what other Senators have said about the whole being greater than the sum of the parts is, in part, true. But I think the soft money ban, which is at the heart of the McCain-Feingold bill, is important enough that we want to protect it.

Second of all, I frankly don't know what the supremely political Court will do. You can argue different ways, but I would hate to see the supremely political Court render a decision taking on one part of the legislation and having the whole bill fall.

Third, I would like to point out to my colleagues that the amendment I introduced that was passed as a part of this legislation now was based upon the idea of severability. That was an amendment to improve this bill, not to jeopardize this legislation. And so, consistent with my commitment to severability, I will vote against nonseverability.

And then, finally, may I say this? How ironic it is that the amendment I introduced the other night is not even covered by this amendment that my colleagues introduced on the other side; that the amendment I introduced the other night that deals with these sham issue ads and the potential of all the soft money shifting here is still severable. It is so ironic. But I say, no self-righteousness intended, consistent with the principle of improving this bill, not in any way, shape, or form trying to jeopardize this bill, I don't even know how I am going to vote on final passage. But I certainly am opposed to this nonseverability.

You see why I wanted to have more time than 3 minutes? I have a lot to say.

Mr. DODD. The distinguished Senator is always eloquent.

I yield to my colleague from Massachusetts 3 minutes.

Mr. KERRY. Mr. President, it seems to me it is obvious to almost every Senator that we are sort of reaching a critical moment where we decide whether we are for campaign reform or we are not. At the bottom line, that is really what the severability issue is about, even though the severability has been limited now to a major component of the bill: Issue ads, i.e., Snowe-Jeffords, versus soft money. The soft money falls, the prohibition on it, only if the Court finds that Snowe-Jeffords is inappropriate, unconstitutional.

I say to my colleagues that the whole purpose of this reform is to get rid of the largest component of money that

most taints the political process, which is soft money. One of the reasons people have doubts about their ability to be able to counter issue ads, if indeed that prohibition were to fall, is that they haven't been raising hard money, because when you can go to somebody and ask for $50,000, $100,000, $500,000, why bother going after the smaller sum of money?

So it seems to me what is ignored in this argument is, if indeed you don't have soft money, and if indeed the prohibition on issue ads, if Snowe-Jeffords were to fall, you are not defenseless at all, you still have the capacity to spend unlimited amounts of hard money in defense.

One of the reasons Senator WELLSTONE, Senator BIDEN, I, and others are so concerned about the McCain-Feingold bill in the end, though we support it, is that it ultimately only reduces a portion of the money that is in American politics. It still leaves us in a race, ever-escalating, of raising extraordinary amounts of hard money, cavorting around the country, still indebted to interests, still asking for large sums of money. We are still going to do that. I know Senators MCCAIN and FEINGOLD would love to go further if they could.

So, colleagues, this vote on severability is really a simple vote about whether or not we are prepared to take the risk of getting rid of the extraordinary amounts of soft money and taking on ourselves the burden, if indeed Snowe-Jeffords were to fall, of raising appropriate amounts of hard money with which to take our case to the American people.

I happen to believe very deeply that the bright-line test we have set up will withstand scrutiny. All you have to do is read Buckley v. Valeo and read the Nixon and Missouri case. The Court makes clear that it is prepared to limit contributions where they are clearly contributing to the advocacy of the election of a candidate. Anybody can watch those ads and tell the difference as to whether they are purely about an issue or trying to seek defeat or election of a candidate. I am confident we have drawn a line that will pass constitutional muster.

I ask my colleagues to take the risk in favor of reform and eliminate the soft money from American politics. That is what this vote is about.

Mr. DODD. Mr. President, am I out of time?

The PRESIDING OFFICER. The Senator has 4 minutes 43 seconds.

Mr. DODD. I yield 2 minutes to my colleague from Arizona.

Mr. MCCAIN. Mr. President, we are now facing one of the major hurdles, and perhaps the last major hurdle, between us and successful resolution of this issue. We had to fight back a poison pill in the form of a so-called paycheck protection. We had to speak clearly that we will not accept soft money in American politics. Then we voted in favor of a very hard-fought and carefully crafted compromise in the form of the Thompson-Feingold amendment. Now we face this issue. Have no doubt about what this vote is really about. If you vote for this amendment, you are voting for soft money. That is really what this vote is all about.

Since this may be the last major obstacle we face, I take the opportunity to thank all of my colleagues for the level of this debate, the tenor of this debate. I also thank the thousands and thousands of Americans who have been active in this debate and participated with us through e-mail, phone calls, and through all communications. Without their support, we would not be where we are today.

I urge a vote in favor of the tabling motion that will be proposed by Senator THOMPSON of Tennessee.

Mr. DODD. Mr. President, let me also commend our colleague. This has been a good debate, one we can be proud of in this body. I ask for recognition of the Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator. I join with my colleague in thanking each and every Member of this body for the way this debate has been conducted. It has been a great example of the way this institution can work.

The Senator from Arizona is also right about the ultimate point. This amendment is couched in rather technical terms—severability or nonseverability. But it truly is the whole issue. I said it time and again, but it is the most important thing to point out to people, and that is that we have never allowed unlimited campaign contributions from corporate treasuries to political parties since 1907. We have never allowed unions to do the same thing from their treasury since 1947, the Taft-Hartley Act. But now, in the 1990s, the early part of this century, Members of Congress are engaged in asking for $100,000, $500,000, and $1 million contributions.

I say to you, Mr. President, if you told me even 10 years ago that such a practice could ever occur in this democracy, I would have been stunned. But it is standard procedure today. This vote on this amendment will decide whether this terribly unfortunate and corrupting system continues or not. This is the soft money vote. This is where the Senate takes its stand. This is the test.

Thank you, Mr. President.

Mr. DODD. I presume all time has expired.

The PRESIDING OFFICER. The Senator has 1 minute 22 seconds.

Mr. DODD. Mr. President, my colleague from Tennessee, the author, has been very gracious in giving us some time. I am going to return the favor and extend a minute and a half to him.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I, too, applaud my colleagues and everybody who has participated in the debate over the last 3 hours and really over the last 10 days. But over the last 3 hours, I have been quite pleased with the nature of the discussion, the debate, the issues.

It is very clear to our colleagues what this vote is about. Although some will say it is about soft money, it is about voice and it is about the freedom in our process, freedom of political speech.

Very briefly, I want to make three points in closing. No. 1, people are billing this as a poison pill. Very clearly, we are not adding anything. We are linking principally two underlying factors that are part of the underlying McCain-Feingold bill and added to the hard money the Thompson amendment. These are linked in a comprehensive, complementary, integral way. We are addressing just these three. If one falls, the other two come down; if one is unconstitutional, the others come down. Why? Because of balance.

All other provisions in this bill, whether it is increased disclosure, the provision clarifying the ban on foreign contributions, including soft money, the ban on raising money on Federal property, the millionaire amendment—all of those stand, all of those continue regardless of what happens with the Frist-Breaux amendment and constitutionality.

The second point is, the issue has been made that most bills coming out of this body do not have nonseverability clauses, but the point was made that some do. It is in times exactly such as these where we bring people together and knit together in a comprehensive way this balance that is so critical to maintain what we all cherish, and that is freedom of speech.

It is in unusual times such as these that a nonseverability clause is called for. It is this balance. If Snowe-Jeffords falls and the ban on soft money stays, then we increase, not decrease, the role of influence of the special interest groups we talked so much about over the last 3 hours. That is not the type of reform that Americans want.

Third, history. Clearly, there have been precedents, in fact, on campaign finance reform bills that have passed out of this body that have had nonseverability clauses.

In closing, I urge support of the Frist-Breaux amendment, as modified, during the course of the debate. It deals directly with the most cherished freedoms that any of us have today, and that is the freedom of speech.

If there is one thing that has been pointed out over the last several days, it is that we must be careful whenever we pass a bill that is going to ration free speech, and that is what we are doing. We must maintain that balance, and the only way to maintain that balance is to support the nonseverability clause amendment proposed by myself and Senator JOHN BREAUX.

I yield back the remainder of my time.

Mr. DODD. Mr. President, I move to table the Frist-Breaux amendment No.

156, as modified, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—57

Akaka	DeWine	Levin
Bayh	Dodd	Lieberman
Biden	Dorgan	Lugar
Bingaman	Durbin	McCain
Boxer	Edwards	Mikulski
Brownback	Feingold	Miller
Byrd	Feinstein	Murray
Cantwell	Fitzgerald	Nelson (FL)
Carnahan	Graham	Reed
Carper	Harkin	Reid
Chafee	Hutchinson	Rockefeller
Cleland	Inouye	Sarbanes
Clinton	Jeffords	Schumer
Cochran	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kerry	Stabenow
Corzine	Kohl	Thompson
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden

NAYS—43

Allard	Gramm	Nickles
Allen	Grassley	Roberts
Baucus	Gregg	Santorum
Bennett	Hagel	Sessions
Bond	Hatch	Shelby
Breaux	Helms	Smith (NH)
Bunning	Hollings	Smith (OR)
Burns	Hutchison	Stevens
Campbell	Inhofe	Thomas
Craig	Kyl	Thurmond
Crapo	Lincoln	Torricelli
Domenici	Lott	Voinovich
Ensign	McConnell	Warner
Enzi	Murkowski	
Frist	Nelson (NE)	

The motion was agreed to.

Mr. DODD. 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.

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

The PRESIDING OFFICER. The previous order was to recognize the Senator from Kentucky for up to 30 minutes.

Mr. MCCONNELL. Mr. President, I assure my colleagues that I am not likely to take 30 minutes. But I thought it was an appropriate time to say that I think we have dealt with the last very significant amendment to this bill.

I think it is time for Members of the Senate on both sides of the aisle to take a good hard look at what we have done to the political parties—both yours and ours. I asked the pages to hand out this little chart.

My colleagues, we have reached a point in this debate where I think it might be a good idea to take a look at what life in a hard money world is going to look like for our two great political parties. We have taken pretty good care of ourselves in this debate.

We have raised the hard money limit for us. I am for that. I think that is a very important step in the right direction.

We lowered the broadcast discount so we can buy time cheaper. I voted for that.

We tried to protect ourselves against being criticized by outside groups through the adoption of the Wellstone amendment and the Snowe-Jeffords language.

We even adopted the Schumer amendment which would make it difficult for parties to use coordinated expenditures over and above the current limit if the Supreme Court in fact strikes down the coordinated expenditure limit as unconstitutional, which is the case currently before the Supreme Court.

We have also defeated the non-severability clause, so that now if the Court strikes down our efforts to limit the ability of outside groups to criticize us in proximity to an election, and we are unable through the charting of new turf, new ground, to convince a court that the federalization of our parties is unconstitutional—and no one really knows; there is no case law on that—the parties will not be able to support their candidates against attacks by outside groups. By the way, I want you to know that I will be the plaintiff in the case. We will be meeting with the other people who are likely to be the co-plaintiffs in this case in my office next week.

But we are left now with the possibility of being saved by the House or being saved by the President, who says he is going to sign this bill.

If none of those things happens, you are looking at the plaintiff. I have no idea what the chances are of getting a Federal district court, or the U.S. Supreme Court, for that matter, on appeal, to tell us whether parties have a right of free association and a right of speech somewhat similar to individuals. That is really uncharted turf. We do know this: What we can calculate is what happens to the parties in a 100-percent hard money world.

I hope by now some of you have gotten—I don't see that any of you have gotten—where are our pages with additional copies? I guess they thought you all wouldn't be interested in this. I don't know why. Could the pages please deliver those over to the Democratic side? This won't take long.

I took a look at the 2000 cycle, the cycle just completed. You will see in the chart before you that the chart depicts the net Federal dollars available to the three national party committees.

Under current law, on the left—if I could call your attention to the column on the left, and for those in the gallery, this column is called ''Actuals.'' This was the last cycle, net hard dollars.

The Republican National Committee had net hard dollars to spend on candidates of 75 million; the Democratic National Committee, 48 million net hard dollars to spend on candidates.

The Republican Senatorial Committee, net hard dollars to spend on candidates, 14 million; the Democratic Senatorial Committee, net hard dollars to spend on candidates, 6 million.

The Republican Congressional Committee, $22 million; the Democratic Congressional Committee, minus 7 million in the whole cycle, net party dollars.

Now let's take a look at what the 2000 cycle would have looked like under McCain-Feingold in a 100-percent hard money world. That is the column over here on the right. You see the Republican National Committee would have gone from 75 million net hard dollars down to 37 million net hard dollars; the Democratic National Committee, from 48 million net hard dollars down to 20 million net hard dollars; the Republican Senatorial Committee, from 14 million net hard dollars down to 1 million. That wouldn't even cover the coordinated in New York. The Democratic Senatorial Committee, 6 million net hard dollars down to 800,000.

Welcome to the 100-percent hard money world. You are going to like it.

There has been a lot of discussion about who wins and who loses. We both lose. This is mutually assured destruction of the political parties.

I don't think any of you believes seriously that Jeffords, or Wellstone, or Snowe-Jeffords are going to be upheld in court. This is an area of the law I know a little bit about. So the chances are pretty good that all of those groups that Senator BREAUX was describing are going to be out there on both the right and the left pounding away.

Maybe your friends in organized labor will be able to help you, or the Sierra Club. Or maybe the NRA will come save some of our people. But under this bill, I promise you, if McCain-Feingold becomes law, there won't be one penny less spent on politics—not a penny less. In fact, a good deal more will be spent on politics. It just won't be spent by the parties. Even with the increase in hard money, which I think is a good idea and I voted for, there is no way that will ever make up for the soft dollars lost.

So what have we done? We haven't taken a penny of money out of politics. We have only taken the parties out of politics—mutual assured destruction.

What is this new world going to be like without parties? Here was a full-page ad in the paper 2 days ago by a billionaire named Jerome Kohlberg. He happens to mostly like you all, but we have some billionaires, too. They have a perfect right to spend their money any way they want to, and they will. These billionaires are the people who are underwriting the reform movement with lavish salaries for these people who are hanging around off the side of the Senate telling us that we ought to squeeze the money out of politics.

Welcome to the new world, a battle of billionaires over the political discourse in this country while we have

made the political parties impotent; impotent in order to satisfy who? The New York Times, the biggest corporate soft money operation in America? The Washington Post, the second biggest corporate soft money operation in America? I know you all like them because they are sympathetic to you, but there are people on our side, too.

This is a massive transfer of speech away from the two great political parties to the press, to academia, to Hollywood, to billionaires in order to satisfy who? I have often said that this issue ranks right up there with static cling as a matter of concern to the American people.

This is a stunningly stupid thing to do, my colleagues. Don't think there is anybody out there to save us from this. I am not going to embarrass anybody, but I had a lot of frantic discussions over the course of the last 2 weeks with my friends on the other side of the aisle, hoping somebody, somewhere, somehow was going to keep this from happening. There is nobody to come to the rescue. This train is moving down the track.

This is my main point, in asking for your attention—and I thank you for being here—this is a candid appraisal. This is not a partisan observation. This is a candid and realistic appraisal of life after McCain-Feingold. I am sure there are very few of you who will believe this is going to improve the political system in America.

This bill is going to pass later tonight. If I were a betting man, I would bet it is going to be signed into law. I just wanted to welcome you, my friends, to a 100-percent hard money world.

I thank the Chair and yield the floor.

Mr. DODD. Mr. President, may I inquire, I believe there was a similar request made to respond to the unanimous consent request of the Senator from Kentucky.

The PRESIDING OFFICER. The Senator is correct. There are an additional 30 minutes under the control of the Senator from Connecticut.

Mr. DODD. The distinguished Senator from Wisconsin or the Senator from Arizona, Mr. MCCAIN, I had thought, wanted to be heard on this issue.

Mr. President, let me reserve the time for them. I will take 2 minutes and say to my friend and colleague from Kentucky, this is a new world. I accept that description. I wouldn't call it necessarily a perfect world, but I think for those of us who support McCain-Feingold, we think this is a far better world than the one we have been engaged in over the past number of years, as we have watched the explosion of unregulated soft money flow into the political process in this country.

Senator BENNETT of Utah a little while ago said no one can say for certain where this is going to go. That is true. I think we do appreciate, those of us who have supported this legislation, that a system that is devoid of unregulated soft money, and those of us who believe that the Snowe-Jeffords provisions and the price we paid by increasing modestly the hard money contributions, make this a better system than the one we presently are operating under. So, yes, it is a new world.

I happen to believe it is a vastly better world and that the American public, who have something to say about this and who have been declining, as my colleague and friend from Kentucky has pointed out, declining in their checking off on the 1040 forms of moneys to go into the public coffers to support Presidential elections is a good poll about how the public feels—he says about public financing, I think about politics—I am not certain this is going to change entirely the public mood. I think we are taking a giant step forward with the adoption of McCain-Feingold in improving the climate and improving the public's confidence and their respect for the political process in this country.

Yes, it is a new world. I think it is a better world.

I yield 5 minutes to my colleague from Massachusetts and then reserve the remainder for Senator FEINGOLD or Senator McCain.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I listened carefully to the comments of the Senator from Kentucky. I respect the very direct, open way in which he has stated his opposition, and he has done so on the basis of a belief system. I respect that. I think we all do.

Let me say to my colleagues, there is an analogy that is not completely inappropriate in the sense that when you have found a way to do things and it works pretty easily and you are sort of swimming in it because it is easy, it is hard to give it up. It is not unlike an addiction in a sense. There has been an easy addiction to this flow of money.

When you look at the amounts of money, from $100 million up to $244 billion in a span of 2 years, dozens of times in excess of the rate of inflation, you have to ask: What is going on here?

I say to my colleagues, for those who fear this new world that has been defined, there are alternatives. There are other ways to do this. I am proud that I can stand as a Senator in the Senate today, having gotten elected a different way.

In 1996, the Governor of our State and I mutually agreed to limit the amount of money we would spend—he, a fervent Republican; me, an ardent Democrat. We both agreed to spend the same amount of money. We both agreed that each of us would subtract from our total the amount of money that any independent expenditure ran in favor of the other person or that our parties spent on our behalf. We ran a race that was absolutely free from soft money, from party money. We had nine 1-hour televised debates, and the public knew us both, probably better than they wanted to, and made a decision.

We can all run that way. There is adequate capacity in this new world to raise countless amounts of hard dollars.

Under McCain-Feingold, we have raised the total amounts of money up to about $75,000 over 2 years to party and to individual.

Nothing stops one Senator from going out and raising as much hard money as they can access in a 6-year term, in amounts that have now been raised to $2,000 a person, which means you can visit one couple, a husband and wife, and you can walk out with $8,000. All of us know that one-half of 1 percent of the people in America even contribute $1,000 contributions.

So this is not a dire new world, a brave new world. This is a world the American people are asking us to live by, and countless business people across this country are sick and tired of us coming to them and saying I need $150,000 or I need $500,000 for my party. They look at the committee you serve on and they feel pressured, whether they say it or not. Whether you say it or not, it is an appearance.

So I say to colleagues, this is a world we can survive in just fine. With 6 years of incumbency, with all of the power of the incumbent, with all of the times you can return home as a Senator and meet with constituents, there isn't one of us who doesn't start with the natural advantage, even under McCain-Feingold.

So I suggest respectfully that this is the right world, the world with which we ought to be living. We should not fear the outcome of this particular change. I thank the Senator from Connecticut.

Mr. FEINGOLD. Mr. President, I thank the Senator from Kentucky for ensuring that the Senate has a moment to reflect on the implications of this bill. I think it is very important that we pause to evaluate this legislation, and what it will mean for our parties, and for the voters.

As my colleagues might imagine, I take a drastically different view on effects of this legislation than the Senator from Kentucky. I realize that change can be difficult, and even a little scary, but I think it is a mistake to try to scare Members out of voting for this bill. This reform is about increasing the public's faith in our work. This bill doesn't destroy the political parties; it strengthens them by ending their reliance on a handful of wealthy donors.

Parties need money to operate, and under this reform, the national parties will be able to raise hard money, just as they have for many years. What they won't be able to do is raise the unlimited amounts of soft money. Just like the parties didn't have much, if any, soft money for much of the 1970s and 1980s.

Soft money isn't some magic bullet that the parties need to increase voter

turnout or voter participation in the democratic process. Throughout much of the 1970s and 1980s, soft money was mostly absent from party fundraising. The parties raised hard money, and ran their parties on hard money. It is easy to forget that when we look at fundraising today, I know, but it is important to remember as we consider this bill. We didn't need soft money then, and we don't need it now; that is a myth that has been perpetuated, frankly, on both sides of the aisle, and it is time to put that myth to rest once and for all.

Neither party can thrive when they are beholden to the wealthy few. Soft money doesn't strengthen the parties, it undermines the spirit that keeps our parties strong. We all know that people, not soft money, are the heart and soul of our political parties.

With the soft money system, the parties have been operating outside the spirit of the law, and outside the public trust, for too many years. With this bill, we can return the parties to the people who built them in the first place. Our democracy demands vibrant political parties. No one believes that more than I do. But soft money has, ironically, cheapened our parties. I feel that is true in my own party, and I am deeply saddened to have to say that. Last spring the Democratic Party held a fundraiser where soft money donors in the arena sat down to dinner at lavishly decorated tables, while those who could only afford a cheaper ticket actually sat in the bleachers and watched them enjoy their meal. Is that party-building? I think we all know that to say that kind of event strengthens the parties is just absurd.

The parties aren't strengthened when people across the country, Republicans and Democrats, pick up the newspaper and read that their party is giving access and favors to the wealthy, while they struggle to pay for health care coverage, or they worry about how safe their drinking water is. They pick up the paper and see the parties take unlimited money from HMOs and big polluters, and they wonder how in the world could their party really stand up for them when they depend so completely on a wealthy few? The assumption that we can be bought, or that our parties can be bought, has completely permeated our culture. I'd guess that there are few if any Members of this body who haven't faced gone home to face the deep skepticism of their constituents on a given issue, when people felt like they or their party have been ''bought off'' by a wealthy interest.

Soft money, like perhaps no other abuse of our system in history, creates an appearance of corruption. To demonstrate that, I want to put in the record two items of interest. The first are the results of a poll conducted just last week by ABC News and the Washington Post. This poll found that 74 percent of the public now support stricter laws controlling the way political campaigns raise and spend money. That is an 8 percent increase from just a year ago. The poll had a margin of error of plus or minus 3 percent.

More important, however, the same poll found that 80 percent of the public thinks that politicians do special favors for people and groups who give them campaign contributions. And 67 percent consider this a big problem. Seventy-four percent of those who believe that politicians do special favors for donors said they think these favors are unethical.

This is the appearance of corruption. The assumption that politicians are on the take, and that money purchases favors. The ''Coin-Operated Congress,'' as Pat Schroeder used to say.

I have felt so strongly over the past few years that money is setting the agenda that began to speak on the Senate floor during debates on substantive legislation about the money flowing from companies and groups interested in that legislation. I have called this the ''Calling of the Bankroll,'' and since I started this practice in June of 1999, I have called the bankroll 30 times. I think it is important for us to acknowledge that millions of dollars are given in an attempt to influence what we do. The appearance of corruption is rampant in our system.

I have called the bankroll on mining on public lands, the gun show loophole, the defense industry's support of the Super Hornet and the F–22, the Y2 K Liability Act, the Passengers' Bill of Rights, MFN for China, PNTR for China, and the tobacco industry. I have talked about agriculture interests lobbying on an agriculture appropriations bill, telecommunications interests lobbying on a tower-siting bill, and railroad interests lobbying on a transportation appropriations bill. I've talked about contributions surrounding the Financial Services Modernization Act, nuclear waste policy, the Arctic National Wildlife Refuge, and the ergonomics issue. I have also called the bankroll on the Patients' Bill of Rights, twice, the Africa trade bill, twice, the oil royalties amendment to the fiscal year 2000 Interior Appropriations bill, twice, and I have Called the Bankroll on three tax bills, and four separate times on bankruptcy reform legislation.

I think it is safe to say that the public doesn't think much of the current system, and that soft money plays a big part in the public's lack of faith in us and the work we do.

One of the most important ways I think this bill can change the fundraising culture is not just by stopping soft money fundraising, but by stopping soft money fundraising by Members of Congress. Soft money fundraising is something that many Members of this body find deeply troubling. How many of Members of the Senate enjoy picking up the phone and asking a donor for $100,000? How many Senators feel uncomfortable exerting pressure on wealthy interests to come through with big contributions to fuel the fundraising contest between the parties?

I have said before that I have had Members tell me they felt like taking a shower after asking for a huge contribution. And I recently quoted Senator MILLER's Washington Post op-ed, where he said that after raising soft money, he felt like ''a cheap prostitute who'd had a busy day.'' Haven't we had enough? I think we have. When this body voted 60 to 40 against the Hagel amendment, which would have put the Senate's stamp of approval on the soft money system, I think we really turned a corner in this debate. We joined the rest of the country in recognizing that this system puts our integrity at risk, and that soft money simply isn't worth that risk anymore.

This bill will reinvigorate the political process, and it will renew faith in the parties, and in each and every one of us. With the passage of this bill, we won't have to face the accusations that our parties have been bought off by soft money. We won't have to read about million dollar donations or getaways for hundred thousand dollar donors with party leaders, and neither will our constituents. And that will do something to improve the public's attitude toward us, and I think it will improve our own feeling about the work that we do. All of us take pride in our work, and in this institution. But we all face nagging accusations that unlimited money plays a role in the legislative process in which all of us play a part. Today we have a rare chance to change that, and I believe we will.

I stand here today before my colleagues to say that soft money isn't good for politics. It is time to stop protecting soft money, or defending it as something that strengthens our parties, or the political life of the nation. Soft money removes people of average means from the political process, and replaces them with a handful of wealthy interests. So to say that soft money is good for parties is to say that people, the party faithful who should be the lifeblood of a political party, don't really count anymore. That in the quest for unlimited contributions, the parties are willing to forgo the trust of the people they purport to serve. I don't accept that point of view. And I don't think that most of my colleagues do either. Soft money does a disservice to the work of this Senate, it does a disservice to our parties, and most of all, it does a grave disservice to the American people. So let us come together to end the soft money system, and dispel the tired myth that soft money is good for democracy once and for all.

I ask unanimous consent that a chart detailing the times I have called the bankroll be included in the RECORD at this point.

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

THE CALLING OF THE BANKROLL

Date	Legislation/Issue	Bankroll of PAC and Soft Money Contributions	Forum
5/20/99	Emergency Supplemental Appropriations Conf. Rpt./Mining rider.	PACs associated with the members of the National Mining Association and other mining-related PACs contributed more than $29 million to congressional campaigns from January 1993 to December 1998. Mining soft money contributions totaled $10.6 million during the same 6–year period.	Senate floor statement given live, CR S5652.
5/20/99	Juvenile Justice (S.254)/ Gun control measures.	Gun rights groups, including the NRA, gave nearly $9 million to candidates, PACs, and parties from 1991 to 1998. The NRA gave $1.6 million in PAC contributions to federal candidates last cycle. Handgun Control, Inc. gave a total of $146,614. Those who voted against the first Lautenberg amendment to close the gun show loophole received an average of over $10,478 from gun rights groups, while those who voted for it averaged only $297.	Statement for the Record, printed in CR S5721.
5/27/99	Defense Dept. Authorization/Super Hornet amendment.	The defense industry gave more than $10 million dollars in PAC money and soft money to parties and candidates in the last election cycle alone. In the last ten years, the defense industry gave almost $40 million to candidates and the two national political parties.. Boeing, the Super Hornet's primary contractor, gave more than $3 million in PAC money and more than $1.5 million in soft money during that same 10–year period.	Senate floor statement given live, CR S6181.
6/10/99	Y2K Liability Act	The computer and electronics industry gave close to six million dollars in PAC and soft money during the last election cycle—$5,772,146 dollars to be exact. And the Association of Trial Lawyers of America gave $2,836,350 in PAC and soft money contributions to parties and candidates in 1997 and 1998.	Statement for the Record, printed in CR S6853.
6/23/99	Patients' Bill of Rights	During the last election cycle, managed care companies and their affiliated groups spent more than $3.4 million dollars in soft money, PAC, and individual contributions—roughly double what they gave during the last mid-term election cycle. The pharmaceutical and medical supplies industry gave more than $4 million dollars in PAC money contributions and more than $6.5 million dollars in soft money contributions in 1997 and 1998. The AMA made more than $2.4 million dollars in contributions in the last cycle ($2.3 million in PAC money, approximately $77,000 in soft money.) The AFL–CIO gave parties and candidates close to $2 million dollars in 1997 and 1998. ($1.1 million in PAC money, $777,059 in soft money.)	Senate floor statement given live, CR S7502.
7/14/99	Patients' Bill of Rights	During the last election cycle, managed care companies and their affiliated groups spent more than $3.4 million dollars on soft money contributions, PAC, and individual contributions—roughly double what they spent during the last mid-term elections. Managed care giant United Health Care Corporation gave $305,000 in soft money to the parties, and $65,000 in PAC money to candidates. Blue Cross/Blue Shield's national association gave more than $200,000 in soft money and nearly $350,000 in PAC money; the managed care industry's chief lobby, the American Association of Health Plans, has given nearly $60,000 in soft money in the last two years..	Senate floor statement given live, CR S8428.
7/20/99	China MFN	Members of USA Engage, a major coalition lobbying for MFN status for China were big contributors in the last election cycle. Examples include:. Defense contractor TRW Inc. gave more than $195,000 in soft money and $236,000 in PAC money Financial services giant BankAmerica gave more than $347,000 in soft money and more than $430,000 in PAC money. The U.S. Chamber of Commerce gave nearly $50,000 in soft money and $10,000 in PAC money. Exxon, one of the world's largest oil companies, gave $331,000 in soft money and nearly half a million dollars in PAC money Communications giant Motorola gave more than $100,000 in both soft money and PAC money. This is just the tip of the iceberg.	Senate floor statement given live, CR S8845.
7/22/99	Commerce-Justice-State Appropriations Bill/ Report language on DOJ pursuing tobacco suit.	The nation's tobacco companies are some of the most generous political donors around today, including Philip Morris, which reigns as the largest single soft money donor of all time. During the 1997–1998 election cycle the tobacco companies, including Philip Morris, RJR Nabisco, Brown and Williamson, US Tobacco and the industry's lobbying arm, the Tobacco Institute, gave a combined $5.5 million in soft money to the parties, and another $2.3 million in PAC money contributions to candidates.	Statement for the Record, printed in CR S9068.
7/29/99	Tax Bill	Just a few examples of what these wealthy interests gave and what they got in either this bill, the House tax measure, or both. The Coalition of Service Industries, a coalition of banks and securities firms, won a provision to extend for five years a temporary tax deferral on income those industries earn abroad. The value of this tax deferral: $5 billion over ten years. During the 1997–1998 election cycle, coalition members gave the following: Ernst & Young—more than half a million dollars in soft money, and nearly $900,000 in PAC money. CIGNA Corporation—more than $335,000 in soft money, and more than $210,000 in PAC money. American Express—more than $275,000 in soft money and nearly $175,000 in PAC money. Deloitte and Touche—more than $225,000 in soft money and more than $710,000 in PAC money.	Senate floor statement given live, CR S9655.
		The utility industry got a provision affecting utility mergers in the House measure, which, if it survives, is worth more than $1 billion to the utility industry. The provision would excuse the payment of taxes on the fund that utilities set up to cover the costs of shutting down nuclear power plants. Entergy Corporation gave $228,000 in soft money and nearly $250,000 in PAC money; Commonwealth Edison gave $110,000 in soft money and more than $106,000 in PAC money; and Florida Power and Light, gave nearly $300,000 in soft money and more than $182,000 in PAC money	Senate floor statement given live, CR S9655.
8/4/99	Agriculture Appropriations bill	Agriculture interests have donated nearly $3 million $15.6 million in PAC money Examples of soft money ''double givers'' in the agriculture industry during the last cycle include the Archer Daniels Midland Company, which donated $263,000 to the Democrats and $255,000 to the Republicans; United States Sugar Corp, which donated $157,500 to the Democrats and almost $250,000 to the Republicans; and Ocean Spray Cranberries Incorporated, which donated $156,060 to the Democrats and $117,600 to the Republicans. Not everyone is a double giver. The top agribusiness soft money donor to the Democratic party, crop producer Connell Company, gave $435,000, all to the Democratic party committees. Dole Food Company gave more than $200,000 in soft money in 1997 and 1998, all to Republican party committees An agribusiness donor that shares my position against the extension of the Northeast Dairy Compact: The International Dairy Foods Association, which gave more than $71,000 in soft money during 1997 and 1998 all to the Republican party committees.	Statement for the Record, printed in CR S10211.
8/5/99	Introduction of Tower Siting Bill, S. 1538	During the last election cycle the following telecommunications companies with a stake in the wireless market gave millions upon millions of dollars to candidates and the political parties. Bell Atlantic gave more than $920,000 in soft money and $870,000 in PAC money. Wireless manufacturer Motorola gave $100,000 in soft money and nearly $110,000 in PAC money. The Cellular Telecommunications Industry Association, the lobbying arm of the wireless industry, gave more than $100,000 in soft money and more than $85,000 to candidates; and AT&T gave nearly $825,000 in soft money to the parties and nearly $820,000 in PAC money to candidates.	Statement for the Record, printed in CR S10460.
9/8/99	Interior Appropriations bill/Oil royalties Amendment.	During the 1997–1998 election cycle, oil companies that favor this rider gave the following in political donations to the parties and to federal candidates: Exxon gave more than $230,000 in soft money and more than $480,000 in PAC money; Chevron gave more than $425,000 in soft money and more than $330,000 in PAC money; Atlantic Richfield gave more than $525,000 in soft money and $150,000 in PAC money; BP Oil and Amoco, two oil companies which have merged into the newly formed petroleum giant, BP Amoco, gave a combined total of more than $480,000 in soft money and nearly $295,000 in PAC money. That's more than $2.9 million just from those four corporations in the span of only two years.	Floor Colloquy with Sen. Boxer, CR S10567.
9/15/99	Transportation Appropriations bill/Railroad consolidation.	The railroad companies are backing up their point of view with almost $4 million dollars in PAC and soft money contributions in the last election cycle alone. During 1997 and 1998, the four Class I railroads gave the following to political parties and candidates: CSX Corporation gave more than $600,000 in unregulated soft money to the parties and nearly $275,000 in PAC money to federal candidates; Union Pacific gave more than $600,000 in soft money and more than $830,000 in PAC money; Norfolk Southern gave more than $240,000 in unregulated money to the parties and almost a quarter million to candidates; Burlington Northern Santa Fe gave more than $445,000 in soft money and nearly $210,000 in PAC money.	Statement for the Record, printed in CR S10922.
9/15/99	Transportation Appropriations bill/Passengers' Bill of Rights.	The six largest airlines in the United States—American, Continental, Delta, Northwest, United and US Airways—and their lobbying association, the Air Transport Association of America, gave a total of more than $2 million dollars in soft money and more than $1 million dollars in PAC money in the last election cycle alone. Northwest was the largest soft money giver among these donors, giving well over half a million dollars to the political parties in 1997 and 1998.	Statement for the Record, printed in CR S10923.
9/23/99	Interior Appropriations bill/Oil royalties Amendment.	During the 1997–1998 election cycle, the very large oil companies that will benefit from this amendment gave the following political donations to the parties and to Federal candidates: Exxon gave more than $230,000 in soft money and more than $480,000 in PAC money; Chevron gave more than $425,000 in soft money and more than $330,000 in PAC money; Atlantic Richfield gave more than $525,000 in soft money and $150,000 in PAC money; BP Oil and Amoco, two oil companies that have merged into the newly formed petroleum giant, BP Amoco, gave a combined total of more than $480,000 in soft money and $295,000 in PAC money. That is more than $2.9 million just from those four corporations in the span of only 2 years.	Senate floor statement given live, CR S11284–88 and colloquy with Sen. Lott on germaneness of debate, S11347.
10/14/99	Defense Appropriation bill/Air Force F–22 program.	Defense contracting giant Lockheed Martin, the primary developer of the F–22, gave nearly $300,000 in soft money and more than $1 million in PAC money in the last election cycle. During that same period, Boeing, one of the chief developers and producers of the F–22's airframe, gave more than $335,000 in soft money to the parties and more than $850,000 in PAC money to candidates. Four of the most important subcontractors of the project, TRW, Raytheon, Hughes Electronics and Northrop Grumman, also happened to be major political donors in the last election cycle. Raytheon tops this list with nearly $220,000 in soft money and more than $465,000 in PAC money. Northrop Grumman gave more than $100,000 in soft money to the parties and more than $450,000 in PAC money to candidates. Hughes gave nearly $145,000 in PAC money during 1997 and 1998, and TRW gave close to $200,000 in soft money and more than $235,000 in PAC money.	Statement for the Record, printed in CR S12573.
10/27/99	Africa Growth and Opportunity Act (AGOA)	The companies that are members of the Africa Growth and Opportunity Act Coalition, Inc., a group established specifically to ''demonstrate public support for AGOA, which includes Amoco, Chevron, Mobil, The Gap, Limited Inc., Enron, General Electric, SBC Communications, Bristol-Myers Squibb, Caterpillar and Motorola, to name just a few, gave a total of $5,108,735 in soft money to the political parties in the '98 election cycle. Two major U.S. retailers and coalition members, Gap Inc. and The Limited Inc., have a particularly strong interest in passing AGOA, since they can benefit from importing cheap textiles. During the 1997–1998 election cycle, Limited, Inc. gave the political parties $553,000 in soft money donations, and in just the first six months of 1999, Limited Inc. gave the parties more than $160,000 via the soft money loophole. The Gap also played the soft money game during this period, with more than $185,000 in the 1998 election cycle and nearly $54,000 already during the current election cycle. Fruit of the Loom, which is one of the primary beneficiaries of the Caribbean Basin Initiative (CBI) legislation that was added to AGOA gave nearly $440,000 in soft money during the last election cycle. On June 14 of this year, just over a month before CBI/NAFTA parity legislation was introduced in the Senate on July 16, Fruit of the Loom gave $20,000 to the Republican Senate-House Dinner Committee. On July 30, 1999, two weeks after the bill was introduced, the company gave the National Republican Senatorial Committee $50,000.	Senate floor statement given live, CR S13229.

THE CALLING OF THE BANKROLL—Continued

Date	Legislation/Issue	Bankroll of PAC and Soft Money Contributions	Forum
11/4/99	Financial Services Modernization (S. 900) ...	The lobbying effort for so-called financial services modernization combined the clout of three industries that on their own are giants in the campaign finance system, particularly the soft money system. One of these industries, the securities and investment industry is a legendary soft money donor. Merrill Lynch, its subsidiaries and executives gave more than $310,000 in soft money during the 1998 election cycle. Morgan Stanley Dean Witter gave more than $145,000 in soft money in 1997 and 1998. The Washington Post reported that the company's chairman, along with several other corporate heads, made calls to White House officials the very night the conference hammered out an agreement on this bill. Citigroup from the banking industry was also there, and so was the presence of the more than $720,000 that Citigroup and its executives and subsidiaries gave in soft money to the political parties in the 1998 election cycle. And in the current election cycle Citigroup is off to a running start with $293,000 in soft money from Citigroup, its executives and subsidiaries. That's more than $1 million from Citigroup, it's executives and subsidiaries in just two and a half years. The powerful banking interest BankAmerica, its executives and subsidiaries also weighed in with more than $347,000 in soft money in the 1998 election cycle, and more than $40,000 already in the current election cycle. The insurance industry was also well-represented. For instance there's the Chubb Corp and its subsidiaries, which gave nearly $220,000 in soft money contributions in 1997 and 1998, and has given more than $60,000 already in 1999. And there's industry lobby group the American Council of Life Insurance, which also gave heavily to the parties with more than $315,000 in soft money contributions in 1997 and 1998, and more than $63,000 so far this year.	Statement for the Record, printed in CR S13897.
11/5/99	Bankruptcy Reform Act (S. 625)	This bill is a poster child for the 'Calling of the Bankroll.' In the last election cycle, the members of the National Consumer Bankruptcy Coalition, an industry lobbying group made up of the major credit card companies such as Visa and MasterCard and associations representing the Nation's big banks and retailers, gave nearly $4.5 million in contributions to parties and candidates. It is very hard to argue that the financial largess of this industry has nothing to do with its interest in our consideration of bankruptcy legislation. For example, on the very day that the House passed the conference report last year and sent it to the Senate, MBNA Corporation gave a $200,000 soft money contribution to the National Republican Senatorial Committee. PAC contributions from National Consumer Bankruptcy Coalition members totaled $227,000 in March of this year alone. That's a full 20 months before the next election. March 1999 was a month during which the Judiciary Committees of both the House and the Senate were considering the bill. Members of the coalition gave nearly $1.2 million in PAC and soft money contributions in the first 6 months of 1999. During that time period, MBNA Corp. gave $85,000 in soft money to the Republican Party committees, while Visa USA Inc. gave $30,000. During the first 6 months of 1999, the Democratic party committees took in more than four times the soft money from banks and lenders than they did during the first 6 months of the last presidential election cycle in 1995.	Senate floor statement given live, CR S14066.
2/9/00	Nuclear Waste Policy Amendments Act (S. 1287).	The Nuclear Energy Institute, which is the chief lobbyist on behalf of companies that operate nuclear power plants in the U.S. and has led the fight for the nuclear waste legislation, gave more than $135,000 in soft money to the parties and more than $70,000 in PAC money to candidates in the 1998 election cycle. In addition to NEI, a number of utilities which operate nuclear plants were also significant PAC and soft money donors in the '98 cycle, including: Commonwealth Edison, which gave $110,000 in soft money and more than $106,000 in PAC money, and Florida Power and Light, which gave nearly $300,000 in soft money to the parties and more than $182,000 in PAC money to candidates. NEI already reported donating more than $66,000 in soft money in 1999, and Commonwealth Edison already reported $90,000 in soft money donations in 1999. On the other side of this fight is a coalition of environmental groups, including the Sierra Club, which gave more than $236,000 in PAC money to candidates in the '98 cycle, and Friends of the Earth, which gave just under $4,000 during that same period. These groups also exercise their clout through the loophole of phony issue ads. The Sierra Club spent an estimated $1.5 million on issue ads in the '98 election cycle, and the Nuclear Energy Institute reportedly spent $600,000 on issue ads in just two Senate races in the last cycle.	Statement for the Record, printed in CR S534.
4/5/00	Arctic National Wildlife Refuge (budget resolution debate).	Oil companies with an interest in drilling in the refuge poured millions of dollars of soft money into the coffers of the political parties in 1999. Giant political donor Atlantic Richfield , its executives and subsidiaries, gave more than $880,000 in soft money to the parties. The recently merged Exxon-Mobil, its executives and subsidiaries, gave more than $340,000 in soft money in 1999. And in 1999, BP Amoco, the result of another oil megamerger, gave over $361,000 in soft money, along with its executives and subsidiaries.	Statement for the Record printed in CR S2211.
5/10/00	Africa Growth and Opportunity Act (AGOA) Conference Report.	All the figures I am about to cite are for the first 15 months of the current election cycle—all of 1999 and the first 3 months of this year. I will start with Pfizer, which is one of several pharmaceutical giants that rank among the top soft money donors in 1999, and with good reason. Pfizer and its executives gave more than $511,000 in soft money during the period, including a $100,000 contribution earlier this year. Pfizer was also a top PAC money donor in its industry during the period, with more than $242,000 to Federal candidates during the period. Then there's Bristol Myers Squibb, another top soft money donor, which, with its executives, gave nearly $529,000 in soft money to the parties, including two $100,000 contributions during the period. Bristol Myers Squibb also gave more than $146,000 in PAC money during the period Merck and Company gave more than $51,000 in soft money and nearly $168,000 in PAC money during the period And finally, Glaxo Wellcome and its executives gave more than $272,000 in soft money to the parties and gave more PAC money than any other pharmaceutical company during the period—more than $291,000	Senate floor statement given live, CR S3804.
5/16/00	Bankruptcy Reform bill	Common Cause just put out a stunning report recently on the amount of money that the credit industry has contributed to members of Congress and the political parties in recent years. $7.5 million in 1999 alone, and $23.4 million in just the last three years. One company that has been particularly generous is MBNA Corporation, one of the largest issuers of credit cards in the country. In 1998, MBNA gave a $200,000 soft money contribution to the Republican Senatorial Committee on the very day that the House passed the conference report and sent it to the Senate. This year, MBNA gave its first large soft money contribution ever to the Democratic party—it gave $150,000 to the Democratic Senatorial Campaign Committee on December 22, 1999, right in the middle of Senate floor consideration of the bill	Senate floor statement given live CR S3969.
7/12/00	Estate Tax Bill	National Federation of Independent Business' PAC has given more than $441,000 in PAC money through June 1 of this election cycle, according to the Center for Responsive Politics. That is on top of the incredible $1.2 million in PAC contributions NFIB doled out during the 1997–1998 election cycle. NFIB has also given soft money during the first 18 months of the current election cycle—just over $30,000 so far. Then there is the Food Marketing Institute, which represents supermarkets. Through June 1st of this election cycle, the Food Marketing Institute has given more than $241,000 in PAC donations to candidates, after it made more than a half million in PAC donations during the previous cycle. FMI is also an active soft money donor, with more than $156,000 in soft money to the parties since the beginning of this cycle through June 1st of this year. On top of these wealthy associations, there are countless wealthy individuals who want to see the estate tax repealed, and a 527 group called The Committee for New American Leadership.	Senate floor statement given live, CR S6433.
9/6/00	Permanent Normal Trade Relations with China, H.R. 4444.	The Center for Responsive Politics estimates labor's overall soft money, PAC and individual contributions at roughly $31 million so far in this election cycle in a May 24th report. In particular, the AFL–CIO and its affiliates, which have campaigned hard against PNTR, have given $60,000 in soft money through the first 15 months of this election cycle. On the side of PNTR we find corporate America, which, according to a New York Times report, engaged in its 'costliest legislative campaign ever' to win this fight—including an $8 million advertising campaign The Center for Responsive Politics' May 24th report put the collective contributions of Business Roundtable members at $58 million in soft money, PAC money and individual contributions so far in the election cycle. And that is in addition to the Roundable's $10 million dollar advertising campaign to push PNTR, according to the Center. Business Roundtable members are corporations like Boeing, Philip Morris, UPS and Citigroup. Boeing has given more than $465,000 in soft money through the first 15 months of the election cycle, including 10 contributions of $25,000 or more. UPS, its subsidiaries and executives have given more than $960,000 in soft money through March 31st of the current cycle. That includes two contributions of a quarter million dollars. Citigroup, its subsidiaries and executives gave more than one million dollars in soft money through the first 15 months of this election cycle, including six contributions of $50,000 or more. Philip Morris and its subsidiaries have given more than $1.2 million in soft money through March 31st of the election cycle, including more than eight donations of $100,000 or more. China is a huge untapped market for cigarettes. So Philip Morris's soft money contributions open the doors for its lobbyists on this issue, just as they open the doors for its anti-tobacco control arguments	Senate floor statement given live, CR S8051.
09/28/00	H–1B Visa Bill	American Business for Legal Immigration, a coalition which formed to fight for an increase in H–1B visas, offers a glimpse of the financial might behind proponents of H–1Bs. Following are donation of ABLI members through at least the first 15 months of the election cycle, and in some cases include contributions given more recently in the cycle: Price Waterhouse Coopers, the accounting and consulting firm, has given more than $297,000 in soft money to the parties and more than $606,000 in PAC money to candidates so far in this election cycle. Telecommunications giant Motorola and its executives have given more than $70,000 in soft money and more than $177,000 in PAC money during the period. The software company Oracle and its executives have given more than $536,000 in soft money during the period, and its PAC has given $45,000 to federal candidates. Executives of Cisco Systems have given more than $372,000 in soft money since the beginning of this election cycle. And Microsoft gave very generously during the period, with more than $1.7 million in soft money and more than half a million in PAC money. Many unions are lobbying against the H–1B bill, including the Communication Workers of America, which gave $1.9 million in soft money during the period, including two donations of a quarter of a million dollars last year. And CWA's PAC gave more than $960,000 to candidates during the period. The lobbying group Federation for American Immigration Reform, or 'FAIR,' has lobbied furiously against this bill with a print, radio and television campaign, which has cost somewhere between $500,000 and $1 million, according to an estimate in Roll Call.	Senate floor statement given live CR S9443.
10/29/00	Omnibus Tax Bill	These figures include contributions through the first 15 months of the election cycle, and in some cases include contributions given more recently in the cycle.	Senate floor statement given live CR S11324.

THE CALLING OF THE BANKROLL—Continued

Date	Legislation/Issue	Bankroll of PAC and Soft Money Contributions	Forum
		Some of the biggest investment and finance firms are supporting passage of this bill. For example, Merrill Lynch, its executives and subsidiaries, have given more than $915,000 in soft money, according to the Center for Responsive Politics. American Express, its executives and subsidiaries have given more than $312,000 in soft money so far in this election cycle. And Fidelity Investments and its executives have given at least $258,000 in soft money to date. The American Benefits Council, which is strongly supporting this bill, sent around a list of supporters of provisions of the legislation. That list includes still more big donors. The American Council of Life Insurers and its executives have given more than $260,000 to the parties' soft money warchests during the period. The U.S. Chamber of Commerce and affiliated chambers of commerce have given more than $110,000 in soft money during the period. The list also included many of the nation's labor unions, which are also pushing for some of the provisions of this bill, including: American Federation of Teachers, which has given at least $820,000 so far during this election cycle; and the International Brotherhood of Electrical Workers, which has given more than $853,000 in soft money during the period. Many members of the Business Roundtable, an organization which has urged the passage of this legislation, are some of the biggest arms manufacturers in the U.S., and some of the biggest political donors. I'd like to review the contributions of some of these companies. These figures are for contributions through at least the first 15 months of the election cycle, and in some cases include contributions given more recently in the cycle. Lockheed Martin, its executives and subsidiaries have given more than $861,000 in soft money, and more than $881,000 in PAC money so far during this election cycle. United Technologies and its subsidiaries have given more than $293,000 in soft money and more than $240,000 in PAC money during the period. During that period, Raytheon has given more than $251,000 in soft money to the parties and more than $397,000 in PAC money to Federal candidates. Textron has contributed more than $173,000 in soft money and more than $205,000 in PAC money And last but not least, Boeing has given more than $583,000 in soft money since the election cycle began, and more than $593,000 in PAC contributions.	
10/31/00	Embassy Security and Bankruptcy Conference Report.	Common Cause reports that the credit industry has contributed $7.5 million in 1999 alone, and $23.4 million in just the last three years, to members of Congress and the political parties. In 1998, MBNA gave a $200,000 soft money contributions to the Republican Senatorial Committee on the very day that the House passed the conference report and sent it to the Senate—not terribly subtle.. In December 1999, MBNA gave its first large soft money contribution ever to the Democratic party—it gave $150,000 to the Democratic Senatorial Campaign Committee on December 22, 1999, Mr. President, right in the middle of Senate floor consideration of the bankruptcy bill. And just a few months ago, on June 30, 2000, Alfred Lerner, Chairman and CEO of MBNA—one person, one individual—gave $250,000 in soft money to the RNC. The following figures are from the Center for Responsive Politics, through the first 15 months of the election cycle, and in some cases include contributions given later in the election cycle. MBNA and its affiliates and executives gave a total of $710,000 in soft money to the parties. Visa and its executives gave more than $268,000 in soft money to the parties during the period. Mastercard gave nearly $46,000.	Senate floor statement given live CR S11397.
	Disapproval of Department of Labor Ergonomics Rule.	Along with its affiliates and executives, the American Trucking Association gave more than $404,000 in soft money in the 2000 cycle. They have weighted in against the ergonomics rule, and they do so with the weight of their soft money contributions behind them. The same is true for a host of other associations fighting to see the rule overturned: in the last cycle, the National Soft Drink Association and its executives gave more than $141,000 in soft money, the National Retail Federation doled out more than $101,000 in soft money, and the National Restaurant Association ponied up more than $55,000 in soft money to the parties. On the other side of the soft money coin, the unions that have lobbied to keep the rule in place. They include the AFL-CIO and its affiliates, which gave more than $827,000 in soft money in the last election cycle, and the Teamsters Union and its affiliates, which gave $161,000 during the same period.	Senate floor statement given live CR S1875.
	Floor Statement in Support of Durbin Amendment (substitute for the bankruptcy reform bill).	Most of the $1.2 million in soft money that MBNA gave to the parties in the last cycle was given in the second half of 2000, when a ''shadow conference'' determined what the final bankruptcy bill would look like, and the bill was brought back to the House and the Senate in an extraordinary procedural maneuver. In particular, MBNA gave $100,000 in soft money to the National Republican Senatorial Committee on October 12, 2000, the very same day that the House gave final approval to the bill. MBNA has a habit of making well-timed contributions. On the very day that the House passed a bankruptcy conference report in 1998 and sent it to the Senate. MBNA gave a $200,000 soft money contribution to the NRSC. MBNA Chairman & CEO, Alfred J. Lerner, and his wife, Norma, each made contributions of a quarter of a million dollars to the Republican National Committee in the last cycle. According to an article in the Wall Street Journal from March 6th, MBNA President Charles M. Cawley is also an active political donor and fundraiser who gave $100,000 to the Bush-Cheney Inaugural Committee. According to the Center for Responsive Politics, the nine members of the National Consumer Bankruptcy Coalition contributed more than $5 million in soft money, PAC money and individual contributions during the 2000 election cycle. The Coalition's members include Visa USA, Mastercard International and several financial industry trade groups, including the American Bankers Association and the American Financial Services Association.	Senate Floor Statement Submitted for the Record.

Mr. DODD. Mr. President, I will reserve the remainder of that time. Let me turn to our colleague from New Mexico, Senator BINGAMAN, for the purpose of offering an amendment.

Mr. MCCONNELL. Mr. President, before that, I believe Senator SPECTER's amendment is pending. He expects to have the next Republican amendment.

I ask unanimous consent that the Specter amendment be temporarily laid aside so we can go to Senator BINGAMAN. Senator SPECTER will come after that.

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

Mr. BINGAMAN. I thank my colleagues very much. I have two amendments, the first of which I believe is acceptable to the managers of the bill.

Mr. DODD. That is correct.

AMENDMENT NO. 157

Mr. BINGAMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 157.

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

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

The amendment reads as follows:

(Purpose: To require the Presidential Inaugural Committee to disclose donations and prohibit foreign nationals from making donations to such Committee)

On page 37, between lines 14 and 15, insert the following:

SEC. ___. DONATIONS TO PRESIDENTIAL INAUGURAL COMMITTEE.

(a) IN GENERAL.—Chapter 5 of title 36, United States Code, is amended by—

(1) redesignating section 510 as section 511; and

(2) inserting after section 509 the following:

''§ 510. Disclosure of and prohibition on certain donations.

''(a) IN GENERAL.—A committee shall not be considered to be the Inaugural Committee for purposes of this chapter unless the committee agrees to, and meets, the requirements of subsections (b) and (c).

''(b) DISCLOSURE.—

''(1) IN GENERAL.—Not later than the date that is 90 days after the date of the Presidential inaugural ceremony, the committee shall file a report with the Federal Election Commission disclosing any donation of money or anything of value made to the committee in an aggregate amount equal to or greater than $200.

''(2) CONTENTS OF REPORT.—A report filed under paragraph (1) shall contain—

''(A) the amount of the donation;

''(B) the date the donation is received; and

''(C) the name and address of the person making the donation.

''(c) LIMITATION.—The committee shall not accept any donation from a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b))).''.

(b) REPORTS MADE AVAILABLE BY FEC.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 103 and 201, is amended by adding at the end the following:

''(g) REPORTS FROM INAUGURAL COMMITTEES.—The Federal Election Committee shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission.''.

Mr. BINGAMAN. Mr. President, this is a noncontroversial amendment that would simply require that contributions made to a Presidential inaugural committee be publicly disclosed, and also it would require that the same rules that govern foreign contributions to our political campaigns be applied as well to inaugural events.

As I understand it, this is an acceptable amendment. At this time, I believe we are prepared to go ahead and vote on this by voice vote.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. REID. We yield back our time.

The PRESIDING OFFICER. Does the Senator from Kentucky yield back his time?

Mr. MCCONNELL. Mr. President, this amendment is acceptable to us. I yield back the time on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 157) was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, the Senator from Virginia has asked that he be given permission to speak for 4 or 5 minutes before I offer this amendment. I am certainly pleased to do that. I will yield the floor to him at this point.

The PRESIDING OFFICER. The Senator from Virginia, Mr. WARNER, is recognized.

(The remarks of Mr. WARNER, Mr. ALLEN, and Mrs. BOXER, are located in today's RECORD under ''Morning Business.'')

AMENDMENT NO. 158

Mr. BINGAMAN. Mr. President, I rise to offer another amendment. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Specter amendment is set aside. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 158.

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

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

The amendment is as follows:

(Purpose: To provide candidates for election to Federal office with the opportunity to respond to negative political advertisements sponsored by noncandidates)

On page 37, between lines 14 and 15, insert the following:

SEC. ___. OPPORTUNITY OF CANDIDATES TO RESPOND TO NEGATIVE POLITICAL ADVERTISEMENTS SPONSORED BY NONCANDIDATES.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by this Act, is amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following:

''(b) POLITICAL ADVERTISEMENTS OF NONCANDIDATES.—

''(1) IN GENERAL.—If any licensee permits a person, other than a legally qualified candidate for Federal office (or an authorized committee of that candidate), to use a broadcasting station during the period described in paragraph (2) to attack or oppose (as defined in paragraph (3)) a clearly identified candidate (as defined in section 301 of the Federal Election Campaign Act of 1971) for Federal office, the broadcasting station shall, within a reasonable period of time, make available to such candidate the opportunity to use the broadcasting station, without charge, for the same amount of time during the same period of the day and week as was used by such person.

''(2) PERIOD DESCRIBED.—The period described in this paragraph is—

''(A) with respect to a general, special, or runoff election for such Federal office, the 60-day period preceding such election; or

''(B) with respect to 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, the 30-day period preceding such election, convention, or caucus.

''(3) ATTACK OR OPPOSE DEFINED.—The term 'attack or oppose' means, with respect to a clearly identified candidate—

''(A) any expression of unmistakable and unambiguous opposition to the candidate; or

''(B) any communication that contains a phrase such as 'vote against', 'defeat', or 'reject', or a campaign slogan or words that, when taken as a whole, and with limited reference to external events (such as proximity to an election) can have no reasonable meaning other than to advocate the defeat of one or more clearly identified candidates, regardless of whether or not the communication expressly advocates a vote against the candidate.''.

Mr. BINGAMAN. Mr. President, I am here for two reasons: First, to express my strong support for the bill we have been considering this week and last, this bipartisan campaign finance reform bill which we have come to refer to as the McCain-Feingold bill; second, I am here to offer this amendment which I believe will further improve the bill.

Our colleague from Kentucky said, as he gave his short statement a few minutes ago, now that all the important amendments have already been offered and dealt with, he wanted to go ahead with his comments. I beg to differ with him on that conclusion, that all the important amendments have been offered. This amendment I am offering today I believe is very important, and I believe it will substantially improve this legislation. It will help to address the increasingly negative nature of today's campaign advertising, and it will assist those candidates, whether they are challengers or incumbents, in responding to that negative advertising.

The debate we are engaged in is long overdue. Congress has not revised its campaign finance laws in any meaningful way since I came to the Congress in 1983. The last significant reform of campaign finance laws was in 1974. Nearly everything about campaigns has changed radically since 1974, from the tremendous amount of money that has been spent on campaigns to the technologies and methods used to communicate with voters.

I congratulate Senator MCCAIN, my colleague from Arizona, and I congratulate Senator FEINGOLD, my colleague from Wisconsin, on their determination in finally bringing this bill to the Senate floor. I can think of no two individuals in recent memory who have worked harder on a bipartisan basis in pursuit of basic reform than these two Senators.

They have traveled the country, one of them, of course, during the time he was running for President. They have taken the campaign finance reform message to every corner of this country. We all in this Senate, in my view, owe them a debt of gratitude. I hope our effort is worthy of their significant effort. It has been a true labor of genuine reform in the interest of better and cleaner democracy, and I am very pleased to cosponsor this legislation.

Mr. President, turning to the amendment I have offered, it is a relatively simple amendment. It proposes to accomplish a central goal, and that is to provide candidates for Federal office who are confronted with sham negative issue ads the opportunity to respond to those ads.

The amendment states that if a broadcast station, whether it is a television station or radio station, permits any person or group to broadcast material opposing or attacking a legally qualified candidate for Federal office, then that station, within a reasonable period of time, must provide, at no charge to the candidate who has been attacked, an equal opportunity to respond to those attacks.

This requirement would apply in this same period that is discussed in the legislation pending before us in the so-called Snowe-Jeffords language; that is, 60 days prior to a general election, 30 days prior to a primary election. It is in those two periods of time that the requirements apply.

All of us who have run for Federal office in recent years have been in the situation about which I am concerned. As a candidate, you are out on the hustings; you are conducting a campaign that you hope is addressing the issues voters care about; you are trying to give the people in your State, or the people in your congressional district, the best vision you can for where this country should go, what should be done in the State; and you turn on the television in your hotel room and see an ad attacking you for some issue on some basis that you probably did not anticipate. You ask yourself the questions: Who is paying for the ad? Who is this group? Who do they represent? Where did they get the information that they are using in this attack?

The process leaves the candidate, more often than not, unfairly accused of a position. It leaves voters increasingly cynical about the growing negative nature of our campaigns.

Unfortunately, this is the new world of campaigns in which we live. This is true whether you are Republican, whether you are Democrat, whatever your party affiliation, regardless if you are a challenger or incumbent.

Through the loopholes in our current campaign finance laws, outside interest groups and political parties are funding

hundreds of thousands of dollars worth of political ads in many of our States. Most of those are very negative and have minimal issue content. Most of those ads flood our airwaves right before the election when they will have the biggest impact on the minds of the voters.

As noted, congressional authority Norm Ornstein said these ads often dominate and drown our candidate communications, particularly in the last weeks of the campaign. While the ads are often effective in a raw and practical sense, they are incredibly corrosive; they are frequently unfair; they are sometimes very personal in the attacks they make; and they breed voter cynicism and voter apathy toward the electoral process.

We know all too well the gross aspects of the advertising, but now, thanks to a number of dedicated reform-minded groups and academicians, we have some real data to back up what we have all known as a matter of common sense for some time. The Brennan Center for Justice at NYU, New York University, and the University of Wisconsin at Madison have teamed up to develop a national database of political television advertising from the 2000 election cycle. They monitored political advertising in the Nation's top 75 media markets, and researchers, through that monitoring, have documented the frequency, the content, and the costs of television ads in the 2000 election, which duplicates a similar study they conducted in 1998.

The findings are stunning. Let me give a brief summary of what they found. First, the independent groups alone spent, conservatively estimated, about $98 million on media buys for political TV commercials in the year 2000. That is roughly a sixfold increase from what they spent 2 years before. This is not an inflationary increase; this is a sixfold increase in spending by the independent groups on these ads.

Second, in the 2000 Presidential election, voters received the largest share of political advertising messages from independent groups and party committees, not from the candidates themselves or from the candidate's committees.

Third, while all of the unregulated issue ads produced by the parties and independent groups are supposed to theoretically cover issue positions, since they do not contain these so-called magic words that there has been a lot of discussion about on the Senate floor in the last 2 weeks, the words ''noted by the Supreme Court in the Buckley decision,'' the public does not see these as issue ads. Virtually all ads sponsored by party committees are viewed as electioneering ads. Within 60 days of the election, 86 percent of the ads produced by independent groups are viewed by voters as electioneering. They are not seen as issue ads.

Fourth, the chart from the Brennan Center dramatically makes the point I am trying to make; the sham issue ads that are run by these groups become increasingly negative in tone as election day approaches. Issue ads by independent groups are far more likely than candidate ads or even party ads to attack candidates. Fully 72 percent of the issue group ads aired in Federal races last year directly attacked one of the candidates in the race in which they were run.

This chart is entitled ''Growth of Negative Tone of Electioneering Issue Ads as Election Day Nears.'' There are three lines on this chart. One is the red line which represents the attack ads. This is according to the Brennan Center study. The green line is the contrast ads. The blue line is the ads to promote a particular candidate, positive advertising, ''vote for me, I'm your best candidate,'' on Social Security, Medicare, or whatever issue.

Finally, the Brennan Center notes that issue ads that are targeted at candidates are decisively negative in tone and pursue the tact of attacking a candidate's character. These ads do not discuss substantive issues; they often focus on personal histories of the candidate.

The dramatic thing about the chart, which covers the period from January to the beginning of November of the year 2000, the negative ads are virtually nonexistent, very low level negative ads, until June; and then in the last couple of months of the campaign, the negative ads overwhelm the rest of the advertising. These are the negative ads that are being run almost exclusively by the independent groups—not by the candidate. The candidates do not want to be associated with negative ads, so they stay out of this and let the independent groups run the very negative ads.

I believe this study I have referred to provides the hard data to back up what we have all known for some time. That is, that sham issue ads are increasing sevenfold each election. They are casting a negative and personal tone to campaigns and are particularly effective and dominant in the last few weeks before election day. There is not a voter in any one of our States who would not validate these findings from their personal experience of watching television or listening to the radio. I heard this refrain from people in my State of New Mexico constantly during the last campaign cycle. They thought the airwaves were clogged with ads and that the majority of them were too negative. The complaint is constant by the public. It is well justified.

That brings me back to the amendment I am offering. Again, the amendment is straightforward. Let me make it very clear to people what the amendment does not do. First of all, the amendment does not in any way restrict the ability of any candidate to run any ad they want. It does not put on broadcasters, radio or television broadcasters any obligation with regard to those ads, except to run the ads, obviously. That obligation is already there. The amendment does not affect ads sponsored by the candidate or the candidate's committee.

Second, the amendment does nothing to restrict either the candidate or a party or an independent group from running any and all ads they want that are positive or that are contrast ads. On the chart, the green lines are contrast ads and the blue line is for ads that promote the candidate. We are in no way talking about those in this amendment. There is no requirement on broadcasters to take any action with regard to those. They can take those ads sponsored by anybody they want without incurring any obligation.

In the case of an independent group or a party that wants to run attack ads, which they are free to do, there is no prohibition against running attack ads, if they want to run attack ads. The broadcasters who run those ads then have an obligation to provide the candidate who is attacked with an opportunity to respond. This is a level playing field kind of amendment. We are saying to broadcasters, if you want to accept these attack ads during these short periods of time, 30 days prior to a primary, 60 days prior to a general election, you are not required to, of course; there is no obligation under the Constitution or anything else that you accept ads from noncandidates; but if you want to accept these ads, fine, just provide an opportunity for the candidate who is attacked to respond.

That is what the amendment does. I think it is a straightforward amendment. The reason I am offering it is because I believe it will help improve this bill in a very dramatic way.

It will say to all candidates, whether they are challengers or whether they are incumbents in the office, that there will be an opportunity for them to respond when they are unfairly attacked.

The Brennan Center report—let me quote from that report:

> Candidate ads are much more inclined than group sponsored ads to promote candidates or to compare and contrast candidates on issues. Conversely, issue ads that are sponsored by groups tend to attack candidates and attempt to denigrate their character. These ads tend to be very negative in tone. They do not discuss substantive issues and frequently they focus on personal histories of the candidate. As election day nears, electioneering issue ads become increasingly negative and personal in tone.

That is what this graph demonstrates. That is why this red line goes up and up and up as you get closer to the election.

I hope very much we can agree to this amendment. While McCain-Feingold's legislation goes to the very heart of the issue that plagues us today, the soft money loophole that has allowed sham issue ads to proliferate, I believe outside groups will continue to run those ads and this brand of negative issue advocacy is, unfortunately, here to stay. In that environment, I believe it is essential we provide a way to hold outside groups accountable for the content of the ads

they run by providing the opportunity for candidates who are the targets of the ads to respond no matter how poorly or how well their campaigns may be funded.

That is what the amendment does. I commend it to the consideration of my colleagues. I think it will substantially improve the legislation before us. I hope it will be favorably voted on.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BINGAMAN. Mr. President, I reserve the remainder of my time and yield the floor.

Mr. DODD. Mr. President, let me thank our colleague from New Mexico for proposing this amendment. All of us here, and those who pay any attention at all to politics in this country and are confronted with this, as most Americans are, if you look at this chart by the Senator from New Mexico, particularly in that August, September, October period of an election year, it is hard not to be confronted with the assault—that is the only way to describe this—of ads on television from one end of the country to the next, on every imaginable radio station, television station, now cable stations—this bombardment that occurs.

What the Senator from New Mexico has graphically demonstrated with his chart is that the overwhelming majority of these ads are the so-called attack ads. Usually, they are very vicious, designed to not promote one's ideas nor one's vision, one's agenda—if they are elected to Congress or the Senate or the Presidency or some other office—but merely to try to convince the rest of us why you ought to be against someone; not why you ought to be for me but why you ought to be against my opponent.

The least enlightening part of a campaign is the proliferation of these ads. They do nothing, in my view, to contribute to the education, the awareness of the American people. We have seen an explosion of them over the past few years. I suspect this has probably been in the last 6 or 7 years, with the explosion of soft money that the McCain-Feingold bill seeks to shut down.

As I understand, we are not talking about ads where candidate X goes after candidate Y—an individual candidate making a case, although I have problems with that as well, but what the Senator from New Mexico is talking about are these issue-based ads where they get away with it by merely not putting in a line at the end—they don't say at the end ''vote for,'' ''vote against,'' but that is hardly a necessary tag line after they have proceeded to just destroy your reputation and probably that of your families and your neighborhood, and any pets you may have as well.

These are designed to be sort of nuclear bombs on people. We have all seen them. Some of them are almost laughable they are so bad, and I suspect the damage may be minimal because they are so bad. Unfortunately, many of them are very effective.

The theory works, again, if I can get you to hurt my opponent or hurt someone whom I think may be inimicable to my special interest, you are more likely to vote for the person you know less about or nothing about. So this has become a standard diet to which the American public is subjected every late summer and fall of an election year.

As I understand it, what the Senator from New Mexico attempts to do is address these issue-based ads, ads not from a specified opponent but, rather, from one of these amorphous organizations that, up to now, have had unlimited sources of revenue to come in and destroy a reputation without having any fingerprints. You can't find out who contributes the money; you can't find out where they come from; usually your opponent says I know nothing about them; in many cases the opponent will hold a press conference to disavow that ad and say I deplore that kind of advertising, while simultaneously winking and allowing this process to go forward, distorting the political process.

The Senator from New Mexico makes a very valid point in his amendment. It is something we are getting further and further away from, by the way. The airwaves in this country belong to the American public. We give people the privilege to utilize those air waves for the benefit of the American public. It is not a right; it is a privilege. It is a limited privilege, based on your sense of responsibility. That privilege or that license can be removed if you abuse it.

There are numerous examples, almost on a daily basis, where that happens. What the Senator from New Mexico, as I understand it, is suggesting is that if, in your discretion as a radio station or television station, you decide to tolerate this kind of political advertising, knowing full well how damaging it can be, then we have the right to say to that station you must extend to that candidate an opportunity to respond to that kind of garbage.

I think this has value. It will have the net effect of ending these issue-based ads that destroy people's reputations and destroy any sense of understanding of what that particular campaign may be about. To that extent, everyone is benefitted—not the candidate so much, in my view, but the voting public who may learn more about what people stand for, rather than what some issue group dislikes about a candidate.

I am attracted to this amendment. I think it contributes to McCain-Feingold. Obviously, there are questions that will be raised about constitutionality. My friend and colleague is a brilliant lawyer. He understands it well. He has crafted it about as tightly as you can to achieve the desired result. I think it is worthy of our support.

I look forward at the time this comes up for a vote to support it. I urge my colleagues to do so as well. We are all sick and tired of this.

I go back to the point I made earlier. We are seeing a declining level of participation too often in the political life of our country. How sad I think all of us are when we see that. There are a myriad of reasons for it, but one of the major reasons is this growing disgust people have over the low level of debate, the way campaigns are conducted. It is all done now on television and radio; most of it in negative ads, as this graph so graphically points out.

We wonder why only one out of every two eligible adult Americans participated in the national elections of this past fall. Fifty percent of adult eligible Americans stayed home. I know some may have done so for legitimate personal reasons. I suspect a significant majority of those who stayed home did so because they are fed up. They are fed up with the process. They think it is out of control, and one of the strongest pieces of evidence of that is this: a deluge of negative ads that have swamped the airwaves of this country and have the net effect of depressing turnout of the vote and disgusting the American public.

I think the Senator from New Mexico has offered a very constructive suggestion with this amendment, and I urge my colleagues on both sides of the aisles to be supportive of it.

I see my friend from Arizona is still here.

Mr. MCCAIN. Mr. President, in behalf of the Senator from Kentucky, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. MCCAIN. Mr. President, I rise in opposition to the amendment. I appreciate very much what the Senator from New Mexico is attempting to do. He has identified very eloquently an enormous problem that we have with these so-called attack ads which we don't know who paid for and which are clearly not identified. With passage of McCain-Feingold, I think we will make some progress in that area.

I say that also as a person who supports free television time for candidates. I agree with the Senator from New Mexico that when a broadcast station obtains a license, they sign a piece of paper that says they will act in the public interest. I think that Americans believe free television time for candidates can be very helpful.

But this amendment raises many troublesome issues that I, frankly, can't quite fathom.

First of all, who would determine if an ad was indeed a negative ad? Is there going to be a censorship board? Is there going to be a group of Americans who say, OK, watch all of these ads and see which one is negative and which one is not? Is an ad that says: Call your Senator—which I have seen many

times—and ask him or her to save Social Security a negative ad or a positive ad?

I don't know who makes this determination as to what is indeed a negative ad. Is it the argument of every candidate I have ever known that says that wasn't a negative ad; I was trying to inform the people of my district or State about the fact that my challenger is a baby killer?

It is very difficult to define what a negative ad is. Suppose we had some organization that could determine that this is a negative ad. What if a broadcaster had already sold all their television time? It is the last week of the campaign. It is certainly not unusual that a broadcaster has sold all of their television time in the last 2 or 3 weeks. Do they have to pull ads off the air and replace them with the ads that are mandated by this legislation? I am not sure how you do that either, especially in a Presidential election year. That is time already sold.

So the night before the election or 3 days before the election, I say: Wait a minute. My opponent is running attack ads. Now you have to run three times that many on my behalf or against them. However, they say: I am sorry. We have sold all of our time.

What is your option then? Suppose they had some television time. What is fair ad placement? Reruns of ''Gilligan's Island'' at 2 a.m. or is it the evening news? I don't know exactly. One station maybe has a higher rating than the other station. You are going to give me the local channel 365 versus the CBS, ABC, NBC, or FOX Network.

This is very difficult to work out. I am a little surprised that the Senator from Connecticut didn't look at some of these problems.

I want to repeat. I am for free television time for candidates. I detest the negative advertising. I think it is one of the worst things that has ever happened in American politics, that we have these unnamed, unknown groups calling themselves by some attractive name and buy millions of dollars of advertising, and they basically viciously attack their opponents.

Who decides that?

Many years ago, I reminded the Senator from Connecticut they had a board in Hollywood that used to make decisions as to what was acceptable and not acceptable. They had problems. I don't know who is going to be doing that.

I want to work with the Senator from New Mexico. I think we have to do something about these negative ads. I tell you the best way is to dry up their money, and what you don't dry up fully disclose.

I want to work with the Senator from New Mexico. I would like to sit down and see how we could work this out. But in its present form, I am just not sure how this amendment can possibly be workable.

Finally, I want to say that we just had a major vote, as we all know. We have amendments that are still outstanding.

I know Senator MCCONNELL, the Senator from Kentucky, will be back fairly soon. I understand they have a minimal number of amendments. I still think we can get done in a relatively short period of time.

I hope all Senators who have amendments will come over so we can start putting these amendments in order and so we can get time agreements, and perhaps not just time agreements but agree to amendments that are satisfactory to both sides so we can wind up all of this.

It is not that I am getting fatigued, but it is that we are sort of at a point now where we should bring this to a closure, and I hope we can do that.

Reluctantly, at the appropriate time I will be moving to table the Bingaman amendment.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. MCCAIN. Mr. President, in behalf of the Senator from Kentucky, I yield such time as the Senator from Wisconsin may consume.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Thank you, Mr. President.

Not only is this amendment well-intentioned, but it is offered by somebody who anyone in the Senate knows is not only one of the most decent but one of the best Members of this body.

Since I have been here, no one has been easier to work with and kinder to me than the Senator from New Mexico. I really appreciate the time which he had for me and Senator MCCAIN. He has been a totally stalwart supporter of reform every year, and has been there on every key vote in this debate. I thank him also for the amendment which we adopted that requires disclosure of Presidential inaugural funds. That is exactly the kind of thing we are trying to accomplish in this effort so the public can be fully informed of what is going on with all of these venues where large amounts of money can have a negative impact on some of our most sacred public traditions.

That was an important addition to the bill and will result in more information being available to the public of who is giving large sums of money to the inaugural events.

Reluctantly, I will oppose this amendment.

The bill addresses a number of problems with our system which the Senator from Connecticut correctly pointed out must be addressed. It is a problem that deserves more study. I don't think this particular approach is one that I am quite ready to accept. I am willing to look at it some more.

So I will be taking the same position as the Senator from Arizona, but with a willingness and desire to continue to work on this issue and this idea in the future.

Again, I thank the Senator from New Mexico for all of his support.

Mr. DODD. Mr. President, I was going to respond to some of the things the Senator said.

Let me also in response to my good friend from Arizona say that there are a number of amendments that Members have that have been coming over with great regularity over the last 2 weeks. I have been sitting here for 2 straight weeks. We have had very few quorum calls. I have been asking the indulgence of my colleagues to postpone their offering of amendments over the past 2 weeks while we considered some of these other amendments, such as the ones that we most recently rejected dealing with severability. But these are serious amendments.

Like any other issue, I suppose, depending upon whether it is your amendment or someone else's amendment, it becomes more serious or less serious.

But I know my colleagues from Michigan, from Florida, and Illinois, also my colleague from Minnesota, among others, have some amendments, some of which will probably be agreed to. My hope is that certainly will be the case. But others may require a little debate. I apologize to them because I don't want them to think this is going to be a rush deal. If they want to be heard, they are going to be heard. I bear some responsibility for having told them to wait while we considered some of these other amendments.

I promise you, I am not going to then ask you to somehow be on a fast track here when you want your amendment considered and debated adequately. My hope is you will be able to do it in less amounts of time than we have allocated for every amendment. You get 3 hours if you want it, unless you yield back time or the opponents do. We ought to try to move along if we can. I want you to know, I think your amendments are serious and they deserve to be heard, debated, and voted upon, if you so desire.

I apologize for having asked you to wait for a week and a half and want you to know that you will have adequate consideration for your time.

I turn to my colleague from New Mexico to respond to any of the unfair accusations that have been made about his stunning amendment.

Mr. BINGAMAN. Mr. President, I greatly appreciate the courtesy of all Members, particularly the Senator from Connecticut and his statement in support of this amendment.

There were several questions raised. Let me be clear so there is no confusion about this. If an independent group or a party committee or anybody else wants to run an advertisement endorsing or supporting a candidate for office, this amendment does nothing to restrict that, prohibit it, impose obligations on broadcasters, or anything else. That is perfectly appropriate. If anybody wants to take an ad out for my opponent and run ads in favor of

my opponent, they should be able to do that.

If they want to run ads that contrast my opponent's position with my position, that would be these ads that are reflected by the green line on the chart, it is entirely appropriate, no obligation on the part of broadcasters. This amendment only deals with advertisements which attack or oppose a legally qualified candidate.

The question has been raised by the Senator from Arizona, who will decide whether this is a negative ad, whether this is an ad that attacks or opposes a candidate for public office. My initial reaction is to refer to Justice Stewart's great comment when he was told that he could not define ''pornography.'' He said: I may not be able to define it, but I know it when I see it. Government can regulate pornography because of that. The American people know a negative television ad or a negative radio ad when they see it or hear it. The answer to who will decide initially, the person who will decide is the candidate who is being attacked or the candidate's campaign who is being attacked; they would detect an advertisement that is attacking them by a group is being run by a broadcasting station and they would presumably go to that broadcasting station and say, this is an advertisement that falls within the definition of this statute and we would like our time to respond. That is how it would work.

We have been very specific about what kinds of ads they would be entitled to respond to, what kinds of ads they would reply to. The term ''attacked'' or ''opposed'' means, with respect to a clearly identified candidate, first, A, any expression of unmistakable and unambiguous opposition to the candidate. So that is pretty easy to determine. You can listen to an advertisement on radio. You can see an advertisement on television and determine whether it is, in fact, an unmistakable and unambiguous statement in opposition to the candidate. Or, B, if it does not fall within that description, it would be any communication that contains a phrase such as ''vote against,'' ''defeat'' or ''reject'' or campaign slogan or words that when taken as a whole and with limited reference to external events, such as proximity to the election, can have no reasonable meaning other than to advocate the defeat of one or more clearly identified candidates, regardless of whether or not the communication expressly advocates a vote against the candidate.

If it could have no reasonable meaning other than to advocate the defeat of the candidate, then it is an advertisement that would entitle the candidate who is being attacked or being opposed the opportunity to respond. That is, we have given a tight definition. It would be up to the candidate or his campaign, first of all, to identify that such an ad is running, and then they would presumably go to the broadcast station and say: Look, this is what this advertisement is. I should get equal time to respond.

Of course, the broadcast station at that point has to either say yes or no. If they say no, then of course it goes, as all other matters in our society, to some judge, presumably. If the candidate wants to push the issue, the judge will decide whether the candidate should have the right to respond on that station.

A second objection that was raised is, what if the station in question has already sold all their time. If they have sold all their time, and some of it, of course, to the organization that is running the attack ads, they would have to make room for the candidate to respond during the time period between then and the election on a basis that would be considered equal. He asked: What is fair in ad placement? And we have used general language here that the candidate would be entitled to respond for the same amount of time during the same period of the day and week as was used by the person who is doing the attack.

I am sure there are details of this that will be debated and discussed, if this becomes law, as there always is in every piece of legislation we pass. It is pretty clear what we are talking about. We are talking about a limited time period, 30 days before a primary, 60 days before a general election. We are talking about ads that involve attacking or opposing a candidate for Federal office, and we are providing a pretty precise definition of what ''attack'' or ''oppose'' means for purposes of this statute applying.

I believe this would be an enforceable provision. It would be an understandable provision. I think it would add greatly to the quality of the campaigns that we run in this country. It would be fair to the candidates in the sense that they would have the opportunity to respond. That is all we are saying.

In this country, we used to have a fairness doctrine. I know that has become something of a dead letter, but there used to be an obligation on the part of broadcasters to provide equal time for people to respond when there were particularly controversial positions taken and attacks. This is not a fairness doctrine, but this is the same basic concept.

When a candidate has been qualified to run for Federal office, clearly that candidate is fair game for any attack that the candidate's opponent or opponents want to make. There is no obligation on any broadcaster who wants to take those ads by opponents of that candidate. But if the candidate is attacked or opposed by people who are not in the race, by organizations that are not part of the campaign, then that is where the candidate should, once again, be given a chance to respond.

I believe it is a good amendment. I hope very much we can get a favorable vote on it. I know my colleague from Nevada, Senator REID, had indicated earlier he might want to make some comments in reference to this amendment. I don't know if he is prepared to do that at this point or if I should yield back my time. I will withhold at this point and yield the floor so my colleague from Nevada can speak on the issue.

Mr. REID. I say to the Senator from New Mexico, everything that I could have said, he said. Anything that I wanted to say, he has said, and has done it much better than I could have. Based upon that, I think we should vote.

Mr. MCCAIN. Mr. President, on behalf of the Senator from Kentucky, I yield myself such time as I may consume.

Mr. MCCAIN. Mr. President, I want to say to the Senator from New Mexico, I am in total sympathy of what the Senator's intent is. Let's go back into the language of his amendment:

> The term ''attack or oppose'' means, with respect to a clearly identified candidate—
>
> (A) any expression of unmistakable and unambiguous opposition to the candidate.

Does that mean if I took out an ad and I say I am a better candidate than Mr. SMITH and I am opposed to him, is that an attack ad? That is the first definition.

> Any expression of unmistakable and unambiguous opposition to the candidate.

If I am running and I am a better candidate and I oppose him, we are not going to be able to run an ad that says I oppose Senator SMITH or Senator BINGAMAN.

Mr. BINGAMAN. Will the Senator yield?

Mr. MCCAIN. Yes.

Mr. BINGAMAN. I just point out to the Senator that this legislation would not apply at all to any candidate who wanted to run an ad such as the Senator has proposed.

Mr. MCCAIN. Suppose it is the Sierra Club that says we oppose Senator MCCAIN. That is an attack ad? They can't say that?

Mr. BINGAMAN. Mr. President, again, if the Senator will yield, they would certainly be able to run that ad. But if they say we oppose Senator MCCAIN, then Senator MCCAIN should have an opportunity to come on and say, ''I believe people should still vote for me'' in spite of the fact that the Sierra Club, or whoever, opposes him.

Mr. MCCAIN. So any organization in America that opposes me, no matter if it is in the mildest terms, and supports my opponent, therefore, I have the right to go get free television time. I don't quite understand that, frankly. I think what you are doing, probably—the effect would be, one, that the broadcast stations probably would not sell time because of the requirement to respond, which is, by the way, what happened in the fairness doctrine. What happened in the fairness doctrine, which was a good idea, was that broadcast stations decided not to air any controversial opinion because somebody was going to say, ''I have another opinion and I have to have free

time.'' That led to the demise of the fairness doctrine.

If someone runs an ad and says, ''I oppose Senator MCCAIN,'' I don't think that should necessarily trigger free television commercial time for me.

Let me just continue, if I might. The Senator said this is not unlike the ability of the State to control pornography. The reason the Court decided that we had a right, as far as child pornography was concerned, is that it was a compelling State interest. I don't think you can make the same argument in respect to television time or attack ads.

Part B says:

> Any communication that contains a phrase such as ''vote against,'' ''defeat,'' or ''reject—

Boy, we better get out the dictionary because there is a great deal of ambiguity of words. I have ''concerns'' about the candidacy of Senator SMITH. Well, is that in opposition to? Words ''such as,'' I think, are hard. Again, I get back to my fundamental point. It says in the amendment:

> (Such as proximity to an election) can have no reasonable meaning other than to advocate the defeat of one or more clearly identified candidates.

Who decides that? The Senator says you go to the station and get free time and, if not, you go to a judge. Now you are asking a judge to look at every commercial, or you are asking the broadcast station to look at every commercial and make some decision as to whether it is an attack ad or not. I will tell you if I were on the station, I would say never mind; why should I take a risk when I am not sure this ad is an attack ad or not.

This is the problem we had when we have gone over and over and over this issue. How do you stop these attack ads without infringing on freedom of speech and not being so vague that it is very difficult to stand constitutional muster? The difference between Snowe-Jeffords and this amendment is that Snowe-Jeffords draws a very bright line and it says:

> Show the likeness or mention the name of a candidate.

That is a very bright line. This is a campaign slogan or words that, when taken as a whole and with limited reference to external events, such as ''proximity to an election''—these words—I admit to the Senator from New Mexico, I am not a lawyer, but I have been involved so long and so engaged in these issues that words do have meaning, and this amendment is very vague.

I am sure we can make a judgment on a lot of ads we have seen and the same ads the Senator and I find disgusting and distasteful and should be rejected. But at the same time, I don't know how we can say, OK, if this station doesn't run my ads, I am going to go to a judge and have the judge make them run my ads. It just is something that would be very difficult.

I would love to work with the Senator from New Mexico. He has been a steadfast stalwart for campaign finance reform. I would love to work with him to try to achieve this goal. Frankly, after going around and around on this issue, identifying who paid for the ad, full disclosure and, frankly, not allowing corporations and unions to contribute to paying for these things in the last 60, 90 days, which is part of our legislation, is about the only constitutional way that we thought we could address the issue.

I thank the Senator from New Mexico. He is addressing an issue that has demeaned and degraded all of us because people don't think very much of you when they see the kinds of attack ads that are broadcast on a routine basis.

As the Senator pointed out, they are dramatically on the increase. I will tell you what. You cut off the soft money, you are going to see a lot less of that. Prohibit unions and corporations, and you will see a lot less of that. If you demand full disclosure for those who pay for those ads, you are going to see a lot less of that because people who can remain anonymous or organizations that can remain anonymous are obviously much more likely to be a lot looser with the facts than those whose names and identity have to be fully disclosed to the people once a certain level of investment is made.

I thank the Senator and I regret having to oppose his amendment. I yield the floor.

Mr. BINGAMAN. Mr. President, I thank the Senator from Arizona for his comments. I understand the concerns he has raised. Let me make one thing very clear. Snowe-Jeffords is a prohibition against certain acts by certain groups. Now, that is a very different kettle of fish than what I am proposing.

My amendment does not in any way prohibit anyone from running ads. All my amendment says is that if an independent group wants to run an ad that attacks or opposes a candidate, then the candidate is entitled to an opportunity to respond to the ad.

That is a very different thing than saying, during certain periods of time, groups cannot run ads. So I think the constitutional problem that people have raised with regard to Snowe-Jeffords is much less of a concern than the kind of amendment that I have proposed.

This amendment is designed to deal with a particular type of advertisement run by groups other than the candidate and the candidate's committee during certain periods of time. I think we have clearly defined what we are talking about. There are many advertisements that would not fall within the definition of attacking or opposing a candidate. Certainly, there is nothing here that would in any way obligate broadcasters, when they take those kinds of ads. But when they are running ads that do attack or oppose a candidate, then they would be under an obligation to provide an opportunity to respond. I think that is eminently fair, constitutional, and consistent with the general obligation that I believe broadcast stations ought to have to present both sides of an issue during a campaign when a candidate has become qualified for a Federal office. For that reason, I urge my colleagues to support the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, unless the Senator from Arizona has more time, I suggest the absence of a quorum.

Mr. MCCAIN. Mr. President, may I be recognized?

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, again I thank the Senator from New Mexico. He has identified a very serious issue. I want to work with him on this issue. It is important because his graph dramatically illustrates the magnitude of the problem.

The Senator from New Mexico is trying to address one of the most serious issues that affects American politics today and makes us much diminished in the eyes of our constituents and the people around the country.

I really do applaud the Senator from New Mexico on this issue. At the appropriate time, I will move to table the amendment.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, if I may have the attention of my colleague from Arizona, Senator MCCAIN, we are in the process of hotlining the vote. If it is all right with my friend from Arizona, the vote on or in relation to the Bingaman amendment can begin at 5 of 6. A couple of people are having meals, and this will give them a chance to get online.

I ask unanimous consent that the vote on or in relation to the Bingaman amendment commence at 5 of 6.

Mr. MCCAIN. Mr. President, I move to table the amendment, to take place at 5:55 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, may we ask for the yeas and nays at this time? Is it an appropriate request?

The ACTING PRESIDENT pro tempore. It is an appropriate request.

Mr. DODD. I ask for the yeas and nays on the motion to table commencing at 5 of 6.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I wish to make a statement and engage in a colloquy with my colleague, Senator MCCAIN.

Mr. MCCAIN. May we ask unanimous consent to engage in a colloquy?

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

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I spoke about this amendment last week that I had introduced to try to correct an inequity in the law we passed last year that required State and local candidates to file with the IRS as a 527 political organization. I think the purpose of this was not to affect State and local candidates who have no involvement in a Federal election. I think we did intend to include any PAC that might have an influence on a Federal election.

I worked with Senator LIEBERMAN, Senator MCCAIN, and others who were interested in trying to fix this problem. But I did give the commitment that we would not allow the bill to be blue-slipped in the House because of this amendment. The fact is, we came to an agreement among all the parties who worked together on the Senate side that would correct the problem. Senator LIEBERMAN, Senator MCCONNELL, Senator DODD, Senator MCCAIN, and I, all agreed that the language would do the job, but I could not get the commitment from the Ways and Means Committee on the House side not to blue-slip the bill even though I think a blue slip was not warranted. I made the commitment on the floor I would not do anything to jeopardize the bill procedurally with a blue-slip question.

This is my question to my colleague from Arizona. I will not pursue the amendment, but I think since everyone has agreed this needs to be fixed and we have the language to fix it, I ask the Senator from Arizona if he would agree to work with me to get this fixed in another bill.

Mr. MCCAIN. I say to the Senator from Texas, we established a $100,000 threshold so those who went above that would be disclosed; that is the outline of the agreement. Senator LIEBERMAN agrees, I agree, and I look forward to working with the Senator from Texas.

Mrs. HUTCHISON. I would like to clarify that the $100,000 threshold is not on State and local candidate committees but on State and local PACs.

Mr. MCCAIN. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from New Mexico, Mr. BINGAMAN. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 72, nays 28, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—72

Allard	Enzi	McConnell
Allen	Feingold	Miller
Baucus	Feinstein	Murkowski
Bayh	Fitzgerald	Murray
Bennett	Frist	Nelson (NE)
Bond	Graham	Nickles
Breaux	Gramm	Roberts
Brownback	Grassley	Rockefeller
Bunning	Gregg	Santorum
Burns	Hagel	Schumer
Campbell	Hatch	Sessions
Cantwell	Helms	Shelby
Carnahan	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Cleland	Inhofe	Snowe
Cochran	Jeffords	Specter
Collins	Kerry	Stabenow
Craig	Kohl	Stevens
Crapo	Kyl	Thomas
DeWine	Landrieu	Thompson
Domenici	Lincoln	Thurmond
Dorgan	Lott	Voinovich
Edwards	Lugar	Warner
Ensign	McCain	Wyden

NAYS—28

Akaka	Dayton	Lieberman
Biden	Dodd	Mikulski
Bingaman	Durbin	Nelson (FL)
Boxer	Harkin	Reed
Byrd	Hollings	Reid
Carper	Inouye	Sarbanes
Clinton	Johnson	Torricelli
Conrad	Kennedy	Wellstone
Corzine	Leahy	
Daschle	Levin	

The motion was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, a number of Senators are inquiring about how we will proceed for the balance of the evening and when we can expect to complete this bill, how long we will go tonight and also, of course, will it be necessary for us to go over until tomorrow and beyond.

All along, the commitment and the understanding have been, I believe by all parties, that we would spend 2 legislative weeks on this issue and we would have a full debate and votes on amendments, and that we would bring to it a conclusion at about this time so we could be prepared to move on to other very critical national issues. I am not sure exactly how many amendments are still remaining.

I know Senator REID has been working to try to identify exactly what amendments remain and to move those by consent agreement or voice vote, where it was possible. I know Senator MCCONNELL has been doing the same thing on our side, working with Senator DODD.

I think we are ready to complete action on this legislation. We have no more than four amendments on our side, and we think we could be prepared to work through those very quickly. I am not sure exactly what remains on the Democratic side, but I believe that the opponents and proponents are ready to vote. We have been through this. We have not moved toward a filibuster or cloture on either side. Although, in talking to Senator MCCAIN a moment ago, he was saying that, if it were necessary, he hopes that I would file cloture on this bill. Can you believe those words came from his mouth? If I had to, of course, the cloture would ripen on Saturday. I don't think we should end this process that way.

We do need to keep going. I know some Senators have commitments tonight they would like to go to. Some Senators have commitments they would like not to have to go to. I have heard—more of the latter, yes.

So I would like to propose a unanimous consent request. I haven't precleared this with Senator DASCHLE. He looked over it. We talked about it. I am not exactly sure what his thinking is. I would be willing to consider other ideas if somebody has a good idea about how we can complete it. This is the fairest way.

I ask unanimous consent that all remaining amendments in order to S. 27 be limited to 30 minutes equally divided and all other provisions of the consent agreement of February 6, 2001, remain in order.

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I inquire of the managers, how do we wish to proceed? I yield to Senator DASCHLE.

Mr. DASCHLE. Mr. President, I have not had a chance yet to consult with our colleagues. We have 10 remaining amendments on this side. I know Senator SPECTER has been waiting patiently to offer his amendment.

Throughout the week, I have promised our colleagues that if they played by the rules and waited patiently for their opportunity to offer their amendments, we would accord them the same opportunity other Senators have had throughout the duration of this debate, as the majority leader indicated.

This has been a very good debate. No one has talked about the need to file cloture. I hope we will not have any reason to do that in the future. I believe Senators ought to have an opportunity to have their amendments considered and have a vote. So until I have had the opportunity to consult more carefully with those colleagues who still have outstanding amendments, I have to object.

Mr. LOTT. Mr. President, then, let me say to colleagues, we will continue on into the night. We will be having votes. If necessary, to have those votes in a reasonable period of time, we will move to table them. But we will continue as long as it takes to get this bill done.

When we know more about what we could agree to, we will let you know. You should expect a vote within the next couple of hours.

Mr. GRAHAM. If the majority leader will yield.

Mr. LOTT. I yield.

Mr. GRAHAM. For those who do want to make commitments, would it be possible to have a window of a couple of hours with assurance that we not vote within that window?

Mr. LOTT. I think the majority of those who had talked to me were hoping we would not have a window. I think we need to keep our nose to the grindstone and try to complete this legislation. I am not saying it won't happen. I don't think we should make a commitment of a window. My wife will be waiting for me to come home and have supper. When we complete our work, I will go home and have supper with her. She may be hungry, but she waits.

Mr. GRAHAM. That commitment is important above all.

Mr. LEAHY. If the leader will yield, will it be safe to say that in the next hour or so those who show up on the floor with a tuxedo or evening dress are those who want to fulfill their commitments, and those who are not would like to keep voting?

Mr. LOTT. Those who show up with a tuxedo, that will count as having fulfilled your commitment to the dinner because it would show intent to be there, but a higher calling prevented your presence. You might want to don your evening attire and come to the floor and wait for an opportunity to vote.

Mr. LEAHY. I will change within the hour.

Mr. LOTT. I yield the floor.

AMENDMENT NO. 140, AS MODIFIED

Mr. SPECTER. I send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 7, line 24, strike ''and'', and insert the following:

''or

(iv) alternatively, if (iii) is held to be constitutionally insufficient by itself to support the regulation provided herein, which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate; and''

On page 8, line 1, by striking ''(iv)'' and replacing with ''(v)''.

On page 15, line 19, strike ''election, convention or caucus.'' and insert the following: ''election, convention, or caucus; or alternatively, if subclauses (i) through (iii) of subsection (3)(A) are held to be constitutionally insufficient to support the regulation provided herein, which also

(iv) promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

On page 2, after the matter preceding line 1, insert:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In the twenty-five years since the 1976 Supreme Court decision in Buckley v. Valeo, the number and frequency of advertisements increased dramatically which clearly advocate for or against a specific candidate for Federal office without magic words such as ''vote for'' or ''vote against'' as prescribed in the Buckley decision.

(2) The absence of the magic words from the Buckley decision has allowed these advertisements to be viewed as issue advertisements, despite their clear advocacy for or against the election of a specific candidate for Federal office.

(3) By avoiding the use of such terms as ''vote for'' and ''vote against,'' special interest groups promote their views and issue positions in reference to particular elected officials without triggering the disclosure and source restrictions of the Federal Election Campaign Act.

(4) In 1996, an estimated $135 million was spent on such issue advertisements; the estimate for 1998 ranged from $275–$340 million; and, for the 2000 election the estimate for spending on such advertisements exceeded $340 million.

(5) If left unchecked, the explosive growth in the number and frequency of advertisements that are clearly intended to influence the outcome of Federal elections yet are masquerading as issue advocacy has the potential to undermine the integrity of the electoral process.

(6) The Supreme Court in Buckley reviewed the legislative history and purpose of the Federal Election Campaign Act and found that the authorized or requested standard of the Federal Election Campaign Act operated to treat all expenditures placed in cooperation with or with the consent of a candidate, an agent of the candidate, or an authorized committee of the candidate as contributions subject to the limitations set forth in the Act.

(7) During the 1996 Presidential primary campaign, candidates of both major parties spent millions of dollars in excess of the overall Presidential primary spending limit that applied to each of their campaigns, and in doing so, used millions of dollars in soft money contributions that could not legally be used directly to support a Presidential campaign.

(8) These candidates made these campaign expenditures through their respective national political party committees, using these party committees as conduits to run multi-million dollar television ad campaigns to support their candidacies.

(9) These television ad campaigns were in each case prepared, directed, and controlled by the campaign committees of these candidates.

(10) The television ads by campaign committees forcefully advocated the election of their candidate and the defeat of their opponent and those television ads were suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate; however, in the absence of a specific statement to ''vote for'' or ''vote against,'' those television ads were deemed issued ads and not advocacy ads under Buckley v. Valeo.

(11) Television ads were coordinated between the candidate committees and the relevant national party committees.

(12) Agents of the candidate committees raised the money used to pay for these so-called issue ads supporting their respective candidacies.

(13) These television advertising campaigns, run in the guise of being national party issue ad campaigns, were in fact Clinton and Dole ad campaigns, and accordingly should have been subject to the contribution and spending limits that apply to Presidential campaigns.

(14) After reviewing spending in the 1996 Presidential election campaign, auditors for the Federal Election Commission recommended that both the 1996 candidate committees repay millions of dollars because the national political parties had closely coordinated their soft money issue ads with the respective presidential candidates and, accordingly, the expenditures would be counted against the candidates' spending limits.

(15) On December 10, 1998, in a 6–0 vote, the Federal Election Commission rejected its auditors' recommendation that either of these campaigns repay the money.

(16) The pattern of close coordination between candidates' campaign committees and national party committees continued in the 2000 Presidential election.

(17) The television ads by the 2000 presidential campaigns forcefully advocated the election of their candidate and the defeat of their opponent and those television ads were suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate; however, in the absence of a specific statement to ''vote for'' or ''vote against,'' those television ads were deemed issue

ads and not advocacy ads under Buckley v. Valeo.

(18) Television ads in the 2000 presidential election were coordinated between the candidate committees and the relevant national party committees.

(19) On January 21, 2000, the Supreme Court in Nixon v. Shrink Missouri Government PAC noted, ''In speaking of 'improper influence' and 'opportunities for abuse' in addition to 'quid pro quo arrangements,' we recognized a concern to the broader threat from politicians too compliant with the wishes of large contributors.''

(20) The details of corruption and the public perception of the appearance of corruption have been documented in a flood of books, newspapers and public documents.

Mr. McCONNELL. It is my understanding that the Senator from Pennsylvania believes he might be able to wrap up his remarks in 15 minutes or so?

Mr. SPECTER. Mr. President, it is my hope to be able to do it within a brief period of time—perhaps as little as 15 minutes, in that range.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment, as modified, seeks to accomplish two objectives. One objective is to set forth findings to provide a factual basis to uphold the constitutionality of the statute, and the second objective is to insert a definition so that the bill will survive constitutional challenge under the Buckley v. Valeo decision, which has language that required specifically saying ''vote for,'' ''support,'' with ads being deemed to be issue advertisements where the obvious intent is to extol the virtues of one candidate and to comment extensively on the deficiencies of another candidate; and notwithstanding the clear purpose of these ads in the 1996 Presidential election and the Presidential election of 2000, those ads were deemed

to be issue ads and, therefore, could be paid for with soft money.

The bill as presently written endeavors to provide a bright-line test with the provision of identifying a specific candidate. The reason I am able to abbreviate the argument this evening, or the contentions this evening, is that we had about 2 hours of debate last Thursday.

The critical language in the bill is the reference to a clearly identified candidate for Federal office. Now this may or may not be a sufficiently bright line to satisfy the requirements of Buckley v. Valeo, or in fact it may not be because it does not deal with the kind of specific urging of a candidate to ''vote for'' or ''support,'' which Buckley has talked about.

In Buckley, in a very lengthy opinion, the Supreme Court of the United States said that in order to avoid the constitutional challenge for vagueness, those specific words of support—''vote for'' or ''vote against''—had to be used in order to avoid the vagueness standard of the due process clause of the fifth amendment.

What this amendment seeks to do is to provide an alternative test, which is derived from the decision of the court of appeals for the Ninth Circuit in the Furgatch case, and this definition is really Furgatch streamlined. The original amendment that was offered provided that the context of the advertisement was ''unmistakable, unambiguous, and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

In our debate last Thursday, there were arguments made that the language of ''unmistakable'' and ''unambiguous'' left latitude for a challenge.

In the amendment which has been modified, it is deemed to be sufficient to have the language be ''suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

This really sharpens up Furgatch, really streamlines Furgatch in order to pass constitutional muster.

The findings which have been set forth in the modified amendment seek to characterize events which have occurred in the intervening 25 years since the decision of Buckley v. Valeo, reciting how much money has been paid, the very heavy impact of funding, the ads really, in effect, urging the election of one candidate and the defeat of another so that, by any logical definition, they would be deemed advocacy ads and not issue ads, but they do not meet the magic words test of Buckley v. Valeo.

The expanded test of having ''no plausible meaning other than an exhortation to vote for or against a specific candidate'' would make it plain that the kinds of ads which have been viewed as being issue ads are really advocacy ads.

We had an extended debate last Thursday about the impact of this language on the balance of what is in the bill at the present time on a clearly identified candidate. This modified amendment has been very carefully crafted to meet the concerns that if the Supreme Court of the United States determines that the language in the underlying bill is sufficient, and the language added in this modified amendment is insufficient, that one or the other will be stricken so that there is a severability clause within this amendment as modified.

We have already legislated, we have already adopted an amendment to provide for severability. So it may be this is surplusage or it may be that it is necessary, but it does not do any harm to have this language.

I believe that most, if not all, of the objections which were raised last Thursday have been satisfied in this modified amendment. I urge my colleagues to adopt it.

I am not yet asking for the yeas and nays to see if the arguments which may be presented here are suggestive of some further modification which would require consent after asking for the yeas and nays, but it is my intention, as I have notified the managers, to seek a rollcall vote. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wonder if I can be yielded 5 minutes, 2½ minutes from either side, because I am not sure if I am for or against it because I don't have a copy of the final product. May I ask the Senator to yield me 2½ minutes from his side?

Mr. SPECTER. I do.

Mr. LEVIN. I yield myself 2½ minutes from our side. We are trying to determine which version of the amendment is pending. I ask the Senator from Pennsylvania, are the references in the findings to—we now have a modified amendment. Are there any references to the specific candidates in the 1996 Presidential campaign left in here?

Mr. President, I wonder if I can have the attention perhaps of all of my colleagues on this question. It may be a question in which we are all interested. It relates to the findings. For instance, one of the findings here says that both the Clinton and Dole ad campaigns should have been subject to the limits, implying that, in fact, they had somehow or other violated the limits of the campaign despite the 6–0 vote of the Federal Election Commission which rejected the recommendation that either of the campaigns repay the money.

I happen to agree with the Senator from Pennsylvania on the thrust of his amendment, by the way, because I have always liked the Furgatch test myself. I cannot speak for the floor manager on this side. I do not know where he is. But I do think these findings should be reviewed because I do not think we want to reach any conclusion that any of the expenditures of the Presidential campaigns violated that law in 1996.

The problem was the law was so full of loopholes and we need to close those loopholes.

Mr. MCCAIN. Will the Senator from Michigan perhaps call for a quorum call for 5 minutes to see if we cannot sort this out. I thought we had an agreement, but perhaps we do not.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. LINCOLN. Mr. President, I ask unanimous consent I be allowed to speak as if in morning business for about 10 minutes.

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

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

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I be allowed to speak briefly as in morning business.

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

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

Mr. SMITH of Oregon. Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. I thank the Senator from Oregon.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 140, AS FURTHER MODIFIED

Mr. SPECTER. Mr. President, I send to the desk a further modification of amendment No. 140.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, it is so ordered.

The amendment as further modified, is as follows:

On page 7, line 24, strike ''and'', and insert the following:

''or

''(iv) alternatively, if subclauses (i) through (iii) are held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, which is also in the aggregate found to be suggestive of no plausible meaning other than an extortion to vote for or against a specific candidate; and''.

On page 8, line 1, by striking ''(iv)'' and replacing with ''(v)''.

On page 15, line 19, strike lines 3 through 19 and insert the following:

''(A)(i) IN GENERAL.—The term 'electioneering communication means any broadcast, cable, or satellite communication which—

''(I) refers to a clearly identified candidate for Federal office;

''(II) is made within—

''(a) 60 days before a general, special, or runoff election for such Federal office: or

''(b) 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 made to an audience that includes members of the electorate for such election, convention, or caucus.

''(ii) If subclause (i) of subsection (3)(A) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term 'electioneering communication' means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

Further, nothing in the subsection shall be construed to affect the interpretation or application of 11 CFR 100.22(b).

Mr. SPECTER. Mr. President, the further modification has been made to satisfy some concerns about drafting. I believe the language had been definitive, but it was faster to make some changes than it was to debate that proposition. And where we are now—if I may have the attention of the Senator from Michigan—where we are now is to satisfy all the parties that what we are accomplishing on this amendment is that if the Snowe-Jeffords test is held to be unconstitutional by a final judicial decision, then the modified Furgatch test will be applied to define an advocacy advertisement which will satisfy Buckley v. Valeo that the advertisement ''is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

The additional sentence has been made: ''Further, nothing in this subsection shall be construed to affect the interpretation or application of 11 CFR, 100.22(b),'' which is the current FEC regulation on an electioneering communication which follows Furgatch.

Then the further modified amendment strikes the findings, and they will be supplemented at a later time because to call through and satisfy all the parties as to the findings would take longer than we can accomplish it simply by full striking, which this further modification does.

I believe at this juncture that we have satisfied all the concerns of the varieties of cooks who have been added to the stew.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Texas?

Mr. GRAMM. I ask the Senator from Kentucky to yield me 20 minutes.

Mr. MCCONNELL. Mr. President, I yield 20 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, we are in the process of rapidly completing this bill. I would not have come over to speak, except that it was clear to me that, for the moment, nothing was happening. I have not yet spoken on it. And while I think it is clear what the outcome will be, I at least want to go on record on this issue.

Free speech in America is a very funny thing. If a person goes out and burns the American flag and they say they are exercising free speech or they dance naked in a nightclub and say that that was personal expression, a league of defenders springs up in America to defend the first amendment of the Constitution. Yet when someone proposes that we preserve free speech about the election of our Government and the election of the men and women who serve the greatest country in the history of the world, when such a motion is made, it dies from a lack of a second.

It is astounding to me that free speech in America has come to protect flag burning and nude dancing but yet the greatest deliberative body in the history of the world feels perfectly comfortable in denying the ability of free men and women to put up their time and their talent and their money to support the candidates of their choice.

I can't help but say a little something about the protagonists in this debate. I would like to begin by saying of my dear friend Senator MCCAIN, with whom I profoundly differ on this issue, I have the highest respect for him. In fact, he has reminded me in this debate of an ancient god, Antaeus, whose mother was the earth, and every time he was thrown to the ground, he became stronger than he had been when he was cast down.

Having said that, having admired his diligence and his determination, I would say that seldom has a more noble effort been made on behalf of a poorer cause in the history of the U.S. Senate.

I would like to say of our colleague from Kentucky that he has again won our admiration and our respect. He has been vilified in every media outlet in the Nation. Yet his sin is to stand up and defend freedom.

You ask yourself: Why do people want to influence the Government? Why do people want to influence the Government of the United States of America? It seems to me there are really two reasons: One, they have strong feelings about something. They love their country. They have strong passions and they want to express them. And who would want to prevent them from expressing themselves? I say nobody should.

The second reason they want to influence the Government is that the Government spends $2 trillion a year, most of it on a noncompetitive basis. The Government sets the price of milk. The Government grants numerous favors. If we were serious about campaign reform, we would try to change the things that lead people to want to influence the Government for their advantage, and we would want to leave in place a system where people could express their love and their passions. Yet there is no proposal here to end the Government setting the price of milk. There is no proposal here that would have competitive bidding on contracts. Instead, we single out one source of influence, and that source of influence is money. Our problem is not bad money corrupting good men, our problem is bad men corrupting good money.

When I listen to my colleagues talk about this corrupting influence, let me say they apparently have lived a different political life than I have lived. I have never in my 22 years in public office and in the 2 years prior to that, when I ran unsuccessfully for the Senate and lost, had anyone come up to me and say: If you will vote the way I want you to vote, I will contribute to your campaign. I am proud that 84,000 people contribute to my campaign, and I believe they contribute to me because they believe in the things I believe in. I am proud to have their support. I don't apologize for it.

Remember this, and this is what is lost in this whole debate: This is an Alice in Wonderland debate where black is white and wrong is right. It is a debate that ignores the fundamental nature of the American political system. Government has power and people want to influence it. If we limit the power of people to spend their money, we strengthen the power of people who exert influence in other ways. We don't reduce power. We don't reduce whatever corruptive influence may exist among the people who want to influence government. We simply take power away from some people and, by the very nature of the system, we give it to somebody else.

Why should the New York Times have more to say in my election than the New York Stock Exchange? Is the New York Times not a for-profit company? Why should they have the right to run editorials and write front-page articles that can have a profound impact on your election, and they are a for-profit corporation, publicly traded, and yet we say in this bill, they, but not others, have freedom of speech? They can say whatever they want to say. But yet the New York Stock Exchange is denied the same freedom. How can that be rational? How can that be just?

Who says that freedom of speech should belong only to people who own radio stations and television stations and newspapers? I reject it.

What makes this debate an Alice in Wonderland debate is that the people who support this bill are the very people who will benefit from taking the American people out of the debate by limiting the ability of people to put up their time and their talent and their money.

The very groups, the so-called public interest groups, the media, the very people who preach endlessly about this issue and about this bill being in the public interest, they are the very people who win an enhancement of their

political power from this bill. What we are hearing identified as public interest is greedy, selfish, special interest. The amazing thing is that the voice of freedom and the right of people to be heard is not represented to any substantial degree on the floor of the Senate.

If I should believe, as a free person, that the Senator from Virginia is the new Thomas Jefferson and I believe the future of my children will be affected by his political success, don't I have the right to sell my house, to sell my car and to use that money to help him be elected? Why shouldn't I have that right? Who has the right to take that away from me? No one has the right to take it away from me. But this bill does take it away from me.

This distinction between soft money and hard money is a fraud. What we are seeing here is an effort to collect political power and to concentrate it. Our Founders understood special interests. The Senator from Arizona and the Senator from Wisconsin are not the first people in the history of this country who have ever been concerned about special interests. James Madison understood special interests. He understood that the way you deal with them is to allow many special interests to be created and have them compete against each other.

The editorial proponents of this bill see it as somehow corrupting when somebody contributes money to my campaign. But I wonder if really they support the bill because they know that the contributors of such money, with that participation and interest, offset the influence of their editorials and their political power. Why should some people have freedom and not others? That is the profound issue that is being debated here.

I suspect this bill is going to pass, but this is not a bright hour in American history, in my opinion. The amazing thing—I never cease to be amazed by our system—is there is no constituency for this bill.

This is a total fabrication. The constituency for this bill is a group of special interests who cloak themselves as public interest advocates and it is they who will have their power enhanced by limiting the ability of people to put up their time, talent, and money in support of candidates. The so-called public interest promotion of the bill in editorials across America is coming from the very people who will become more powerful if this bill is adopted.

So what we have is an incredible example, cloaked in great self-righteousness, of special interest triumphing over public interest through the power of the same groups that will have their power enhanced if this bill is adopted.

If editorialists in America, if Common Cause, and all these similar groups, can induce the Congress to limit freedom of speech to enhance their power, what strength will those who oppose their views have when freedom of speech has been, in fact, limited? I think that is something that should give us all pause, though I have no doubt there will be no pause tonight.

It is as if we look at the Constitution and we say that what is at stake is either protection of the first amendment of the Constitution, or whether we are going to get a good editorial in tomorrow morning's newspaper, and the judgement is made that tomorrow morning's newspaper is much more important than the first amendment of the Constitution.

Let me conclude by quoting, because I never think it hurts to read from the greatest document in history, other than the Bible—the Constitution. Let me read amendment No. 1 of the Constitution, and I will read the relevant points:

> Congress shall make no law abridging the freedom of speech.

If I believe the Senator from Virginia is the next Thomas Jefferson and I want to sell my house to support his candidacy, who has the right under the Constitution to deny me that right? No one has that right. Yet we are about to vote on the floor of the Senate to keep me from doing that.

The Constitution says that:

> The right of the people peaceably to assemble and to petition the government for a redress of grievances shall not be abridged.

If I am not permitted to spend my money to present my grievances to my Government, how am I going to be heard? In modern society, the ability to communicate depends on the ability to have funds to amplify your voice so it can be heard in a nation of 285 million people.

If I don't have the right to use my time and my talent and my money to enhance my voice, how can I be heard? Well, what the advocates of this bill are really saying is we don't want you to be heard because we might not like what you have to say.

We have a bill before us that says you can't run ads. If I wanted to run ads supporting you, or give you money to spend, I can't do it. We are all unhappy that these special interest groups run ads. It hurts my feelings. When people tell my mama that I am this terrible, bad person, that I have sold out to the special interests, my mama asks me, ''Why can they say that?'' How can they say it? You know why they can say it? Because they have the right to say it because of the first amendment of the Constitution. It is not true, but it doesn't have to be true.

It amazes me—and I will conclude on this remark—I hear colleagues talk about corruption, corruption, corruption. I wonder if people back home know that there has never been a Congress in American history less corrupt than this Congress. I don't agree with many of the people in this body, but I don't believe there is a person in this body who is dishonest.

I can only speak for myself, but I have never, ever felt compromised because somebody supported me. I have felt honored, I have felt grateful, but I have always believed they supported me because of what I believed. In fact, on many occasions, when people have supported me—the AMA is a perfect example. When I was a young man running for Congress, the American Medical Association supported me and just thought I was wonderful. Now they don't like me. What changed? They changed; I didn't change. I have always been for freedom. When I stood right at this desk and helped lead the effort to kill the Clinton health care bill, I did it because I believed in freedom, and they loved it. Now that they want to kill HMOs, they don't think so much of freedom anymore.

But I didn't feel corrupted by them giving me money. They supported me because of what I believed in. When they didn't believe it anymore, they changed; I didn't change. So I don't know what is in the hearts of those who feel this corruption. I do not feel it. I think corruption, as it is portrayed in the media, has increasingly become a codeword for anybody who can speak for themselves and, therefore, doesn't have to be too concerned about the commentary of some special interest group or the media.

I love the Dallas Morning News, especially when they write good things about me. When they endorse me and support me, I like it. But I have 84,000 contributors. The newspaper can go ahead and say whatever they want to say about me because my contributors and supporters have ensured that I will get to respond and tell my side of the story.

What this bill is going to do, and the terrible effect of it if it does become law, is that it is going to limit the ability of people to tell their side of the story. I think that is fundamentally wrong. I still do not understand how someone can burn a flag, and that is freedom of speech; someone can dance naked in a night club, and that is freedom of public expression; but if I want to sell my house and support somebody that I believe in with all my heart, that is fundamentally wrong; that is corrupt.

I believe there is salvation. I believe we are going to get salvation from this bill. I think the salvation is going to come from this ancient document, our Constitution, because I believe this bill is going to be struck down by the courts, and that is ultimately going to be our salvation.

I want to say to my dear colleague from Kentucky that I admire him, and I want to thank him for the great sacrifice he has made to stand up on behalf of freedom, when very few people are offering compliments, and very few pundits are applauding. I am one person who is applauding, and I will never, ever forget what you have done. It may not be in an editorial, but it will be enshrined in my heart.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I want to say to the Senator from Texas how much I appreciate what he had to say. There is no question that he gets it. It is all about the first amendment. It is all about the first amendment and the rights of Americans to have their say.

This bill, as the Senator from Texas pointed out, is simply trying to pick winners and losers. It takes the parties and it crushes them. And the irony of it all is there will be way more money spent in the next election than there was in the last one. It just won't be spent by the parties.

So we have taken resources away from the parties, which will be spent otherwise because of all of these other efforts, as the Senator from Texas pointed out. And I assure him I will be in court. I will be the plaintiff, and we will win if we have to go to court. Efforts to restrict the voices of outside groups will be struck down.

I hope we will be able to save the ability of parties to engage in speech that isn't federally regulated, which is what soft money is. It is everything that isn't hard money. I thank the Senator from Texas for always being there on so many issues, and especially for the kind things he said tonight about this struggle. It isn't a lot of fun being the national pinata. But there are some rewards.

I say to my friend from Texas my reward is that I really could not think of a group of enemies I would rather have than the ones I have made in this debate. I can't think of a single set of friends I would rather be associated with than people such as the Senator from Texas, who understand what freedom is all about and understand what this debate is all about.

I say to my colleague, we may lose tonight, but we will ultimately win this no matter how long it takes; we will win it. I thank him so much for being there when it counts.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator NELSON from Florida be allowed to proceed to offer his amendment, 5 minutes equally divided, and then there be a voice vote on that amendment, and that we lay aside the Specter amendment in order to permit that to happen; then we immediately vote on the Specter amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida is recognized.

AMENDMENT NO. 159

Mr. NELSON of Florida. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 159.

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

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

The amendment is as follows:

(Purpose: To prohibit fraudulent solicitation of funds)

On page 37, between lines 14 and 15, insert the following:

SEC. ___. PROHIBITION ON FRAUDULENT SOLICITATION OF FUNDS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''No person'';

(2) by adding at the end the following:

''(b) FRAUDULENT SOLICITATION OF FUNDS.—No person shall—

''(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

''(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).''.

Mr. NELSON of Florida. Mr. President, the Federal Election Commission reports receiving a number of complaints that people have fraudulently raised donations by posing as political committees or candidates and that the current law does not allow the Commission to pursue such cases.

For example, one newspaper reported that after last November's Presidential election, both Democrats and Republicans were victims in a scam in which phony fundraising letters began popping up in mailboxes in Washington, Connecticut, Michigan, and elsewhere. Those letters urged $1,000 contributions to seemingly prestigious Pennsylvania Avenue addresses on behalf of lawyers purportedly for both George W. Bush and Al Gore. About the same time, thousands of similar letters offering coffee mugs for contributions of between $1,000 and $5,000 were sent to Democratic donors from New York to San Francisco.

Clearly, one can see the potential for harm to citizens who are targeted in such fraudulent schemes. Unfortunately, the Federal Election Campaign Act does not grant specific authority to the Federal Election Commission to investigate this type of activity, nor does it specifically prohibit persons from fraudulently soliciting contributions.

The FEC has asked Congress to remedy this, and the amendment I offer today is in response to this request. This amendment makes it illegal to fraudulently misrepresent any candidate or political party or party employee in soliciting contributions or donations.

I thank my Senate colleagues for their consideration of this amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this is a very important amendment. It is going to protect our citizens from fraudulent solicitation of their funds. It will give the Federal Election Commission the tools it needs to address these fraudulent acts which take advantage of our citizens. It implements an important recommendation of the Federal Election Commission. I hope our colleagues will all support this amendment.

I also congratulate the Senator from Florida. I believe this may be his first amendment. It is a very important amendment. He has made an important contribution to this Senate in many ways already. It is important for all of us to recognize the first amendment of the Senator from Florida that is being accepted, hopefully, tonight, and I congratulate him.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 159.

The amendment (No. 159) was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 140, AS FURTHER MODIFIED

Mr. SPECTER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 140, as further modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Ohio (Mr. VOINOVICH) is necessarily absent.

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

The result was announced—yeas 82, nays 17, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—82

Akaka	Domenici	McCain
Allard	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Edwards	Murkowski
Bennett	Ensign	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Reed
Boxer	Frist	Reid
Breaux	Graham	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchison	Sessions
Carnahan	Inhofe	Shelby
Carper	Inouye	Smith (OR)
Chafee	Jeffords	Snowe
Cleland	Johnson	Specter
Clinton	Kennedy	Stabenow
Cochran	Kerry	Stevens
Collins	Kohl	Thompson
Conrad	Landrieu	Thurmond
Corzine	Leahy	Torricelli
Craig	Levin	Warner
Crapo	Lieberman	Wellstone
Daschle	Lincoln	Wyden
Dayton	Lott	
Dodd	Lugar	

NAYS—17

Allen	Enzi	Hatch
Brownback	Gramm	Helms
Bunning	Grassley	Hutchinson
DeWine	Gregg	

Kyl	Nickles	Smith (NH)
McConnell	Roberts	Thomas

NOT VOTING—1

Voinovich

The amendment (No. 140), as further modified, was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I know Senators are interested in how we proceed for the remainder of tonight and tomorrow. I believe we have come up with the best possible arrangement of how we can complete action on this bill and be prepared to move on to other legislation.

Senator DASCHLE and I have talked about it and have talked to the managers and the proponents of the legislation. I think everybody is satisfied that this is a fair way to bring this to a conclusion.

I ask unanimous consent that all remaining amendments in order to S. 27 be limited to 30 minutes equally divided and that all provisions of the consent agreement of February 6, 2001, remain in order, except for this change:

I further ask unanimous consent that all remaining amendments must be offered either tonight or between 9 a.m. and 11 a.m. tomorrow and that any votes ordered with respect to those amendments occur in a stacked sequence beginning at 11 a.m. on Friday, with 2 minutes prior to each vote for explanation.

I further ask unanimous consent that following the stacked votes the bill be immediately read for the third time and passage occur at 5:30 p.m. on Monday, all without intervening action or debate, and that paragraph 4 of rule XII be waived.

Also, it has been suggested that we include in this consent, if necessary, a technical amendment that is agreed to by both managers may be in order.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, I just covered this with the manager. I want to make sure Senator DASCHLE is aware. A technical amendment may not be necessary. But we want to make sure, if there is a need for a technical amendment, that there be a way to deal with that but that a technical amendment would have to be identified and agreed to tomorrow along with other amendments before we complete action.

The problem is, if we wait until Monday, there is a lot of opportunity for mischief to develop.

Mr. DASCHLE. Mr. President, reserving the right to object, it is suggested that perhaps having a weekend for the staff to go through whatever screening or final review may be helpful. Obviously, I think both managers would have to agree to any technical amendments. So there is that assurance. But this would give the weekend to the staff to assure that if there is any inadvertent mistake, it be caught prior to the time we vote on final passage on Monday.

I also note that it was suggested we may want to include in this unanimous consent agreement any second-degree amendments. I don't think that will be necessary because I don't anticipate second-degree amendments.

Mr. LOTT. Wouldn't that be in order under the earlier agreement? I think that would be covered by the underlying unanimous consent agreement because other than what is specified here——

Mr. DASCHLE. As long as we make it clear it includes amendments in the second degree.

Mr. DODD. The Democratic leader said it well. Any technical amendments would have to be amendments agreed to by both managers. So that the idea of something coming up late—I make it plural because the staff is apt to encounter more than one. Any technical amendments would have to have the concurrence of both managers.

Mr. LOTT. I can understand how the managers might want to obviously have that opportunity. But also we want to have a chance to review it. I also see how maybe the Senator from Arizona would want to be included in reviewing that.

But, again, there is no intent on anybody's part to try to snucker anybody. I think the way I worded it, where both managers have to agree to it, takes care of the problem. I can understand how the managers would prefer not being dragged around by our very capable staff for 2 or 3 hours on Monday, arguing over a technical amendment. However, I think this does give us a way to correct legitimate problems.

I say to Senator MCCONNELL, do you want to comment on this?

Mr. MCCONNELL. Is the leader then confirming no technical amendments could be offered after tomorrow without the consent of both managers?

Mr. LOTT. Absolutely.

Mr. NICKLES. Will the leader yield further?

Mr. LOTT. Certainly, I yield to Senator NICKLES.

Mr. NICKLES. One of the remaining issues is—some people would call it technical, but I think it is major, and that deals with coordination. A lot of us recognize that the underlying bill needs some improvement on coordination or else we are going to have a lot of people who are going to be crooks who want to participate in the political process. And they should have the opportunity to participate. I have been trying to get language, and I have not seen it. But that is not insignificant and not technical; that is major concern.

Mr. LOTT. I believe that would have to be one of the regular amendments, not a technical amendment.

Mr. DODD. Yes. That will be up tonight.

Mr. NICKLES. Will it be possible for us to see language tonight?

Mr. DODD. Probably not.

No. We will get you some.

Mr. LOTT. Senator MCCAIN.

Mr. MCCAIN. I thank both leaders for their cooperation on this. I am confident after tomorrow, if there are technical amendments, they will only be allowed if we are in agreement.

On the issue of coordination, we are ready to consider amendments and votes on that issue.

Mr. LOTT. I say to Senator WELLSTONE, did you get wet?

Mr. WELLSTONE. I did.

Mr. LOTT. I mean that literally now, not figuratively. I saw you drenched.

Mr. WELLSTONE. Because of you, I tried to run all the way up to Connecticut Avenue, and I got wet on the way.

I want to ask the majority leader—I am sorry; Mike Epstein, who used to work with me, is no longer here or I would have asked him this—but on technical amendments, is the definition of that that there would not be an up-or-down vote automatically?

Mr. LOTT. After the vote tomorrow on the sequence of amendments, there would not be a vote on the technical amendment. It would have to be agreed to. So it would be handled in that way.

Mr. WELLSTONE. I think I would object to a technical amendment unless there is an understanding to this effect: If this affected the work of any one Senator, that we would be consulted before an agreement.

Mr. DODD. Yes, we would provide that.

Mr. WELLSTONE. Is that implicit?

Mr. LOTT. That is implicit. Also, it would certainly be the proper way to proceed.

Are we ready to get this consent?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. I thank all Senators. I urge those of you who have amendments, stay and do them tonight, because the 2 hours tomorrow will go very fast. And if you are ready, I hope you will be prepared to offer your amendment tonight.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, we have an amendment.

AMENDMENT NO. 160

Mr. President, I send an amendment to the desk on behalf of Senator KERRY, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. KERRY, proposes an amendment numbered 160.

Mr. DODD. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide a study of the effects of State laws that provide public financing of elections)

On page 37, between lines 14 and 15, insert the following:

SEC. 305. STUDY AND REPORT ON CLEAN MONEY CLEAN ELECTIONS LAWS.

(a) CLEAN MONEY CLEAN ELECTIONS DEFINED.—In this section, the term ''clean money clean elections'' means funds received under State laws that provide in whole or in part for the public financing of election campaigns.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the clean money clean elections of Arizona and Maine.

(2) MATTERS STUDIED.—

(A) STATISTICS ON CLEAN MONEY CLEAN ELECTIONS CANDIDATES.—The Comptroller General of the United States shall determine—

(i) the number of candidates who have chosen to run for public office with clean money clean elections including—

(I) the office for which they were candidates;

(II) whether the candidate was an incumbent or a challenger; and

(III) whether the candidate was successful in the candidate's bid for public office; and

(ii) the number of races in which at least one candidate ran an election with clean money clean elections.

(B) EFFECTS OF CLEAN MONEY CLEAN ELECTIONS.—The Comptroller General of the United States shall describe the effects of public financing under the clean money clean elections laws on the 2000 elections in Arizona and Maine.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress detailing the results of the study conducted under subsection (b).

Mr. DODD. Mr. President, this is an amendment that has been agreed to by both sides. It is one of these amendments we can move out of the way very quickly. I gather the majority has seen it and approves as well.

Mr. MCCONNELL. We have no objection to it.

Mr. DODD. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 160) was agreed to.

Mr. DODD. 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.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, the next amendment will be by Senator LEVIN and Senator ENSIGN.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 161

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration on behalf of myself and Senators ENSIGN, CLINTON, DORGAN, and BEN NELSON.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. Ensign, Mrs. CLINTON, Mr. DORGAN, and Mr. NELSON of Nebraska, proposes an amendment numbered 161.

Mr. LEVIN. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the definition of Federal election activity as it applies to State, district, or local committees of political parties)

Beginning on page 3, strike line 12 and all that follows through page 4, line 4, and insert the following:

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an entity directly or indirectly established, financed, maintained, or controlled by or acting on behalf of 1 or more candidates for State or local office, or individuals holding State or local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act. Nothing in this subsection shall prevent a principal campaign committee of a candidate for State or local office from raising and spending funds permitted under applicable State law other than for a Federal election activity that refers to a clearly identified candidate for election to Federal office.

''(2) APPLICABILITY.—

''(A) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 301(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party for an activity described in either such clause to the extent the costs of such activity are allocated under regulations prescribed by the Commission as costs that may be paid from funds not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(B) CONDITIONS.—Subparagraph (A) shall only apply if—

''(i) the activity does not refer to a clearly identified candidate for Federal office; and

''(ii) the costs described in subparagraph (A) are paid directly or indirectly from amounts donated in accordance with State law, except that no person (and any person established, financed, maintained, or controlled by such person) may donate more than $10,000 to a State, district or local committee of a political party in a calendar year to be used for the costs described in subparagraph (A).

Mr. LEVIN. Mr. President, this amendment will allow the use of some non-Federal dollars by State parties for voter registration and get out the vote, where the contributions are allowed by State law, where there is no reference to Federal candidates, where limited to $10,000 of the contribution which is allowed by State law, and where the allocation between Federal and non-Federal dollars is set by the Federal Election Commission.

This bill that is before us is about limits. We have set limits on contributions by individuals, by PACs, by national parties to State parties. It is all about trying to restore some limits to a law where that law has really been completely subverted in terms of contribution limits by the so-called soft money loophole.

I think it is perfectly appropriate that the bill set limits. The bill has also put some restrictions which are excessive on the use of non-Federal dollars by State parties for voter registration and get out the vote.

I think in our efforts over the last couple weeks we have really done the right thing in establishing the limits that we have. We have focused on trying to restore something which was always intended, which is contribution limits, but we have also, in our review, done some fine tuning. We have done some adjustments.

This amendment provides some fine tuning in an area where State parties are using non-Federal dollars, dollars allowed by State law, for some of the most core activities that State parties are involved in; that is, voter registration and get out the vote.

Now the bill does not restrict State parties when it comes to using non-Federal dollars for things such as salaries and rent and utilities, nor should it. But it does prohibit altogether—unless this amendment is adopted—the use by State parties of non-Federal dollars. These are dollars not raised through any effort on the part of Federal officeholders, Federal candidates, or national parties. These are non-Federal dollars allowed by State law.

The bill, as it is currently written, would prohibit the use of any of those dollars for those core activities of State parties that we all know and call by get out the vote, registration activities, and voter identification.

In this regard, I believe and our cosponsors believe that the bill has gone too far, that we ought to allow State parties using non-Federal dollars, under very clear limits, where there is not an identification of a Federal candidate, where there is a limit as to how much of those contributions they can use, and where the contributions are allowed by State law—that we ought to allow, with the proper Federal match, determined by the Federal Election Commission, State parties to use these non-Federal dollars in some of the most core activities in which State parties are involved.

There is nothing much more basic to State parties than identifying voters who agree with their causes and to try to get those voters to the polls.

That is about as core an effort as you can get. Yet unless we make this modification in the bill, we would tell State parties they can't use the non-Federal dollars in any year where there is a Federal election, which is every other year, for those core activities.

This amendment, I believe, now has the support of the managers of the bill.

They will speak for themselves, of course. But we have worked very hard to make sure there are still some limits. We are not eliminating the limits on this spending, nor should we, because if it is unlimited, we then have a huge loophole again where State parties would become the funnel for the Federal campaign money to be poured into. So we keep reasonable restrictions, but what we do is, we pull back from the total elimination of the use of these non-Federal dollars by State parties for their fundamental basic activity.

Mr. DORGAN. Will the Senator from Michigan yield for a question?

Mr. LEVIN. I am happy to yield.

Mr. DORGAN. I am pleased to support this with Senator LEVIN, Senator CLINTON, and others.

I ask the Senator from Michigan, isn't it the case that, as currently written, a Governor and a mayor could not use non-Federal money to conduct their own activities for get out the vote, for example, in an election in which there might have been a Federal candidate, and would that not be the case?

Mr. LEVIN. The Senator is correct.

Mr. DORGAN. Secondly, there are roughly 160 democracies in the world. I wonder if the Senator knows—I didn't know until a few minutes ago—where we rank in the democracies around the world in voter participation. Before asking whether he knows the right answer, I will say we rank 139th among the democracies in the world in voter participation. It seems to me we ought to encourage in every conceivable way activities that get out the vote, that encourage voter participation. Is it not the case, that is exactly what this amendment does?

Mr. LEVIN. This amendment is aimed at restoring the appropriate use by parties of non-Federal funds which are obtained by those parties in compliance with their own State laws in those very activities which the Senator has identified. These are the fundamental activities in a democracy. We want State parties to be involved in those activities, as the Senator pointed out. We don't want that to become the loophole, however, for unlimited Federal dollars. That is why this amendment is crafted the way it is.

Mr. DORGAN. Finally, if the Senator from Michigan will yield one additional time, let me say the proposal of the Senator from Michigan is a modest one. We could have done more, perhaps should have done more. This represents a compromise, a modest compromise, however. It does the right thing. We don't want to pass campaign finance reform and then produce impediments to those very activities that would encourage voter participation. That would be a step in the wrong direction.

I, again, say how pleased I am at the effort tonight and the sponsorship by Senator LEVIN. I am very proud to be a cosponsor. I am pleased this is going to be accepted.

Mr. LEVIN. I thank Senator DORGAN for his cosponsorship, all of our cosponsors. I acknowledge the principal cosponsorship of the Senator from Nevada. I wasn't going to yield the floor to him, but I was going to acknowledge him as my principal cosponsor. I am happy to yield to the Senator from Connecticut.

Mr. DODD. Let me say to Senator LEVIN and Senator ENSIGN and others, I want to be considered a cosponsor as well, Mr. President. I appreciate the efforts of Senator LEVIN and Senator ENSIGN to work this out. This is an important provision that is going to make a difference. It is done in a very thoughtful way, a very responsible way. I think it adds again to the value of this piece of legislation. I thank our colleagues for their efforts.

Mr. LEVIN. Before I yield the floor, I want to add as a cosponsor Senator HARRY REID and to thank him for the efforts behind the scenes, as is so often true with Senator REID, making things happen in the Senate which otherwise simply would not happen, but doing it in a very self-effacing way, a very critically important way. I thank him as we ask unanimous consent that he be added as a cosponsor, and Senator CORZINE as well.

I yield the floor.

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

The Senator from Nevada.

Mr. ENSIGN. Mr. President, I first thank the Senator from Michigan for the work we have done together. He started this work and I joined him in it some time ago. We had a few differences on the amendment, but we were able to work those out. I thank the managers of the bill for also working with us to make sure we would be able to include this amendment in the bill. It is a very important amendment.

We look at our turnout of voters today, and we see a continual decline each and every year. The people who have brought the underlying bill to the floor are doing it partially because of that decreasing turnout. People out there in America are increasingly turned off from elections because of negative ads. A lot of those negative ads have been funded by some of the independent expenditures as well as some of the soft money that has been run through the parties.

What this bill, I don't think, intended to do, however, was to limit the activities of actually getting people to the polls, of first signing people up to register to vote and then encouraging them to go to the polls.

When I was running against Senator HARRY REID back in 1998, the labor unions put about 300 people on the ground to get out the vote for Senator REID. It was perfectly within their right to do that. This bill would have limited, though, State parties from doing similar activities. We want to encourage more people to go to the polls, not discourage people from going to the polls. Let's face it, if more people are not interested in our government, if they are not participating in this form of government we call a Republic, then our Republic will be doomed. We have to encourage people to go to the polls, and part of that is through the State parties.

This amendment is going to allow State parties to be funded to the point where they will have the resources to be able to get people to the polls on election day because they will be allowed to spend money for voter ID, for voter registration, and then for what is called get-out-the-vote efforts, things that are very important for increasing the number of people who get to the polls.

I thank the Senator from Michigan for working together on this amendment. It is a very important amendment. I also thank Senator MCCONNELL for allowing us to bring this amendment up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I think it is a good amendment. We should move to final passage, unless there are others who want to speak on it.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I add my words of support and thank Senator LEVIN and the other cosponsors who have worked hard on this matter.

I wish to reiterate the point that, while we are working so hard to reform our campaign finance system, we cannot undermine our ability to reform the way elections are conducted. For all of the reasons Senator LEVIN and Senator ENSIGN and others have pointed out, registering voters, getting voters out to the polls is a critical role of parties. From my perspective, we need to be doing even more to try to promote what parties used to do, which was that kind of grassroots outreach activity.

In reforming the way campaigns are financed, we must not hurt out ability to reform the way elections are conducted. This amendment would ensure that State, district or local committees of a political party would be able to continue to provide vital services to our citizenry during Federal elections, from voter registration activities to assisting individuals in getting out to vote on Election Day.

The 2000 election taught us many things. One of the most important was the significance of having an informed electorate. Too many citizens in the last election were provided with too little information about where and how to vote. Too many citizens experienced unwarranted obstacles to registration and voting. As a result, fewer votes were counted, and in the next election fewer people may turn out to vote.

The solution to these problems cannot be in the province of Government alone. America's political parties must play an important role in helping people register to vote, helping them learn

more about the voting process and helping them turn out at the polls on election day. It is vital to the health of our democratic process. Leading up to an election, both parties provide voters with information on how and where to register to vote. On Election Day, both parties use their resources to drive elderly voters to the polls, provide answers to questions about where and how to vote, and give voters information about where the candidates stand on issues.

In the State of New York over the past 2 years, the State Democratic Party has conducted an intensive voter education drive in predominantly African-American and Latino communities, often our most disenfranchised citizens. This education drive resulted in a surge in voter registration and voter activity in both of these communities throughout the state. Republican parties around the country are also active in voter registration and get out the vote efforts. This type of activity should continue to be supported by our State parties for all elections so that all of our citizens fully participate in our democracy.

Some will claim that this amendment will bring soft money back into federal campaigns. Let me be very clear, this amendment does not bring soft money back into campaigns. Rather, it allows State and local parties to use money that is regulated by States and is capped at $10,000 for single contributions in order to support vital election services. That represents an improvement over the status quo, because under current law there is no national cap on such contributions at the local and State level.

I ask my colleagues to rise in support of an amendment that will ensure that our political parties can continue to use State regulated funds to provide voter education, registration and get out the vote services that we know work. Because helping voters register to vote, helping them to learn how and where to vote, and helping them get out to vote are American values we should encourage, not inhibit.

It is imperative this amendment pass so we are able to make a very clear distinction between the kind of roles and activities that should be conducted by parties and that we look forward to a time when we are going to be able to take up electoral reform with the same intensity that we have taken up campaign finance reform, which will give us a chance to go into more detail as to what our parties could and should be doing in order to promote democracy.

I thank our colleague from North Dakota for pointing out where we stand when it comes to voter participation. I hope all of our colleagues will support the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. DODD. We do.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 161.

The amendment (No. 161) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 162

Mr. DURBIN. Mr. President, I send an amendment to the desk on behalf of myself and Senator COCHRAN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself and Mr. COCHRAN, proposes an amendment numbered 162.

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

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

The amendment is as follows:

(Purpose: To establish clarity standards for identification of sponsors in certain election-related advertising)

On page 37, between lines 14 and 15, insert the following:

SEC. . CLARITY STANDARDS FOR IDENTIFICATION OF SPONSORS OF ELECTION-RELATED ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking 'Whenever' and inserting 'Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever';

(ii) by striking 'an expenditure' and inserting 'a disbursement'; and

(iii) by striking 'direct'; and

(iv) by inserting 'or makes a disbursement for an electioneering communication (as defined in section 304(d)(3))'' after ''public political advertising''

(B) in paragraph (3), by inserting 'and permanent street address, telephone number, or World Wide Web address'' after 'name''; and

(2) by adding at the end the following:

'(c) SPECIFICATION.—Any printed communication described in subsection (a) shall—

'(1) be of sufficient type size to be clearly readable by the recipient of the communication;

'(2) be contained in a printed box set apart from the other contents of the communication; and

'(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

'(d) ADDITIONAL REQUIREMENTS.—

'(1) AUDIO STATEMENT.—

(A) CANDIDATE.—Any communication described in paragraphs (1) or (2) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

'(B) OTHER PERSONS.—Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: 'XXXXXXXX is responsible for the content of this advertising.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.'.

'(2) TELEVISION.—If a communication described in paragraph (1)(A) is transmitted through television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

'(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

'(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.'.

SEC. . SEVERABILITY.

If this amendment or the application of this amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendments to any person or circumstance, shall not be affected by the holding.

Mr. DURBIN. I have given a copy of the amendment to Senator MCCONNELL and I will make copies available to any other Members who would like to read it. The amendment is very straightforward. If I can have just a moment or two, I will describe it for those who are interested.

It is an amendment relating to disclaimers on television and radio ads, as well as in print media. It requires of those electioneering communications—the so-called Snowe-Jeffords ads—that they abide by the same requirements for disclaimer and disclosure as ads for candidates themselves and ads authorized by candidates, and independent express advocacy ads. It requires, when it comes to these ads, that they also show on the screen, for example, not only the name of the organization that is sponsoring the ad, paying for the ad, but also either an address, phone number, or Internet Web site.

I can give a very inspired speech as to why this is necessary. But I think the concept is very basic. It is that we do not want to restrict freedom of expression, nor in fact do we restrict freedom of deception. If somebody wants to put an ad on that is categorically wrong, whether it is a candidate, a party, or any other group, I guess there is an American right to that. But we do, I hope, insist on accountability. At least identify who you are. If you are going to be part of our political process, tell us who you are. That is exactly all this does in terms of disclaimer. Whether it is a candidate, whether an ad authorized by a candidate, or so-called electioneering communication, that is what will happen. It applies to printed communications as well.

For those keeping track, this was part of McCain-Feingold in both the

105th and 106th Congress—a large portion of it was. It is something that many of us believe, and it was adopted by the House, would complement the work we have done thus far in the debate.

Mr. DODD. Mr. President, I commend our colleague from Illinois. This is a very worthwhile amendment. We can all relate to this. We have seen these ads come on and you have to freeze frame it and get a magnifying glass to even read the source, where they are coming from. Usually, it is a name that has no identification other than something that sounds very good and hardly revealing as to who is responsible for it, let alone any address or telephone number that would allow the kind of disclosure that ought to be associated with this kind of advertising.

This is a very commonsensical. I think everybody ought to appreciate the effort. I commend my colleague for offering it. I am happy to be a cosponsor of it and urge its adoption.

Mr. McCONNELL. Mr. President, the amendment of the Senator from Illinois is a clear violation of the Supreme Court decision of McIntyre v. Ohio Elections Commission, handed down in 1995, in which the Supreme Court made it abundantly clear that you cannot require disclaimers on issue ads.

Having said that, I think everybody knows that the Senator from Kentucky would like to hang as many barnacles as possible on the hull of this bill, and I look forward to having one more argument to make before the courts. Therefore, I have no objection to this being adopted on a voice vote.

Mr. DODD. Who said politics makes strange bedfellows?

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. DURBIN. I yield back my time.

Mr. McCONNELL. I yield back my time.

Mr. DURBIN. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 162) was agreed to.

Mr. McCONNELL. I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 163

Mr. DODD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD), for himself, Mr. THOMPSON, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEAHY, and Mr. Jeffords, proposes an amendment numbered 163.

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

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

The amendment is as follows:

(Purpose: To amend the Federal Election Campaign Act of 1971 to enhance criminal penalties for election law violations and for other purposes)

On page 37, between lines 14 and 15, insert the following:

SEC. ___. INCREASE IN PENALTIES.

(a) IN GENERAL.—Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

''(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure—

''(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

''(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than one year, or both.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the date of enactment of this Act.

SEC. ___. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking ''3'' and inserting ''5''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the date of enactment of this Act.

SEC. ___. SENTENCING GUIDELINES.

(a) IN GENERAL.—The United States Sentencing Commission shall—

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS.—The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves—

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Government.

(3) Provide a sentencing enhancement for any violation by a person who is a candidate or a high-ranking campaign official for such candidate.

(4) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(5) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(6) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—

(1) EFFECTIVE DATE.—Notwithstanding section 402, the United States Sentencing Commission shall promulgate guidelines under this section not later than the later of—

(A) 90 days after the date of enactment of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

Mr. THOMPSON. Mr. President, I am offering this amendment on behalf of Senator LIEBERMAN, Senator COLLINS, Senator LEAHY, and Senator JEFFORDS. It is designed to strengthen the enforcement of the criminal provisions of the Federal Election Campaign Act.

Four years ago, the Governmental Affairs Committee held hearings on illegal and improper activity in the 1996 presidential campaign. As a result of that investigation, we learned about a wide-ranging effort to circumvent the federal election laws by funneling campaign contributions, sometimes from foreign sources, through American citizens to benefit presidential campaigns.

While I have voiced my concerns about the quality of the Department of Justice's investigation and prosecution of these violators, today I am addressing structural flaws in the statute that make it difficult for the more conscientious prosecutors to adequately pursue their cases. Specifically: FECA fails to provide for felony prosecutions regardless of the severity of the offense. Its three year statute of limitations is too short—for instance, only the administration that wins the election can enforce the law prior to the running of the statute of limitations. Finally, there is no sentencing guideline for FECA violations. Because of these deficiencies in the statute, our amendment would make the following changes.

First, in the 1996 presidential campaign, the Special Investigation of the Governmental Affairs Committee identified at least $2,825,600 in illegal contributions to the DNC. Yet, regardless of the extent to which the laws were broken, all the violations under FECA were still misdemeanors. Our amendment would remedy this problem for the future by authorizing felony prosecutions of FECA violations, but only if (1) the offender committed the existing federal offense ''knowingly and willfully'' and (2) the offense involved more than $25,000.

Second, criminal violations of FECA are the only federal crimes outside of the Internal Revenue Code that have a statute of limitations shorter than 5 years. Our amendment conforms FECA's statute of limitations to those of virtually all other federal crimes.

Third, the Federal Sentencing Guidelines, which govern federal judges' sentencing decisions, do not currently have a guideline specifically directed at campaign finance violations. As a result, judges must use guidelines for other offenses, preventing them from considering factors which should enhance the punishment for FECA violations such as the size of a contribution or its origin. Our amendment would require the Sentencing Commission to promulgate a guideline specifically for violations of FECA and provide for enhancement of sentences if the violation involves (i) a contribution, donation or expenditure from a foreign source; (ii) a large number of illegal transactions; (iii) a large aggregate amount of illegal contributions, donations or expenditures; (iv) the receipt or disbursement of government funds; or (v) an intent to achieve a benefit from the government.

The changes made in this amendment will provide conscientious prosecutors with the tools they need to investigate and prosecute those who violate our campaign finance laws and attack the integrity of our electoral process. For that reason, I urge my colleagues to support this amendment.

Mr. LIEBERMAN. Mr. President, I am pleased to join my colleague from Tennessee in offering this amendment, and I am delighted to be joined by Senators LEAHY, COLLINS and JEFFORDS as cosponsors. Senators THOMPSON, COLLINS and I spent the better part of a year working on the Governmental Affairs Committee's investigation into fundraising improprieties in the 1996 federal election campaigns. That investigation sparked a lot of discussion about whether many things that happened in 1996 were illegal or just wrong—things like big soft money donations, attack ads run by tax-exempt organizations, fundraising in federal buildings and the like.

But one thing I never heard argument about is whether it was illegal to knowingly infuse foreign money into a political campaign or to use unwitting straw donors to hide the true source of money that was going to candidates or parties. I, for one, had no doubt that the people who did those things in 1996 would be prosecuted and appropriately punished.

Unfortunately, Mr. President, many of them were prosecuted, but I have grave doubts about whether they were appropriately punished. I know that there are many who blame the Justice Department for this, but when I first looked into it a couple of years ago, I was frankly surprised by what I learned—and that is that prosecutors just don't have the tools they need to effectively investigate, prosecute and punish people who egregiously violate our campaign finance laws. I think Charles LaBella, the former head of the Justice Department's Campaign Finance Task Force, put it best in a memo he wrote assessing the Department's campaign finance investigation. According to press reports, LaBella wrote that ''The fact is that the so-called enforcement system is nothing more than a bad joke.'' Unfortunately, it's a bad joke that has real consequences for the integrity of our campaigns and our democracy.

Let me give you one example. Many people are understandably upset that Charlie Trie and John Huang didn't go to jail for what they did in '96. But the Federal Election Campaign Act, or FECA, doesn't authorize felony prosecutions. No matter how egregiously someone violates FECA, all they can be charged with is a misdemeanor. And people rarely go to jail for misdemeanors.

To get around FECA's limits, prosecutors often charge campaign finance abusers with other federal crimes that are felonies, which is what they did with Trie and Huang. But that still often doesn't solve the problem. That's because when it comes time for sentencing, judges have to turn to the Federal Sentencing Guidelines, which still often bring light sentences because there is no guideline on campaign finance violations.

The guidelines assign what's called a ''base offense level'' for each crime, and then they give a number of factors that, if present, tell the judge either to increase or decrease the offense level. The higher the offense level, the higher the sentence.

Because the Guidelines don't have a provision on campaign finance violations, judges have to look for the next closest offense, and they often end up using the fraud guideline. But that guideline doesn't take into account the factors that make campaign finance violations so harmful, and the factors that are there often aren't particularly relevant to campaign finance violations. For example, there is nothing in the guideline that makes judges distinguish between a campaign finance violation involving $2,000 and one involving $2,000,000. So, when judges calculate the offense level of a defendant who funneled millions of foreign dollars into a US campaign, they don't end up with a high offense level, meaning that the defendant doesn't get a lengthy sentence. The prosecutors know this and the defendants know this, and that must be one of the reasons why prosecutors accepted plea bargains from John Huang and Charlie Trie—because they knew they wouldn't do much better even if they won convictions at trial.

Our amendment would solve these problems, by putting a felony provision into FECA and by directing the Sentencing Commission to promulgate a campaign finance guideline. If those two things happen, we will have greater confidence that those who violate the law will be appropriately punished.

I understand that some may worry that we are criminalizing participating in the political process. That is neither the intent nor the effect of this amendment. Our amendment would allow felony prosecutions only if, first, the defendant knowingly and willfully violated the law, and second, if the offense involved at least $25,000. So, it would not punish the donor who inadvertently goes over his contribution limits, nor would it go after the Party Committee clerk who makes a record-keeping mistake. Instead, our amendment aims at the opportunistic hustlers who come up with broad conspiracies to violate the election laws usually for personal gain by funneling foreign money into our campaigns or using large numbers of straw donors to hide their identity or make contributions they aren't allowed to make the people everyone says should be going to jail.

Our amendment contains one other provision—one extending FECA's statute of limitations from three to five years. As of now, FECA has the only statute of limitations outside the Internal Revenue Code of less than five years. We need to change that so that prosecutors are denied the time they need to pursue complex crimes.

Mr. President, this amendment is about something that we all should be able to agree upon, which is that actions that are already criminal and that we all agree are wrong should be punished. None of our amendment's provisions should be controversial, and I hope that we can see them enacted into law, so that we can go into the next election cycle with confidence that prosecutors have the tools necessary to deter and to punish those who would violate our election laws. I thank my colleagues, and I yield the floor.

Mr. DODD. Mr. President, I understand this amendment has been cleared by both sides. The amendment enhances the criminal enforcement provisions of the FECA legislation by authorizing felony prosecutions of willful and knowing violations of that law over $25,000, directs the Sentencing Commission to promulgate guidelines on campaign finance violations, and extends the FECA statute of limitations for criminal violations from 3 to 5 years.

Mr. MCCONNELL. Mr. President, I am sure this must be a wonderful idea if it was offered by Senator LIEBERMAN and Senator THOMPSON. Therefore, I am happy for the amendment to be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 163) was agreed to.

Mr. DODD. I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that on the table.

The motion to table was agreed to.

Mr. DODD. While we are waiting for Senator HATCH, Senator REED from Rhode Island has an amendment he would like to have considered.

AMENDMENT NO. 164

Mr. REED. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 164.

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

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

The amendment reads as follows:

(Purpose: To make amendments regarding the enforcement authority and procedures of the Federal Election Commission)

On page 37, between line 14 and 15, insert the following:

SEC. ___. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

(2) by adding at the end the following:

''(2) RANDOM AUDITS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act.

''(B) LIMITATION.—The Commission shall not institute an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer an active candidate for the office sought by the candidate in that election cycle.

''(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking ''6 months'' and inserting ''12 months''.

SEC. ___. AUTHORITY TO SEEK INJUNCTION.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

''(13) AUTHORITY TO SEEK INJUNCTION.—

''(A) IN GENERAL.—If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

''(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

''(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

''(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

''(iv) the public interest would be best served by the issuance of an injunction;

the Commission may initiate a civil action for a temporary restraining order or a preliminary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

''(B) VENUE.—An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found, or in which the violation is occurring, has occurred, or is about to occur.'';

(2) in paragraph (7), by striking ''(5) or (6)'' and inserting ''(5), (6), or (13)''; and

(3) in paragraph (11), by striking ''(6)'' and inserting ''(6) or (13)''.

SEC. ___. INCREASE IN PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.

Section 309(a)(5)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended by striking ''the greater of $10,000 or an amount equal to 200 percent'' and inserting ''the greater of $15,000 or an amount equal to 300 percent''.

SEC. ___. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

''(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) A political committee that is not an authorized committee shall not—

''(i) include the name of any candidate in its name, or

''(ii) except in the case of a national, State, or local committee of a political party, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

SEC. ___. EXPEDITED PROCEDURES.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)), as amended by this Act, is amended by adding at the end the following:

''(14) EXPEDITED PROCEDURE.—

''(A) 60 DAYS PRECEDING AN ELECTION.—If the complaint in a proceeding is filed within 60 days immediately preceding a general election, the Commission may take action described in this paragraph.

''(B) RESOLUTION BEFORE ELECTION.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur and it appears that the requirements for relief stated in clauses (ii), (iii), and (iv) of paragraph (13)(A) are met, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, immediately seek relief under paragraph (13)(A).

''(C) COMPLAINT WITHOUT MERIT.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.''.

SEC. ___. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL ELECTION COMMISSION.

Section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended—

(1) by inserting ''(a)'' before ''There'';

(2) in the second sentence—

(A) by striking ''and'' after ''1978,''; and

(B) by striking the period at the end and inserting the following: '', and $80,000,000 (as adjusted under subsection (b)) for each fiscal year beginning after September 30, 2001.''; and

(3) by adding at the end the following:

''(b) The $80,000,000 under subsection (a) shall be increased with respect to each fiscal year based on the increase in the price index determined under section 315(c) for the calendar year in which such fiscal year begins, except that the base period shall be calendar year 2000.''.

SEC. ___. EXPEDITED REFERRALS TO ATTORNEY GENERAL.

Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

''(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.''.

Mr. REED. Mr. President, I commend Senator MCCAIN and Senator FEINGOLD for their extraordinary efforts over the last several weeks, together with all of our colleagues, in trying to create a system of campaign finance reform that will be truly reflective of elections in the United States—elections about ideas and not just about money flowing in from everywhere.

Their efforts will be for naught if we don't have the adequate enforcement of the laws that we are adopting today and on succeeding days.

My amendment would specifically strengthen the Federal Election Commission, which is the organization that is charged with enforcing all the laws we have been discussing for the last 2 weeks. Observers have called the FEC ''beleaguered,'' a ''toothless watchdog,'' a ''dithering nanny,'' and a ''lapdog,'' indicating that the state of the FEC is rather moribund because they don't have the resources necessary or some of the tools necessary to do the job of effectively enforcing our campaign finance laws.

All of this effort over these several weeks and several years will amount to very little if we don't give the FEC the resources and tools to effectively enforce our campaign finance laws. If we are serious about reform, we need to be serious about giving the FEC these resources.

My amendment is based upon recommendations made by the FEC Commissioners over many years with respect to improving the performance of the FEC. As we all know, the FEC is composed of six Commissioners—three Republicans and three Democrats. These recommendations represent a bipartisan response to the observed inadequacies of the Federal Election Commission. First and foremost, my amendment would reauthorize the Federal Election Commission, which hasn't been technically reauthorized since 1980. It would also increase the authorized appropriations for this Commission. Over the past 2 weeks, we have talked about doubling and tripling money going to candidates. Again, if we are serious about campaign finance reform, we should also talk about increasing the budget of the FEC. Senator THOMPSON mentioned yesterday that the average amount spent by a winning Senate campaign went from approximately $1.2 million in 1980, to $7.2 million in the year 2000.

According to the FEC, total campaign spending has increased 1,000 percent since 1976. Total campaign finance disbursement activity was $300 million in 1976 and exploded to $3.5 billion in the year 2000 election cycle. But the agency responsible for administering these campaign finance laws, the Federal Election Commission, has seen very little increase in their operating budget over these many years. We have had an explosion of activity, we have had an explosion of contributions, but nothing to keep the FEC in league or in sync with this explosion of campaign spending.

Despite all the increased activity, the FEC staff is virtually the same as it was almost 20 years ago. In 1980, the FEC had 270 full-time equivalent staff. In 1998, the level was about 303, a very small increase, and at the same time there has been an explosion of donations, an explosion of reports, and increased in activity.

It is obvious with all of these activities, with all of these transactions that were reported that the FEC needs to do more and needs more resources to do the job it has been commissioned to do. The FEC is expected to review these financial reports. They are expected to enforce the laws, and unless we give them the resources to do that, we are going to be in a very sorry state and, indeed, we are in a very sorry state today. Because of the onslaught of cases before the FEC, it has to prioritize its enforcement work.

It turns out they give certain cases priority status. That means when there is an available attorney, they will put that attorney on the case, but there are so many cases that they eventually become stale. In fact, the FEC had to dismiss about half of its enforcement caseload in fiscal year 1998 and in fiscal year 1999 due to lack of resources. Due to the limited resources they have, they simply cannot keep up with the work. Once again, if we are serious about reform, we should be serious about giving the FEC the resources to do it.

Let me move forward and suggest other aspects of the legislation which is before us today in my amendment. In addition to increasing the resources to meet this obvious need, the amendment would also authorize the Commission to conduct random audits in order to ensure voluntary compliance with the campaign act.

It is based upon the same premise we use with the Internal Revenue Service. The idea that somebody would show up and look at your records encourages you to keep good records and to follow the law. That same principle would be effective with respect to the Federal Election Commission.

In addition to giving authority for random audits, it also would give the Commission the authority to seek an injunction from a Federal judge under specific circumstances.

First, there would have to be a substantial likelihood that a violation of campaign finance laws is occurring or is about to occur. There has to be a showing that the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation, and that expeditious action would not cause undue harm to a party affected by the potential violation, and finally, the public interest would be best served by such an injunction.

I point out that in order to seek such an injunction, the Commission would have to have a majority vote, 4 out of 6, and since there are three Republicans and three Democrats, this process of injunction would necessarily have to include votes from both Republicans and Democrats. I think it is a way to ensure fairness and not abuse this injunctive power.

In addition to providing these aspects, the amendment would do something else. It would also increase the penalties for willful violations and knowing violations of the Federal Election Campaign Act. The violations would be increased from $10,000 to $15,000 or an amount equal to 300 percent of the violation amount, the greater of those two sums.

The amendment also includes a provision that would restrict the misuse of a candidate's name. It would require that a candidate's committee include the name of the candidate, but it also would prohibit the use of that candidate's name by an unauthorized committee or any other committee except the party committee.

This would, I hope, correct a situation in which committees or organizations unrelated to the candidate use the name of the candidate and misuse the name of the candidate.

Also, the amendment would expedite procedures used by the FEC to enforce violations or investigate violations of the Federal Election Campaign Act.

It would also allow an expedited referral to the Attorney General in the case of a perceived criminal violation of the Federal Election Campaign Act. Once again, such a referral would require a majority vote of the Commissioners, so it would be inherently bipartisan and could not be abused by a partisan faction of the Federal Election Commission.

We have for the last several weeks been working diligently, creatively to fashion stronger Federal election campaign laws. But without my amendment, all of our work might be for nought because unless we strengthen the Federal Election Commission, we will not have the enforcement capability to take this legislative design which we have worked over so many days, and make it effective to regulate the campaigns for Federal office in the United States.

I urge adoption of this amendment. I yield the floor.

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

Mr. MCCONNELL. Mr. President, Senator REED seeks to reverse a decision taken in 1979. Back in 1979, under pressure from House Democrats, the Democratic-controlled House and Senate passed the amendment, signed into law by a Democratic President, which eliminated random audits.

The catalyst was a large number of audits that were commenced consuming enormous amounts of time and money and done in a manner which was viewed as unfair.

This provision may present the same problem. I say to my friend from Rhode Island, we are going to need to look at it overnight. My inclination is to oppose it, in which case we will need a rollcall vote. At least we can look at it overnight.

It is unclear who authorizes the audits, the six appointed members of the Commission or the general counsel appointed by those members? The period commencing these random audits is extended from 6 months to 12 months. Campaigns will have to wait 1 year before they even know if an audit will begin and if they need to raise additional funds to cover the cost.

There is no time limit for commencing audits of PACs or party committees. The 1979 amendment allowed the Commission to continue audits for cause where the FEC reviews the reports to determine if they meet the threshold for substantial compliance.

After the review, it takes an affirmative vote of four Commissioners to conduct an audit. The only other agency I know that conducts random audits is the IRS, and even they are scaling back.

Practically speaking, an audit by the FEC takes years, costs tens, even hundreds of thousands of dollars in lawyers and accountants. For instance, the audit of the 1996 Republican Convention concluded just months before the 2000 convention.

To carry out this provision, the FEC will have to double or even triple its audit staff. This is wrong for the FEC to review the record before commencing an audit, which precisely will no longer be the case under the Reed amendment.

We will have more to say about it tomorrow. Suffice it to say, I say to my friend from Rhode Island, he gets the drift. I think this is a step in the wrong direction, and I think Members of the Senate need to be apprised of the fact that they may be subjected to these lengthy and costly audits under the Senator's amendment.

Maybe we will wake up and see the light and conclude the amendment of the Senator from Rhode Island is a good idea. In any event, we will have to carry it over until tomorrow.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my colleague from Rhode Island for bringing this up. These were provisions we proposed as well over the last number of years.

There are very good concepts here. The random audit races issues can be very expensive. If there is no cause for doing it randomly, there is a legitimate concern this can be abused by

those who would like to become a policing action, without any rationale for doing it, other than for the sake of doing it.

I would like to sleep on this and take a look at it and see if we can maybe get some agreement to accept it tomorrow, maybe make some modification; rather than dealing with it this evening, see if the staff can work on it, the majority and the minority, to see if we can come up with a proposal to be accepted before we can bring it up for consideration between 9 o'clock and 11 o'clock in the morning. If the Senator would agree, that would help.

Mr. REED. I have no opposition to working in a purposeful manner.

I reassure the Senator of concerns expressed. First, the random audit would have to be approved by the majority of commissioners. This is not something that would be inherently abusive, since it requires four commissioners, at least one of whom has to be from the opposing party.

In addition, the audits would be subject to strict confidentiality rules and only when the audits are completed would they be published, and not try to insinuate an audit into the newspapers for political campaign purposes.

I do believe this is a good way to reach compliance, and it is something that has been suggested by those people who look closely at the Federal Election Commission.

With respect to the lengthening of the time period for audit, the length is increased from 6 months to 12 months for those audits for cause. I think that is a reasonable amendment to the current practice. I hope it is accepted.

As the Senator from Connecticut and the Senator from Kentucky suggest, I have no opposition to thinking on this overnight and coming back.

Mr. DODD. I thank my colleague.

I have an amendment I may offer tomorrow, but we will have the staff look at it and get their thoughts on it. We have done a lot of work. There are outstanding amendments, including the amendment of Senator REED of Rhode Island, an amendment of Senator HATCH and Senator SPECTER, and one I want to offer tomorrow morning, if necessary, with half an hour equally divided. That will be between 9 o'clock and 11 o'clock and we should be able to wrap this up.

Mr. MCCONNELL. Mr. President, I would like to read into the RECORD excerpts from the cogent analysis of S. 27 that was prepared by James Bopp, Jr., General Counsel of the James Madison Center for Free Speech, entitled ''Analysis of S. 27, 'McCain-Feingold 2001.' '' In this analysis, Mr. Bopp thoroughly demonstrates why this bill violates the free speech and associational rights of individuals, political parties, labor unions, corporations, and ''issue advocacy'' groups.

Mr. Bopp begins his analysis by noting whom S. 27 will hurt—the ''little guy'', as he puts it—and whom it will help, chiefly the wealthy and the news corporations:

McCain-Feingold 2001 is a broad-based and pernicious attack on the rights of average citizens to participate in the democratic process, thereby enhancing the power of already powerful wealthy individuals, millionaire candidates, and large news corporations—the archetypal story of big guys enhancing their power to dominate the little guy.

McCain-Feingold 2001 is a major assault on the average citizen's ability to participate in the political process because it targets and imposes severe restrictions on two key citizen groups, which serve as the only effective vehicles through which average citizens may pool their money to express themselves effectively: issue advocacy groups and political parties. However, McCain-Feingold 2001 leaves wealthy individuals and candidates and powerful news corporations unscathed, thereby enhancing their relative power in the marketplace of ideas.

Both issue advocacy groups and political parties are private organizations that provide a vehicle for average citizens to effectively participate in the political process by pooling their resources to enhance their individual voices. These organizations participate broadly in our democratic process by advocating issues of public concern, lobbying for legislation, and directly promoting the election of candidates.

Issue advocacy groups and political parties enhance individual efforts by association. One individual of average means can accomplish little alone in the public arena, but thousands of average citizens who pool their resources with like-minded individuals can accomplish great things by working together. The right to associate, therefore, is so fundamental to our democratic Republic and the ability of average citizens to affect public policy so important that the United States Supreme Court has recognized it as a fundamental right with powerful constitutional protection.

Furthermore, political parties are not just about electing candidates, particularly federal ones. Political parties constitute a vital way by which citizens come together around issues and values expressed in the planks of their party platforms—at all levels of government. Parties advocate these issues in the public forum in addition to lobbying for legislation and engaging in efforts to elect candidates. Parties are just as focused on the promotion of issues as are ideological corporations, such as the National Right to Life Committee or The Christian Coalition of America, and labor unions, such as the American Federation of Labor and Congress of Industrial Organizations, although with a broader spectrum of issues. McCain-Feingold 2001 ignores this reality and treats political parties as simply federal candidate election machines.

McCain-Feingold 2001 attacks the abilities of ordinary citizens to participate in the political process in two ways: (1) by focusing restrictive efforts on issue advocacy corporations, labor unions, and political parties—three organizations vital to the ability of average citizens to pool their resources to make their opinions heard, and (2) by imposing sweeping restrictions that reach broadly beyond direct participation in elections to restrict issue advocacy (limiting discussion of issues of public concern, the views of candidates on issues, and grassroots lobbying for favored legislation).

If McCain-Feingold 2001 succeeds, the influence of the average citizen would be drastically reduced because association with like-minded individuals is essential to effective participation in the public policy arena. With the little guys locked in the dungeon of nonparticipation, the rich and powerful will run politics, much as they did before the first and foremost campaign reform adopted by our Nation, the First Amendment, which protects the right of association and demands that ''Congress . . . make no law . . . abridging the freedom of speech''—especially speech about those in power and on the critical issues of the day.

Campaign finance ''reform'' proposals, notably McCain-Feingold 2001, do not, and could not, eliminate the power of the giant news media corporations, which are protected by the First Amendment from regulation of editorial content and news coverage. Neither may the wealthy be prohibited from spending their own money—either to express their views on public issues and candidates or to advocate their own election. But the wealthy don't need to pool their resources to be effective, they have all the money they need to pay for communications about the issues they care about. Furthermore, millionaire candidates remain unaffected by proposed campaign ''reforms'' because they need not rely on contributions from others—they can spend their own money to campaign—and officeholders of all stripes have the incredible power of incumbency to support their candidacy. Thus, campaign finance ''reform,'' as proposed by McCain-Feingold 2001, strips power from the People and gives it to the already wealthy and powerful.

So there are winners and losers under McCain-Feingold 2001. The losers are citizens of average means, citizens groups, advocacy organizations, labor unions, and political parties. The winners are the wealthy, major news corporations, and incumbent politicians. It is small wonder then that the wealthiest foundations and individuals are prime supporters of so-called campaign finance ''reform,'' that the mainstream media is the primary cheerleader for it, and that incumbent politicians are so attracted to it.

But in our Republic, founded by the People for the People, the right of the People to speak out on the most critical issues of the day in the political arena through issue advocacy and the right of the people to come together to pool their resources through associations may not be infringed without violating the Constitution. The United States Supreme Court and other federal courts have been stalwart in defense of the citizens' rights of free speech and association. Be assured that if these unconstitutional measures pass, we stand ready to promptly challenge them in the courts with a high probability of success.

Mr. Bopp then goes on to layout the general principles that the Supreme Court has set forth for analyzing government restrictions on political speech and political association. He states that:

''Many of the so-called reforms floating around Washington are in fact nothing more than incumbent protection acts. Many politicians feel threatened by negative advertisements and want to control what is said during campaigns.'' Others want to reduce spending on campaigns.

Chief among these proposals is McCain-Feingold 2001, the self-styled ''Bipartisan Campaign Reform Act of 2001'' (S. 27), sponsored principally by Senators John McCain and Russell Feingold. Though announced with the promise of reducing the corrupting influence of big money, McCain-Feingold 2001 is instead a broad attack on citizen participation in our democratic Republic. This bill shakes a fist at the First Amendment; if passed, it is destined for a court-ordered funeral. The most egregious provisions and their infirmities are discussed below.

As noted in the introduction, average citizens must pool their resources to have an effect in the political sphere of issue advocacy,

lobbying, and electoral activity. The wealthy and powerful have no such need. So ordinary people band together in ideological corporations, labor unions, and political parties to amplify their voices. This right to associate is a bedrock principle of our democratic Republic, powerfully protected by the U.S. Constitution. McCain-Feingold 2001, however, would suppress this ability, along with the foundational constitutional right to free speech.

It should be noted at the outset of this analysis that political speech and association are at the heart of the First Amendment protections. As the United States Supreme Court has declared, ''the constitutional guarantee [of the First Amendment] has its fullest and most urgent application precisely to the conduct of campaigns for political office.'' Free expression in connection with elections is no second-class citizen, rather political expression is ''at the core of our electoral process and of the First Amendment freedoms.'' Thus, ''there is practically universal agreement that a major purpose of [the First] Amendment was to protect the free discussion of governmental affairs, . . . of course includ[ing] discussions of candidates.''

Furthermore, the fundamental right of association was well articulated by the United States Supreme Court in the case of NAACP v. Alabama, when the Court reviewed a suit against the National Association for the Advancement of Colored People brought by the State of Alabama seeking disclosure of all its members.

The unanimous U.S. Supreme Court strongly affirmed the constitutional protection for the freedom of association:

''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 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. Of course, it is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.''

Thus, the Court held that ''[i]nviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs,'' and it, therefore, protected the identity of members of the NAACP form disclosure.

In Buckley v. Valeo, the Supreme Court reaffirmed the constitutional protection for association. '[E]ffective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association. [Consequently,] the First and Fourteenth Amendments guarantee freedom to associate with others for the common advancement of political beliefs and ideas.' The Court then noted that 'action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.' This highest level of constitutional protection, of course, flows from the essential function of associations in allowing effective participation in our democratic Republic. Organizations, from political action committees ('PACs') to ideological corporations to labor unions to political parties, exist to permit 'amplified individual speech.'

Mr. President, Mr. Bopp next explains how S. 27 unconstitutionally prohibits and restricts the abilities of outside groups to exercise their rights to freedom of speech and of association. He first discusses how the bill's ''electioneering communication'' standard sweeps in issue speech and then shows how that standard violates Supreme Court precedent:

McCain-Feingold 2001 prohibits political participation by citizens of average means by broadly defining 'electioneering communication' so that issue advocacy expenditures currently permitted become forbidden under federal law for corporations and labor unions.

McCain-Feingold 2001 restricts the issue advocacy of ideological, nonprofit corporations and labor unions by first defining 'electioneering communication' to include issue advocacy, i.e., 'any broadcast, cable, or satellite communication' to 'members of the electorate' that 'refers to a clearly identified [federal] candidate' 'within 60 days before a general . . . election (30 days before primaries),' and then adding it to the list of prohibited activities by corporations and labor unions.

The broad definition of 'electioneering communication' plainly sweeps in and prohibits a wide variety of issue advocacy communications traditionally engaged in by such organizations. First, Congress is often in session within 60 days before a general election and 30 days before a primary. As a result, grass-roots lobbying regarding a bill to be voted on during this 60 period would be prohibited if the broadcast communication named a candidate by referring to the bill in question ('the McCain-Feingold bill') or by asking a constituent to lobby their Congressman or Senator.

With corporations and labor unions prohibited from making such communications, McCain-Feingold 2001 then requires those that may still do so, individuals and PACs, that spend over $10,000 per year, to file reports with the FEC. Among other things, the reports must list every disbursement over $200 and to whom it was made, the candidate(s) to be identified, and the identity of all contributors aggregating $1,000 or more during the year. The $10,000 triggering expenditure occurs when a contract is made to disburse the funds, which might be months in advance—allowing ample time for incumbent politicians, who object to the general public being informed of their voting record or positions on issues, to attempt to discourage the broadcast medium, or to intimidate the person or PAC paying for the ad, from actually running the ad.

In sum, the issue advocacy communications of nonprofit corporations and labor unions, are treated like express advocacy communications and organizations doing such issue advocacy are treated like PACs. However, as seen next, there is no constitutional warrant for Congress to regulate issue advocacy or the organizations that primarily engage in it. Period.

To protect First Amendment freedom, the Supreme Court has created a bright line between permitted and proscribed regulation of political speech. Government may only regulate a communication that 'expressly advocates the election or defeat of a clearly identified candidate' ('express advocacy'), by 'explicit words' or 'in express terms,' such as 'vote for,' 'support,' or 'defeat.' Election-related speech that discusses candidates' views on issues is known by the legal term of art 'issue advocacy.' Although issue advocacy undoubtedly influences elections, it is absolutely protected from regulation—even if done by corporations, labor unions, or political parties.

Although the First Amendment says that 'Congress shall make no law . . . abridging the freedom of speech', the 'reformers,' and the incumbent politicians that their efforts would protect, have refused to take ''no'' as an answer. But the federal courts have consistently enforced the First Amendment against all attempts to regulate issue advocacy.

The Supreme Court has recognized that the freedom of speech is both an inherent liberty and a necessary instrument for limited representative government. The Court observed that '[i]n a republic where the people[, not their legislators,] are sovereign, the ability of the citizenry to make informed choices among candidates for office is essential, for the identities of those elected will inevitably shape the course that we follow as a nation.' As a result, 'it can hardly be doubted that the constitutional guarantee [of the freedom of speech] has its fullest and most urgent application precisely to the conduct of campaigns for political office.'

The seminal case is the 1976 decision of Buckley v. Valeo, where the Supreme Court was faced with constitutional questions regarding the post-Watergate amendments to the Federal Election Campaign Act ('FECA')—which was by far the most comprehensive attempt to regulate election-related communications and spending to date. One of the more nettlesome problems with which the Court struggled was the question of what speech could be constitutionally subject to government regulation. The post-Watergate FECA was written broadly, subjecting any speech to regulation that was made 'relative to a clearly identified candidate' or 'for the purpose of . . . influencing' the nomination or election of candidates for public office.

In considering this question, the Court recognized that the difference between issue and candidate advocacy often dissipated in the real world:

''[T]he distinction between discussion of issues and candidates and advocacy of the election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest.''

Thus, the Court was faced with a dilemma whether to allow regulation of issue advocacy because it might influence an election or to protect issue advocacy because it is vital to the conduct of our representative democracy, even though it would influence elections.

The Court resolved this dilemma decisively in favor of protection of issue advocacy. First, the Court recognized that 'a major purpose of [the First Amendment] was to protect the free discussion of governmental affairs . . . of course includ[ing] discussions of candidates.' Thus, the Court concluded that issue advocacy was constitutionally sacrosanct:

''Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order 'to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people.'''

Second, in order to provide this broad protection to issue advocacy, the Court adopted the bright-line 'express advocacy' test which limited government regulation to only those communications which 'expressly advocate the election or defeat of a clearly identified

candidate,' in 'explicit words' or by 'express terms.' In so doing, the Court narrowed the reach of the FECA's disclosure provisions to cover only 'express advocacy.' A decade later, the Court reaffirmed the express advocacy standard and applied it to the ban on corporate and labor union contributions and expenditures in connection with federal elections.

Finally, not even the interest in preventing actual or apparent corruption of candidates, which was found sufficiently compelling to justify contribution limits, was deemed adequate to regulate issue advocacy. The Court rejected this interest even though it recognized that issue advocacy could potentially be abused to obtain improper benefits from candidates.

In adopting a test that focused on the words actually spoken by the speaker, the Court expressly rejected the argument that the test should focus on the intent of the speaker or whether the effect of the message would be to influence an election:

''[W]hether words intended and designed to fall short of invitation [to vote for or against a candidate] would miss the mark is a question both of intent and of 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.''

Some 'reformers' claim that the Court was not sufficiently farsighted to see the effect that issue advocacy would eventually have in influencing elections and, if we only bring this to their attention, then the Court will allow government regulation of it. However, the Court made clear that it was not so naive:

''Public discussion of public issues which also are campaign issues readily and often unavoidably draws in candidates and their positions, their voting records and other official conduct. Discussions of those issues, as well as more positive efforts to influence public opinion on them, tend naturally and inexorably to exert some influence on voting at elections.''

As a result, the Court explicitly endorsed the use of issue advocacy to influence elections:

''So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views.''

The several lower federal courts and state courts that have been faced with restrictions on issue advocacy have faithfully adhered to the 'explicit' or 'express' words of advocacy test according to its plain terms.

For example, in Michigan, the Secretary of State promulgated a rule that banned corporate and labor union communications made within 45 days of an election that merely contained the 'name or likeness of a candidate.' Two traditional adversaries, Right To Life of Michigan and Planned Parenthood, challenged the rule in separate federal courts and had the rule declared unconstitutional. Consequently, if passed, McCain-Feingold 2001's materially identical 'electioneering communication' definition is dead on arrival in the federal courts.

The weight of authority is indeed heavy; the express advocacy test means exactly what it says. Campaign finance statutes regulating more than explicit words of advocacy of the election or defeat of clearly identified candidates are 'impermissibly broad' under the First Amendment.''

Mr. President, Mr. Bopp then notes that while S. 27 has an exception for not-for-profit corporations so that they would not be banned from engaging in core political speech, issue advocacy, the price that the bill extorts from these groups from doing so—the disclosure of confidential donor information—is unconstitutional. I will quote Mr. Bopp's analysis of this part of S. 27, Mr. President, but I should note that because this body has adopted Senator WELLSTONE's amendment to this bill, not-for-profit corporations now cannot engage in issue advocacy at all within 60 days of an election, even if they divulge to the federal government their confidential donor information. Mr. Bopp observes that:

McCain-Feingold 2001 makes a very minor exception for nonprofits that (1) permits expenditures for ''electioneering communication,'' (2) applies only to those organizations tax exempt under §§501(c)(4) or 527 of the Internal Revenue Code, and (3) applies only if they are made by a quasi-PAC established by the corporation, to which contributions can only be made by individuals and with respect to which all receipts and disbursements must be reported.

The first thing to be noted about this minor exception is that it only applies to 501(c)(4) and 527 organizations. That means all other nonprofits are excluded from engaging in issue advocacy for a couple of months before an election, including 501(c)(3)s, veterans groups, trade associations, and labor unions.

Furthermore, this quasi-PAC is required to report all of its contributors of $1,000 or more. This is a very substantial burden because it exposes contributors to harassment and intimidation by ideological foes. The United States Supreme Court in Buckley held that such burdens could not be applied to issue-oriented groups, as McCain-Feingold 2001 does, because disclosure of private associations is an unconstitutional burden.''

Next, Mr. President, Mr. Bopp explains how the ''coordination'' provisions of McCain-Feingold effectively prohibits persons from exercising their First Amendment right to petition the government for redress of grievances, as well as their free speech and associational rights. Mr. Bopp notes that:

McCain-Feingold 2001 also prohibits corporations and labor unions for funding any ''coordinated activity.'' ''Coordinated activity'' is so broadly defined and uses such vague terms that it would ban nearly everything of any conceivable value to a candidate by converting it into a forbidden ''contribution.''

''Coordinated activity'' is ''anything of value provided by a person [including corporations and labor unions] in connection with a Federal candidate's election who is or previously has been within the same election cycle acting in coordination with that candidate . . . (regardless of whether the value being provided is in the form of a communication that expressly advocates a vote for or against a candidate).'' Thus, there are two key concepts to this prohibition: (1) ''anything of value'' and (2) ''coordination.''

Mr. Bopp first discusses why ''anything of value'' is both vague and broad, and he then explains why a ''coordinated activity'' is also extremely sweeping:

A ''coordinated activity'' includes ''anything of value provided by a person in connection with a Federal candidates' election.'' ''Anything of value'' is breathtakingly broad and vague and any such thing is subject to being coordinated. It provides no limit or notice to organizations subject to civil and criminal sanctions for coordinating it with a candidate.

Furthermore, with respect to communications, it is not limited to express advocacy and thus clearly encompasses issue advocacy by an organization. While the courts are currently divided on whether a coordinated communication must contain express advocacy to be subject to regulation or prohibition, no court has suggested that any and all communications are so subject.

Under current law, coordination between a candidate and a citizen group exists only when there is actually prior communication about a specific expenditure for a specific project that effectively puts the expenditure under the candidate's control or is made based on information provided by the candidate about the candidate's needs or plans. However, McCain-Feingold 2001 expands ''coordination'' to include, inter alia, mere discussion of a candidate's ''message'' any time during ''the same election cycle,'' i.e., a two-year period or, perhaps, a four-year period, if it relates to a President, or a six-year period if it relates to a Senator.

For example, if an incorporated ideological organization praised Sen. McCain for his work on campaign finance ''reform'' early in a session of Congress and worked with him on promoting such ''reform'' legislation, then ''coordination'' would be established and anything of value to Sen. McCain's candidacy would be deemed coordinated, would be a contribution to his campaign, and would be illegal because corporations cannot make contributions to candidates.

However, the very notion that American citizens should be punished for communicating, or even working, with their elected officials on a wide range of public issues important to the official and his constituency by having any subsequent efforts to praise the candidate's issue position or to support the candidate in his or her campaign considered a coordinated activity is repugnant to our constitutional scheme of participatory government in a democratic Republic run by and answerable to the People. In a conceptually related context, in Clifton v. FEC, the First Circuit struck down the FEC's voter guide regulations which prohibited any oral communications with candidates in preparation of voter guides. The court held that this rule is ''patently offensive to the First Amendment'' and that it is ''beyond reasonable belief that, to prevent corruption or illicit coordination, the government could prohibit voluntary discussions between citizens and their legislators and candidates on public issues.''

And coordination would also be presumed, under McCain-Feingold 2001, if the ideological corporation used the same vendor of ''professional services,'' including ''polling, media advice, fundraising, campaign research, political advice, or direct mail services (except for mailhouse services)'' if the vendor had worked for a candidate and if the vendor is retained to do work related to that candidate's election. Under this scheme, a vendor's decision to do work for a candidate could unilaterally lock an ideological corporation out of otherwise permitted issue advocacy at election time. And even if the corporation has a connected PAC, the PAC would be prohibited from making an independent expenditures of more than $5,000,

since that expenditure would also be deemed to be a contribution.

This presumption is also fatally infirm as coordination must be proven. In Colorado Republican Federal Campaign Comm. v. FEC, the FEC took the position that party expenditures were presumed to be coordinated with their candidates as a matter of law. The Supreme Court rejected this view: ''An agency's simply calling an independent expenditure a 'coordinated expenditure' cannot (for constitutional purposes) make it one. . . . [T]he government cannot foreclose the exercise of constitutional rights by mere labels.'' The Court held that there must be ''actual coordination as a matter of fact.'' Congress, therefore, cannot merely recite some factual scenarios wherein it might be possible, or even probable, that coordination with candidates takes place and then presume as a matter of law that it has occurred in such instances. To do so, would allow the government to drastically curtail independent expenditures by mere labels, which cannot be constitutionally limited.

Finally, McCain-Feingold finds ''coordination'' if there is any ''general understanding'' with the candidate about the expenditure. This general catchall goes way beyond the narrow understanding that the courts have on what ''coordination'' is. Consistent with other federal courts, the District Court in FEC v. Christian Coalition held that a communication

''becomes 'coordinated' where the candidate or her agents can exercise control over, or where there has been substantial discussion or negotiation between the campaign and the spender over a communication's: (1) Contents; (2) timing; (3) location, mode, or intended audience (e.g., choice between newspaper or radio advertisement); or (4) 'volume' (e.g., number of copies of printed materials or frequency of media spots). 'Substantial discussion' or 'negotiation' is such that the candidate and spender emerge as partners or joint venturers in the expressive expenditure, but the candidate and spender need not be equal partners.''

This is a far cry from a 'general understanding.'

Mr. President, at this point in Mr. Bopp's analysis, he explains that the citizenry needs a bright line not only to protect them from prosecution, but to protect them from a punitive investigation simply because they exercised their First Amendment rights.

While it may be theoretically possible to do issue advocacy without running afoul of it being a prohibited 'electioneering communication' or 'coordinated activity,' only the reckless, foolish, or wealthy and powerful are likely to try. Particularly in Washington, D.C., the punishment is in the process. Any organization that does something that could be deemed of value to a candidate can expect to be the subject of an FEC complaint and investigation to ferret out whether the activity was 'coordinated.' Thus, publicly praising an officeholder for her vote on a bill invites investigation by the FEC. Daring to tell constituents to get an incumbent to change his position on an upcoming vote could provoke an FEC investigation. This is the world of ubiquitous FEC investigations that all advocacy groups can expect.

And these 'mere' investigations themselves violate the First Amendment. As the U.S. Supreme Court explained when Congress was busy investigating Communist influence in the 1940's and 50's, '[t]he mere summoning of a witness and compelling him to testify, against his will, about his beliefs, expressions or associations is a measure of government interference' with First Amendment freedoms.

Mr. President, Mr. Bopp then notes another major impediment to individuals and citizens' groups exercising their First Amendment rights, and that is how the bill's coordination provisions interplay with contribution limits. He notes that ''[f]or any individual, and for any organization that can actually do a 'coordinate activity,' which seems to be only a federal PAC, the 'coordinated activity' would be limited by contribution limits. So a substantial amount of traditional 'independent expenditures' by PACs are now swept under the control of McCain-Feingold 2001 and limited because a multi-candidate PAC can only make a contribution of $5,000 per election to a candidate.''

Of course, Mr. President, this is only part of the story. As Mr. Bopp explains, S. 27 also violates the free speech and associational rights of our political parties in its effort to regulate non-federal money. Specifically, he states that ''[i]n its effort to regulate 'soft money,' McCain-Feingold 2001 has two dramatic adverse effects on political party activity: (1) it imposes federal election law limits on the state and local activities of national political parties, and (2) it dramatically limits the issue advocacy, legislative, and organizational activities of political parties. But first it is important to recall the U.S. Supreme Court's comment that '[w]e are not aware of any special dangers of corruption associated with political parties. . . .' Political parties are merely the People associating with others who share their values to advance issues, legislation, and candidates that further those values. When they do these things, they are just doing their historic job as good citizens. The notion that they are somehow corrupt for doing so is both strange and constitutionally infirm.''

Mr. President, Mr. Bopp next notes that this bill federalizes state and local parties and totally federalizes national parties, which engage in a multitude of activities besides federal elections. He observes that ''[a]lthough national parties care about local, state, and federal elections, they are treated by McCain-Feingold 2001 as if they only care about federal elections. As to state and local political parties, if there is a federal candidate on the ballot, they too are treated as if only the federal candidate matters. In short, McCain-Feingold 2001 federalizes the state and local election activities of national, state, and local political parties.''

Mr. Bopp then explains how this federalization occurs: ''As to national political parties, this happens as a result of the total ban on national political parties receiving 'soft money.' This happens to state and local political parties as a result of the definition of 'federal election activity,' which governs political party expenditures if any federal candidate is on the general election ballot, and which includes 'voter registration' during the 120 days before an election, 'voter identification, get-out-the-vote activity, or [any activity promoting a political party].' Therefore, if state and local political parties do 'federal election activity,' they must use 'hard money,' i.e., money subject to FECA restrictions, for such activity if a federal candidate is on the ballot. These activities are traditional activities that state and local parties have always done and the national political parties have supported. The fact that there is a federal candidate on the ballot, along with the state and local candidates for whom state and local parties have the greater concern, does not justify federalizing and limiting these activities.''

Mr. Bopp concludes his analysis of S. 27 by explaining the constitutional problem with the bill's prohibition on the parties' use of non-federal dollars to engage in issue discussion. He first notes that under the bill '' 'federal election activity' includes 'a public communication that refers to a clearly identified [federal] candidate . . . and that promotes or supports a candidate or opposes a candidate . . . (regardless of whether the communication expressly advocates a vote for or against a candidate) . . .' Presently, political parties, like any other entity, may receive and spend an unlimited amount of money on issue advocacy. McCain-Feingold 2001 would virtually eliminate this basic constitutional freedom for national political parties, by prohibiting the receipt of all 'soft money,' and severely limit it for state and local political parties, by requiring only hard money to be used if a federal candidate is involved. Because McCain-Feingold 2001 prohibits the raising of 'soft money' by national political parties, they have no such money available for issue advocacy, legislative, and organizational activities. It treats political parties as if they were just federal-candidate election machines. As a result, McCain-Feingold 2001 has effectively amputated these other important, historical activities of political parties.''

Mr. President, the constitutional problems with such restrictions on parties are explained in detail by Mr. Bopp as follows:

[T]hese restrictions fail constitutional muster. Political parties enjoy the same unfettered right to issue advocacy as other entities, which is especially appropriate because advancing a broad range of issues is their raison d'etre. 'Reforms' banning political parties from receiving and spending so-called 'soft money' cannot be justified as preventing corruption, since the Supreme Court has already held that interest insufficient for restricting issue advocacy in Buckley.

If individuals and narrow interest groups enjoy the basic First Amendment freedom to discuss issues and the position of candidates on those issues, how can political parties, which have wide bases of interests that are necessarily tempered and diffused, be deprived of the right to engage in such issue advocacy?

However, proponents of abolishing 'soft money' argue that this is simply a 'contribution limit.' The fallacy of that argument, of

course, is that the Supreme Court has justified contribution limits only on the ground that large contributions create the reality or appearance of quid pro quo corruption, which, as discussed above, cannot justify a limit on issue advocacy.

Furthermore, the proposed ban on soft money contributions cannot be justified on the theory that political parties corrupt federal candidates, which the Supreme Court has already rejected. In Colorado Republican, the FEC took the position that independent, uncoordinated expenditures by political parties ought to be treated as contributions to the benefitted candidate. Such treatment would have resulted in allowing individuals, candidates, and political action committees to spend unlimited amounts of money on independent expenditures to advocate the election of a candidate, while limiting the amount a political party could spend for the same purpose.

The Supreme Court disagreed with the FEC, noting that '[w]e are not aware of any special dangers of corruption associated with political parties'' and, after observing that individuals could contribute more money to political parties ($20,000) than to candidates ($1,000) and PACs ($5,000) and that the ''FECA permits unregulated 'soft money' contributions to a party for certain activities,' the Court concluded that the 'opportunity for corruption posed by these greater opportunities for contributions is, at best, attenuated.' The Court continued in this vein with respect to the FEC's proposed ban on political party independent expenditures, which has direct application to McCain-Feingold 2001's ban on soft money contributions:

''[R]ather than indicating a special fear of the corruptive influence of political parties, the legislative history [of the Act] demonstrates Congress' general desire to enhance what was seen as an important and legitimate role for political parties in American elections. . . .

''We therefore believe that this Court's prior case law controls the outcome here. We do not see how a Constitution that grants to individuals, candidates, and ordinary political committees the right to make unlimited independent expenditures could deny the same right to political parties.''

The concurring justices also found little, if any, opportunity for party corruption of candidates because of their very nature and structure.

The Supreme Court echoed the same theme with respect to the independent expenditures of political action committees:

''The fact that candidates and elected officials may alter or reaffirm their own positions on issues in response to political messages paid for by PACs can hardly be called corruption, for one of the essential features of democracy is the presentation to the electorate of varying points of view.''

If this is true of PACs, then a fortiori there can be no corruption or appearance of corruption resulting from issue advocacy by political parties.

In addition, the Supreme Court in MCFL provided further guidance on whether the threat of corruption is posed by an organization such as a political party. The Court considered the ban on independent expenditures by corporations under 2 U.S.C. §441b. The MCFL Court evaluated whether there was any risk of corruption with regard to an MCFL-type organization that would justify such a ban on its political speech. While MCFL considered whether an ideological corporation was sufficiently like a business corporation to justify the ban on using corporate dollars for independent expenditures, there are several transferable concepts to evaluating the threat of corruption posed by a political party.

The concern raised by the FEC in MCFL was that §441b served to prevent corruption by 'prevent[ing] an organization from using an individual's money for purposes that the individual may not support.' The Court found that '[t]his rationale for regulation is not compelling with respect' to MCFL-type organizations because '[i]ndividuals who contribute to [an MCFL-type organization] are fully aware of its political purposes, and in fact contribute precisely because they support those purposes.' '[I]ndividuals contribute to a political organization in part because they regard such a contribution as a more effective means of advocacy than spending the money under their own personal direction.' 'Finally, a contributor dissatisfied with how funds are used can simply stop contributing.' Thus, the Court held that the prohibitions on corporate contributions and expenditures in §441b could not be constitutionally applied to non-profit ideological corporations which do not serve as a conduit for business corporation contributions.

Political parties similarly pose no risk of corruption because people give money to parties precisely because they support what the political party stands for. A contribution to a political party is for the purpose of enhancing advocacy of the issues the party represents. Any individual unhappy with the use of the money may simply quit contributing and leave the political party. In sum, the threat of corruption cannot justify a limit on issue advocacy and, even if it could, political parties pose no threat of corruption to their candidates.

Finally, the Supreme Court also found that, just as independent expenditures of interest groups pose no danger of corrupting candidates, neither do those of political parties. And while no one disputes that expenditures on express advocacy actually coordinated with candidates are properly contributions to the candidate because of the possibility of quid pro quo corruption, the Court held that coordination must be proven as a matter of fact; it cannot be presumed. 'Reforms' may not presume coordination where it does not actually exist.

Thus, there is no justification, in either policy or law, for the severe limits on national, state, and local political parties that McCain-Feingold 2001 imposes.

Thus, Mr. President, Mr. Bopp has thoroughly shown the myriad of constitutional problems from which this bill suffers, and I am confident that the Supreme Court will ultimately validate his analysis.

Mr. President, I ask unanimous consent to have printed in the RECORD, the letter authored by Laura Murphy, Director of the Washington, D.C. office of the American Civil Liberties Union and Professor Joel Gora of the Brooklyn Law School. In this letter, Ms. Murphy and Professor Gora analyze S. 27, ''The Bipartisan Campaign Reform Act of 2001'' and thoroughly discuss its many constitutional infirmities.

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

AMERICAN CIVIL LIBERTIES UNION,
WASHINGTON NATIONAL OFFICE,
Washington, DC, March 20, 2001.

DEAR SENATOR: The McCain-Feingold bill, also misnamed as ''The Bipartisan Campaign Finance Reform Act of 2001'' (S. 27) is a destructive distraction from the serious business of meaningful campaign finance reform. Meaningful campaign finance reform would develop comprehensive programs for providing public resources, benefits and support for all qualified federal political candidates. Since 25 years of experience have shown that limits on political funding simply won't work, constitutionally or practically, it is time to seek a more First Amendment-friendly way to expand political opportunity. Public financing for all qualified candidates is an option that provides the necessary support for candidacies without the imposition of burdensome and unconstitutional limits and restraints. The ACLU has long argued for this, but instead we must use our time today to condemn the ill-conceived iterations of McCain-Feingold that are non-remedies to our national campaign finance woes and are wholly at odds with the essence of the First Amendment.

Simply put, the McCain-Feingold bill is a recipe for political repression because it egregiously violates longstanding free speech rights in several ways: It stifles issue advocacy in violation of the First Amendment; it criminalizes any constitutionally-protected contact that groups and individuals may have with candidates (through bans on so-called ''coordination''); and it virtually destroys political parties in an unconstitutional fashion.

I. S. 27 ERODES ROBUST CITIZEN SPEECH PRIOR TO ELECTIONS

As Virginia Woolf stated, ''If we don't believe in freedom of expression for people we despise, we don't believe in it at all.'' Clearly, the authors and supporters of McCain-Feingold despise any form of issue advocacy that has the audacity to mention candidates for federal office by name. The bill virtually silences issue advocacy (redefined as ''electioneering communications'') in three ways:

Section 201 requires accelerated and expanded disclosure of the funding of issue advocacy.

Section 202 effectively criminalizes issue advocacy as a prohibited contribution if it is ''coordinated'' in the loosest sense of that term with a federal candidate.

Section 203 bans issue advocacy completely if it is sponsored by a labor union, a corporation (including such non-profit corporations organized to advance a particular cause like the ACLU or the National Right to Life Committee or Planned Parenthood, unless they are willing to obey the government's stringent new rules) or other similar organized entity. Even an individual who receives financial support—from prohibited contributors such as corporations, unions or wealthy individuals—is also barred from engaging in ''electioneering communications.''

The bill would impose these limitations on communications about issues regardless of whether the communication ''expressly advocates'' the election or defeat of a particular candidate. Nor is there any requirement of even showing a partisan purpose or intent. Instead, during 60 days before a primary or 30 days before a general election, any such communication is subject to the new controls simply by identifying any person who is a federal candidate, which will usually be an incumbent politician.

These restraints and punishments are triggered by the making of any ''broadcast, cable, or satellite communication'' which ''refers to a clearly identified candidate for Federal office'' within 60 days of a general or runoff election or 30 days of a primary election or convention, ''made to an audience that includes members of the electorate'' for such election or convention. This distinction between broadcast, cable and satellite from

those communications through other media bears no relevance to the only recognized justification for campaign finance limitations or prohibitions, namely, the concern with corruption. Suppressing speech in one medium while permitting it in another is not a lesser form of censorship, just a different form.

A. THESE ISSUE ADVOCACY RESTRICTIONS WOULD HAVE ADVERSE, REAL-LIFE CONSEQUENCES

Had these provisions been law during the 2000 elections, for example, they would have effectively silenced messages from issue organizations across the entire political spectrum. The NAACP ads—financed by a sole anonymous donor—vigorously highlighting Governor Bush's failure to endorse hate crimes legislation—is a classic example of robust and uninhibited public debate about the qualifications and actions of political officials. By the same token, last Spring, when New York Mayor Rudy Giuliani was a candidate for the United States Senate, any broadcast criticism of his record on police brutality as mayor of New York, undertaken by the New York Civil Liberties Union, would have subjected that organization to the risk of severe legal sanctions and punishment under these proposals. The Supreme Court in cases from *New York Times Co.* v. *Sullivan*, 376 U.S. 254 (1964) through *Buckley* v. *Valeo*, 424 U.S. 1 (1976) to *California Democratic Party* v. *Jones*, 120 S.Ct. 2402 (2000) have repeatedly protected full and vigorous debate during an election season. The provisions of the pending bills would silence that debate.

Second, the ban on ''electioneering communications'' would stifle legislative advocacy on pending bills. The blackout periods coincide with crucial legislative periods, including the months of September and October as well as months during the Spring. During Presidential years, the blackout periods would include the entire Presidential primary season, conceivably right up through the August national nominating conventions. For example had this provision been law in 2000, for most of the year it would have been illegal for the ACLU or the National Right to Life Committee to criticize the ''McCain-Feingold'' bill as an example of unconstitutional campaign finance legislation or to urge elected officials to oppose that bill! The only time the blackout ban would be lifted would be in August, when many Americans are on vacation!

During the 104th Congress, for example, the ACLU identified at least 10 major, controversial bills that it worked on that were debated in either chamber of the Congress within 60 days prior to the November 1996 general election. This legislation includes several anti-abortion bills including so-called partial birth abortion legislation, public disclosure of the CIA budget, creation of a federal database of sex offenders, new federal penalties for methamphetamine use, prohibition on discrimination of gays and lesbians in the workplace, same-sex marriage prohibition, anti-immigration legislation and school vouchers, among others. This pattern of legislating close to primary and general elections has only been repeated in subsequent Congresses.

B. WHY THESE LIMITATIONS RUN AFOUL OF THE FIRST AMENDMENT

Under the reasoning of *Buckley* v. *Valeo* and all the cases which have followed suit, the funding of any public speech that falls short of such 'express advocacy' is wholly immune from campaign finance laws. Speech which comments on, criticizes or praises, applauds or condemns the public records and actions of public officials and political candidates—even though it mentions and discusses candidates, and even though it occurs during an election year or even an election season—is entirely protected by the First Amendment.

The Court made that crystal clear in Buckley when it fashioned the express advocacy doctrine. That doctrine holds that the FECA can constitutionally regulate only ''communications that in express terms advocate the election or defeat of a clearly identified candidate,'' and include ''explicit words of advocacy of election or defeat.'' 424 U.S. at 44, 45. The Court developed that doctrine because it was greatly concerned that giving a broad scope to FECA, and allowing it to control the funding of all discussion of policy and issues that even mentioned a public official or political candidate, would improperly deter and penalize vital criticism of government because speakers would fear running afoul of the FECA's prohibitions. ''The distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical operation. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and government actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest.'' Id. at 42–43. If any reference to a candidate in the context of advocacy of an issue rendered the speech or the speaker subject to campaign finance controls, the consequences for the First Amendment would be intolerable.

Issue advocacy is freed from government control through a number of other doctrines the courts have recognized as well. First, the constitutional right to engage in unfettered issue advocacy is not limited to individuals or cause organizations. Business corporations can speak publicly and without limit on anything short of express advocacy of a candidate's election. See *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765 (1978). (Of course, media corporations can speak publicly and without limitation on any subject, including editorial endorsements of the election or defeat of candidates, i.e. ''express advocacy'', see *Mills* v. *Alabama*, 384 U.S. 214 (1966).)

Contributions to issue advocacy campaigns cannot be limited in any way, either. See *Citizens Against Rent Control* v. *Berkeley*, 454 U.S. 290 (1981). Finally, issue advocacy may not even be subject to registration and disclosure. See *McIntyre* v. *Ohio Elections Commission*, 514 U.S. 334 (1995); *Buckley* v. *Valeo*, 519 F.2d 821, 843–44 (1975) (holding unconstitutional a portion of the FECA which required reporting and disclosure by issue organizations that publicized any voting record or other information ''referring to a candidate''). The rationale for these principles is not just that these various groups have a right to speak, but also that the public has a right to know and a need to hear what they have to say. This freedom is essential to fostering an informed electorate capable of governing its own affairs.

Thus, no limits, no forced disclosure, no forms, no filings, no controls should inhibit any individual's or group's ability to support or oppose a tax cut, to argue for more or less regulation of tobacco, to support or oppose abortion, flag-burning, campaign finance reform and to discuss the stands of candidates on those issues.

That freedom must be preserved whether the speaker is a political party, an issue organization, a labor union, a corporation, a foundation, a newspaper or an individual. That is all protected ''issue advocacy,'' and the money that funds it is all, in effect, ''soft money.'' Those who advocate government controls on what they call ''sham'' or ''phony'' or ''so-called'' issue ads, and those who advocate outlawing or severely restricting ''soft money'' should realize how broad their proposals would sweep and how much First Amendment law they would run afoul.

Finally, it is no answer to these principled objections that this flawed bill would permit certain non-profit organizations to sponsor ''electioneering communications'' if they in effect created a Political Action Committee to fund those messages. Under governing constitutional case law, groups like the ACLU and others cannot be made to jump through the government's hoops in order to criticize the government's policies and those who make them. In addition, most non-profits would be unwilling to risk their tax status or incur legal expenses by engaging in what the IRS might view as partisan communications. Moreover, the groups would still be barred from using organizational or institutional resources for any such communications. They would have to rely solely on individual supporters, whose names would have to be disclosed, with the concomitant threat to the right of privacy and the right to contribute anonymously to controversial organizations that was upheld in landmark cases such as *NAACP* v. *Alabama*, 357 U.S. 449 (1958). This holding guaranteed the opportunities that donors now have to contribute anonymously—a real concern when a cause is unpopular or divisive.

II. S. 27 ASSAULTS THE FREE SPEECH OF ISSUE ADVOCATES

The second systemic defect in this bill is its grossly expanded concept of coordinated activity between politicians and citizens groups. Such ''coordination'' then taints and disables any later commentary by that citizen group about that politician. By treating all but the most insignificant contacts between candidates and citizens as potential campaign ''coordination,'' the bill would render any subsequent action which impacts that politician as a regulated or prohibited ''contribution'' or ''expenditure'' to that candidate's campaign. These provisions violate established principles of freedom of speech and association.

Under existing law, contact coordination between a candidate or campaign and an outside group can be regulated as coordinated activity only where the group takes some public action at the request or suggestion of the candidate or his representatives, i.e., where the candidate is the driving force behind the outside group's action. *See Federal Election Commission* v. *Christian Coalition*, 52 F. Supp. 2d 45 (D. D.C. 1999). Under the bill, however, the definition of coordination is expanded in dramatic ways with severe consequences, thereby prohibiting certain kinds of contact with candidates. A coordinated activity can be found whenever a group or individual provides ''anything of value in connection with a Federal candidate's election'' where that person or group has interacted with the candidate then or in the past in a number of ways. This includes, for example, instances which the outside person or group has ''previously participated in discussions'' with the candidate or their representative, ''about the candidate's campaign strategy . . . including a discussion about . . . message. . .''

Section 214 of the bill thus imposes a year round prohibition on all communications that are deemed ''of value'' to a federal candidate. The bill wrongly asserts that issue groups are ''coordinating'' if they merely discuss elements of the lawmaker's message with the lawmaker or his or her staff anytime during a two year period. For example, if a veteran's group suggests to a candidate how best to talk about the flag amendment in order to win the hearts and minds of voters, the group then can't run ads in Senator McCain's state praising him for protecting the flag.

Once such so-called coordination is established it triggers a total ban on issuing any communication to the public deemed of value to the candidate, and it defines such communication as an illegal corporate contribution! These rules act as a continuing prior restraint, which bars the individual or group from engaging in core First Amendment speech for the lawmaker's entire term of office. Even if such an organization has a connected PAC, it can no longer engage in any independent expenditure affecting the lawmaker because by merely speaking to the candidate or his or her staff it has engaged in illegal ''coordination.'' Here again, the bill attempts to impose another gag rule on issue advocacy organizations.

Translated into the way in which citizen advocacy groups work, this means that a group cannot urge a candidate to make a particular proposal a part of the candidate's platform if the group subsequently plans to engage in independent advocacy on that issue. Likewise, a group like the National Rifle Association could not discuss a gun control vote or position with a Representative or Senator if the NRA will subsequently produce a box score that praises or criticizes that official's stand. Similar to the ban on coordination (Section 202) discussed earlier in this letter, banning ''coordination'' of ''electioneering activity'' resulting in a long blackout period when an outside group or individual can be blocked from broadcasting information about a candidate, this ban—on coordination of ''anything of value''—can operate month in and month out throughout the entire two or six year term of office of the pertinent politician. That is why the AFL–CIO, among other groups, is so concerned about the treacherous sweep of the anti-coordination rules. See ''Futile Labor: Why Are The Unions Against McCain-Feingold?'' The New Republic, March 12, 2001, pp. 14–16.

Thus, these coordination rules will wreak havoc on the ability of the representatives of unions, corporations, non-profits and even citizen groups to interact in important ways with elected representatives for fear that the taint of coordination will silence the voices of those groups in the future. The First Amendment is designed to encourage and foster such face-to-face discussions of government and politics, see *Buckley* v. *American Constitutional Law Foundation,* 525 U.S. 182 (1999), not to drive a wedge between the people and their elected representatives .

III. S. 27 ALLOWS THE UNCONSTITUTIONAL VIRTUAL DESTRUCTION OF POLITICAL PARTIES

In addition to its disruptive and unconstitutional effect on issue groups and issue advocacy, S. 27 also would have a disruptive if not destructive effect on political parties in America by totally shutting off the sources of funding that support so much of what American political parties do. It would cast a pall over the vital democratic work that political parties perform. These unprecedented restrictions on soft money would make parties less able to support grassroots activity, candidate recruitment and get-out-the-vote efforts.

A. THE BILL REPRESENTS A THREE-PRONGED ATTACK ON POLITICAL PARTIES

(1) Section 101 of the bill completely eliminates all ''soft money'' funding for all national political parties and all of their constituent committees and component parts. Under current law there are no federal restrictions on raising, spending or routing such soft money by federal state or local parties or their candidates or office holders. Under McCain-Feingold, all of the funding for all of the vital party activities described above would become illegal, unless it came only from individuals, in small dollar amounts. In other words, political parties may only raise and spend highly regulated ''hard money'' for virtually everything they do.

(2) Section 101 of the bill also bars any federal candidate or officeholder from having any contact whatsoever with the funding of any ''federal election activity'' by any organization unless that activity is funded strictly with hard money. The scope of ''federal election activity'' is extremely broad and encompasses the following activities if they have any connection to any federal election or candidate: (1) voter registration activity within 4 months of a federal election, (2) voter identification, get-out-the-vote activity or ''generic campaign activity,'' (3) any significant ''public communication'' by broadcast, print or any other means that refers to a clearly identified federal candidate and ''promotes,'' ''supports,'' ''attacks,'' or ''opposes'' a candidate for office (regardless of whether the communication contains ''express advocacy''). Under this rule, a candidate would attend an NAACP Voters Rights benefit dinner at his or her peril, if funds were being raised for any ''federal election activity'' such as getting people to the polls on election day. The same might be true for one who attended an ACLU Bill of Rights Day fund raiser, when the ACLU produces a box score on civil liberties voting records during an election season.

(3) The bill also reaches and regulates all State and local political parties and bans them from raising or spending soft money for any ''Federal election activity'' also or any activity which has any bearing on a federal election. It basically federalizes all of the restrictions and limitations of the FECA.

B. POLITICAL PARTY ACTIVITY IS PROTECTED BY THE FIRST AMENDMENT

Political funding by political parties is strongly protected by the First Amendment no less than political funding by candidates and committees. The only political funding that can be subject to control is either contributions given directly to candidates and their campaigns (or partisan expenditures explicitly coordinated with campaigns) or communications that constitute express advocacy. These can be subject to source limitations (no corporations or unions or comparable entities) or amount restraints ($1,000, or $5,000 in the case of PACs). All other funding of political activity and communication is beyond presumptive constitutional control. That would include soft money activities by political parties.

Parties are both advocates for their candidates' electoral success and issue organizations that influence the public debate. Get-out-the-vote drives, voter registration drives, issue advocacy, policy discussion, grass-roots development and the like are all activities fundamentally protected by the First Amendment and engaged in by a wide variety of individuals and organizations. An issue ad by the ACLU criticizing an incumbent Mayor on police brutality is an example of soft money activity, in the broadest sense of that term, as is an editorial on the same subject in The New York Times. We need more of all such activity during an election season, not less, from political parties and others as well.

The right of individuals and organizations, corporate, union or otherwise, to support such issue advocacy traces back to the holding in *Buckley* that only those communications that ''expressly advocate'' the election or defeat of identified candidates can be subject to control. The Supreme Court in the 1996 *Colorado Republican Federal Campaign Committee* v. *FEC,* 518 U.S. 604 (1996) case noted the varying uses of soft money by political parties. In the recent case, *Nixon* v. *Shrink Missouri Governmental PAC,* 528 U.S. 377 (2000), which upheld hard money contribution limits, the Court's opinion was silent on whether soft money could be regulated at all. Although certain individual Justices invited Congress to consider doing so, the case itself had nothing to do with soft money.

To be sure, to the extent soft money funds issue advocacy and political activities by political parties, it becomes something of a hybrid: it supports protected and unregulatable issue speech and activities, but by party organizations often more closely tied to candidates and officeholders. The organizational relationship between political parties and public officials might allow greater regulatory flexibility than would be true with respect to issue advocacy by other organizations. Thus, for example, disclosure of large soft money contributions to political parties, as is currently required by regulation, might be acceptable, even though it would be impermissible if imposed on non-party issue organizations. But the total ban on soft money contributions to political parties raises serious constitutional difficulties.

Just last year, the Supreme Court reminded us once again of the vital role that political parties play in our democratic life, by serving as the primary vehicles for the political views and voices of millions and millions of Americans. ''Representative democracy in any populous unit of governance is unimaginable without the ability of citizens to band together in promoting the electoral candidates who espouse their political views. The formation of national political parties was almost concurrent with the formation of the Republic itself.'' *California Democratic Party* v. *Jones,* 530 U.S. 567 2402, 2408 (2000). As Justice Anthony M. Kennedy put it in his separate opinion in *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission,* 518 U.S. 604 (1996): ''The First Amendment embodies a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open. Political parties have a unique role in serving this principle; they exist to advance their members' shared political beliefs.'' Id. at 629.

While electing candidates is a central mission of political parties, they do so much more than that. They engage in issue formulation and advocacy on a daily basis, they mobilize their members through voter registration drives, they organize get-out-the-vote efforts, they engage in generic party communications to the public. Much of these activities are supported by what S. 27 would deem as soft money. The bill before you would dry up these significant sources of funding for those party activities. It would basically starve the parties' ability to engage in the grass roots and issue-advocacy work that makes American political parties so vital to American democracy.

C. S. 27 DIMINISHES THE ABILITY OF POLITICAL PARTIES TO COMPETE EQUITABLY WITH OTHERS WHO CHOOSE TO SPEAK DURING CAMPAIGNS.

Finally, the law unfairly bans parties, but no other organizations, from raising or spending soft money. That would mean that anyone else—corporations, foundations, media organizations, labor unions, bar associations, wealthy individuals—could use any resources without limit to attack a party and its programs, yet the party would be defenseless to respond except by using limited hard money dollars. The NRA could use unregulated funds to mount ferocious attacks on the Democratic Party's stand on gun control, and the Party would be effectively silenced and unable to respond. Conversely, NARAL could mercilessly attack the Republican Party's stand on abortion, using corporate and foundation funds galore, and that

Party would likewise be stifled from responding in kind. A system which lets one side of a debate speak, while silencing the other, violates both the First Amendment and equality principles embodied in the Constitution.

The Bipartisan Campaign Finance Reform Act of 2001 is not reform at all, but is a fatally flawed assault on First Amendment rights.

Sincerely,

LAURA W. MURPHY,
Director.
JOEL GORA,
Professor of Law, Brooklyn Law School and Counsel to the ACLU.

CHANGE OF VOTE

Mr. REID. I ask unanimous consent to change my vote on rollcall vote No. 41 from yea to nay. This change will not affect the outcome of the vote. The amendment at issue was adopted by a vote of 70–30 and if enacted will require broadcasters to charge political candidates the lowest rates offered by the broadcast, satellite or cable stations throughout the year.

While I believe the goal of this amendment is laudable I am concerned that it could unsettle the balance of support for the underlying legislation. Further, I believe it could provide political candidates with an unfair economic edge in the purchasing of air time.

On the first point, it should be clear to all that the McCain-Feingold legislation was carefully crafted to ensure meaningful campaign finance reform while recognizing the rights of all Americans to continue their participation in our electoral process. This is a delicate balance and I would regret to see this bill lose the support of such important participants in the political process as our nation's broadcasters.

I believe that political candidates should not be gouged in their purchase of air time but I remain unconvinced that such is the normal and usual practice today. Other groups, be they charitable or civic oriented, should not be disadvantaged because of efforts to lower the rates for political candidates. For the reasons stated above I believe this issue should not be considered on this important legislation.

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

1996 CAMPAIGN FINANCE VIOLATIONS

Mr. THOMPSON. Mr. President, in 1997, the Governmental Affairs Committee spent a year in investigating some of the worst campaign finance abuses in our Nation's history. Despite a number of obstacles, witnesses fleeing the country, people pleading the fifth amendment, entities failing to comply with subpoenas, our Committee uncovered numerous activities that were not only improper but illegal. To date, 26 individuals and two corporations have been prosecuted or indicted for campaign finance violations arising from the 1996 Federal elections.

Specifically, what we uncovered was a pattern of abuse in which access to people in power was bought with large campaign contributions. What made that possible was unregulated, unlimited soft money. Time after time we heard about contributions of tens and hundreds of thousands of dollars in exchange for which access was granted. In fact, one of the key reasons I have fought for the McCain-Feingold bill is to eliminate this opportunity for abuse.

There is no question in my mind that the enormous soft money contributions we examined led to corruption and the appearance of corruption to the American public. The committee's findings are contained in a six volume, 10,000 page report, S. Rpt. No. 105–167, the committee's depositions, S. Prt. No. 106–30, and the committee's hearings, S. Hrg. No. 105–300). The facts and findings contained in these documents clearly provide the basis for a determination that unlimited soft money contributions lead to corruption and the appearance thereof.

Mr. LEVIN. Mr. President, the Senator from Tennessee appropriately puts in context the work we are doing on the bill before us. The record in the Senate is replete with the compelling need for this legislation. In particular, we learned during the 1997 hearings that some of the most egregious conduct we uncovered, wasn't what was illegal, but what was legal. That was the real problem.

The 1997 Senate investigation collected ample evidence of campaign abuses, the most significant of which revolved around the soft money loophole. Soft money contributions of hundreds of thousands, even millions, of dollars, were shown to have undermined the contribution limits in Federal law and created the appearance of corruption in the public's eye. The Republican and Democratic national political parties that solicit and spend this money use explicit offers of access to the most powerful, elected officials.

Roger Tamraz, a large contributor to both parties and an unrepentant witness at our hearings, became the bipartisan symbol for what is wrong with the current system. Roger Tamraz served as a Republican Eagle in the 1980s during Republican administrations and a Democratic Trustee in the 1990s during Democratic administrations. Tamraz's political contributions were not guided by his views on public policy or his personal support for or against the person in office; Tamraz gave to help himself. He was unabashed in admitting his political contributions were made for the purpose of getting access to people in power. Tamraz showed us in stark terms to all-too-common product of the current campaign finance system, using unlimited soft money contributions to buy access. And despite the condemnation by the committee and the press of Tamraz's activities, when asked at the hearing to reflect on his $300,000 contribution to the Democrats in 1996, Tamraz said, ''I think next time, I'll give $600,000.''

As I said, most of the appearances of impropriety revealed during the 1997 investigations involved legal activities. Virtually every foreign contribution of concern to the Committee involved soft money. Virtually every offer of access to the White House or to the Capitol or to the President or to the Speaker of 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 McCain-Feingold bill recognizes that the bulk of troubling campaign activity is not what is illegal, but what is legal. It takes direct aim at closing the loopholes that have swallowed the election laws. In particular, it takes aim at closing the soft money and issue advocacy loopholes, while strengthening other aspects of the Federal election laws that are too weak to do the job as they now stand.

The soft money loophole exists because we in Congress allow it. The issue advocacy loophole exists because we in Congress allow it. Congress alone writes the laws. Congress alone can shut down the loopholes and reinvigorate the Federal election laws.

Mrs. MURRAY. Mr. President, in recent days there has been much speculation regarding my position on retaining the severability of the campaign finance reform bill being considered by the Senate.

First let me start by reiterating my strong and unwavering commitment to meaningful campaign finance reform. Since I arrived in the Senate, I, along with many of my colleagues, have championed an overhaul of our campaign finance system. Our system demands more disclosure and accountability, we should reduce the amount of money in the system, we should ensure that the voice of every American can be heard, and we must require fairness.

I admire Senator MCCAIN and others for their courage and persistence in pursuing this goal. Senator MCCAIN has shown himself to be a real leader, and I enjoy working with him in the Senate.

I believe the McCain/Feingold bill is a carefully crafted, balanced bill. There have been a number of amendments to this bill, some of which I have supported; some I've opposed. Campaign finance reform, in addition to reforming the excesses of the current system, must be fair and not favor any one party or group over another. If the court, at some later date, finds that some part or parts of our reform effort do not pass constitutional muster, that ruling should not be allowed to tip the scales to the benefit or detriment of one class of actors with regard to their ability to engage in political debate. As strongly as I believe in reforming our campaign finance laws, I also believe we should do a better job of supporting our public schools, providing more and better access to quality

healthcare, protecting our environment, and creating family wage jobs. If my, or the people who share my positions, ability to communicate those positions is altered to a greater or lesser extent than those with other opinions, then what we have left will be fundamentally unfair. The balance of this bill could change depending on the court's interpretation. The severability issue goes directly to this point.

Which leads me to why I believe this year's effort is different from previous efforts in one very significant and fundamental way. Today, we know more about the Supreme Court than we did just a few months ago. We know that the court is not beyond interpretations that would appear to favor one party over another. And that has given me pause, and, I would think, it may give my colleagues pause, when we consider the application of this law, how it will be tested in court, and what we may end up with as a result.

If the Supreme Court decided to uphold limits on the amount of soft money flowing to our parties, while allowing special interest groups to spend unlimited sums to attack or defend candidates, then we will turn the electoral process over to those same special interests who we seek to limit.

In this debate, too often, people who have differed with the sponsors have been characterized as wanting to ''kill'' the bill. Contrary to those assertions, this bill, with or without non-severability, is about to pass the Senate.

After careful consideration, I have decided to vote against the non-severability amendment. I have made this judgement with strong reservations about how the Court could interpret the law we pass.

I am not willing to participate in enacting a precedent for severability that could impact a wide range of bills to come before the Senate. Rather than adding a non-severability clause to this bill the Congress should act quickly to meet the challenges that may be presented by any future court action, and fashion a set of campaign finance laws that will serve to strike a balance and ensure fairness.

Mr. MCCONNELL. Mr. President, reformers frequently assert that there is a great desire throughout the land for their campaign finance scheme. The truth is there is not, nor has there ever been, a groundswell of public demand for even the concept of ''reform,'' let alone an unconstitutional assault by the Federal Government on the constitutional freedom of citizens, groups and parties to participate in America's democracy.

On that note, I would ask that a March 22, 2001 article in the Washington Times entitled ''Nation Yawns at Campaign Finances,'' be printed in the RECORD at this point.

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

[From the Washington Times, Mar. 22, 2001]

NATION YAWNS AT CAMPAIGN FINANCES

(By Donald Lambro)

Campaign finance reform may be the No. 1 issue in the Senate right now, but outside of Washington it does not even make the top-40 list of most important problems facing the country.

Sen. John McCain, Arizona Republican, with the help of favorable national news media coverage, has managed to drive the issue to the top of the Senate agenda this week—ahead of education, health care, Medicare, Social Security, tax cuts and other issues that score much higher in poll after poll.

Polls show that Americans strongly support the overall concept of campaign reform, but it does not appear on most lists of what concerns them the most, or if it does, comes in dead last.

''We've asked people what is the most important problem facing the country and watched campaign finance reform languish at the bottom of every list of 20 to 25 issues,'' said Whit Ayres, a Republican pollster based in Atlanta.

Compared to other issues, campaign finance long has been in the basement of public priorities,'' the ABC News Web site said in an analysis earlier this week.

''Most people have more pressing concerns, and most doubt reform would effectively curb the role of money in politics,'' it concluded.

The Pew Research Center asked 1,513 adult Americans last month what is ''the most important problem facing the country today.'' Campaign finance reform did not specifically appear among its list of 45 responses.

Morality/ethics/family values tops the list with 12 percent, followed by education (11 percent), the economy and jobs (13 percent), crime (8 percent), health care (6 percent), and energy costs (6 percent).

Other polls similarly place the issue at the bottom of the issue rankings. An ABC News poll taken in January ranked it 16th out of 18 issues. It was last among 16 issues in the general election.

Mr. McCain made campaign finance reform the centerpiece of his unsuccessful campaign for the Republican presidential nomination last year, but polls showed that most of those who supported him in the primaries did so for other reasons—such as his patriotism and character—not for his signature issue.

Only 9 percent of the voters in the New Hampshire primary said the issue was their biggest concern. There was even less concern on the Democratic side.

The issue all but disappeared in the general election. It was seldom raised by Al Gore, and George W. Bush, who opposes the McCain campaign finance reform bill, rarely mentioned the issue unless asked about it.

Asked how campaign finance reform was playing in Georgia, Mr. Ayres replied facetiously: ''It's a burning issue. It's a topic that dominates every dinner table conversation. You can't go into a supermarket checkout line without hearing everyone talk about it.''

In fact, Mr. Ayres, ''It's an elite, media-driven, editorial page issue that concerns'' very few people. Virtually every poll seems to confirm that view.

When a Princeton Survey poll released earlier this month asked 1,200 people what should be Mr. Bush's top priorities this year, campaign finance reform barely registered at the bottom of the list with a minuscule 3 percent.

What were the top concerns of most people? Education (29 percent), the economy (20 percent), tax cuts (15 percent), Medicare, (14 percent), and Social Security (13 percent). Even foreign policy, at 4 percent, scored higher than campaign reform.

''People care more about how the taxpayers' money is being spent than about how the politicians are raising money for their campaigns,'' Mr. Ayres said.

The fact that the Senate is spending so much time on an issue they rate very low, or not at all, ''just feeds the suspicion that Congress spends a lot of time on issues that people don't really care much about,'' he said.

''It doesn't show up as a high priority issue, not because people don't want reform, but because they don't believe that they are ever going to get it,'' said independent pollster John Zogby.

But for most Americans, Mr. Zogby conceded, ''it's just not a passionate issue.''

Mr. MCCONNELL. Mr. President, I have authored a number of op-eds on this subject over the years and I ask unanimous consent that the most recent, appearing March 23, 2001, in USA Today, be printed in the RECORD.

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

[From USA Today, Mar. 23, 2001]

''REFORM'' HURTS FREEDOMS

OPPOSING VIEW: BILL UNFAIRLY RESTRICTS PARTIES' ABILITY TO CHALLENGE INCUMBENTS

(By Mitch McConnell)

Next week, in its debate over changing campaign-finance laws, the Senate will consider a constitutional amendment overriding the First Amendment and thereby allowing the government to restrict all spending on communications ''by, in support of, or in opposition to'' candidates for public office.

So empowered, Congress could ban ''soft money'' and even make it illegal for corporate-owned newspapers to endorse or mention political candidates within 60 days of an election. Currently, the media is specifically exempted from federal campaign-finance law, even though these corporate conglomerates exert tremendous influence on the political system. You could call this exemption the media's ''loophole.''

The McCain-Feingold bill less forthrightly but just as effectively restricts the constitutional freedom of citizens groups and parties to speak out on issues, and elections. McCain-Feingold makes it illegal for citizen groups to criticize members of Congress in TV or radio ads, unless they register with the federal government and conform to a litany of restrictions. Such restrictions on political speech are sure to be declared unconstitutional, as have 22 similar efforts previously struck down in federal court.

McCain-Feingold also attack the national parties, making it illegal for them to pay for issue advocacy, voter turnout and such mundane overhead expenses as utilities, accountants, computers and lawyers (necessary to comply with existing complex campaign-finance laws) with funds outside the current strict ''hard money'' limits. Hard money refers to funds that can be given directly to candidates and is subject to severe contribution limits (limits not adjusted for inflation since they were created in 1974).

McCain-Feingold would starve the parties. Few are moved by the parties' plight until they consider that candidates running against incumbent congressmen have only one reliable source of support: parties.

Without party soft money, liberal news media and ''special interest'' groups would move closer to total domination of the American political environment. If banned, party soft money (which already is publicly disclosed and therefore accountable) will

give way to the shadowy world of special-interest soft money, where there is no public disclosure and no accountability. That does not meet anyone's definition of ''reform.''

Mr. MCCONNELL. Senator SESSIONS would like to speak on the bill at the conclusion of the session. Perhaps he could wrap it up for us tonight. We will see everyone at 9 o'clock in the morning. At the conclusion of his remarks, unless floor staff has an objection, he will put us in recess.

Mr. SESSIONS. Mr. President, as we consider this legislation, I am not sure it is possible for any of us, I certainly have not, figured out who might be the winner and loser in this legislation. Who would get the most benefits, which party, which candidates, those things are interesting and, in fact, significant. I am just not terribly worried myself.

I think about my campaigns and if they limit all contributions to just $100 per person and nobody else could contribute, nobody else could run a negative ad or positive ad about me, I would feel comfortable about that. I believe I can raise more $100's than any likely opponent I am facing. I could get my message out and it will be a good competitive race and that will be fine.

I wish it could be that simple sometimes. I faced two opponents who spent more than $1 million against me in the Republican primary. I know what it feels like to be frustrated by ads coming in against you.

I think this legislation transcends all the complexities and all the debate we have had tonight and over the last 2 weeks about soft money, hard money, issue ads, independent groups, independent expenditures, and all of that. It is a very complicated matter. I think that has caused us at some point to lose our contact with the fundamental questions with which we are dealing.

In my view, I have concluded, unfortunately, that on what is constitutional and what is good public policy, this legislation does not justify our support and should not be passed by this body.

America has always been a country of raucous debate, uncontrolled, exaggeration, negativity, at times emotional. That is the way we are. Sometimes I wish it were not so. Others complained on the floor of the Senate about negative ads against them. I had those run against me also. In my election, I raised a lot more hard money than my opponent, but he had equal time on television and it was mostly soft money. They came in from the Democratic Party or the Sierra Club and they ran ads against me. I know it wasn't a little environmentalist raising this money. It was money given to them so they could use it in certain campaigns in favor of Democratic candidates. That is the way life is. It is frustrating at times to see ads such as that pound on you.

Soft money didn't help me in this past campaign. I say that to say I resent and reject the assertion that those of us who are concerned about the serious public policy and constitutional questions involved are somehow advocating that because we have a self-interest in it, some personal agenda that will help them beat their opponent and get reelected. There may be a tendency for some, but it is not for me.

The problem is whether or not we are furthering or constraining political debate in America. Some believe, for example, that depictions of violent sex acts of all kinds, depictions of child pornography, are protected by the first amendment. Some believe that the act of burning a flag of the United States is free speech. Some of these same people, however, see things differently on this bill.

On the question of pornography and child pornography, and those questions, people can go either way. The Supreme Court has sort of split in a lot of different ways. These forms of speech and press are quasi-speech. Depictions or acts of burning a flag were never what our Founding Fathers were fundamentally concerned about. They were concerned in early America about political speech, the right to speak out on public policy issues and say what you wanted to say.

James Madison, the father of our Constitution, whose birth we celebrated earlier in the month, the 250th anniversary of his birth, in talking about our goal in America as to free elections and people you chose could be elected, said: The value and efficacy of this right to elect and vote for people for office depends on the knowledge of comparative merits and demerits of the candidates for public trust, and on the equal freedom, consequently, of examining and discussing these merits and demerits of the candidate's respectively.

That suggests this is what America was founded about, to have a full debate about candidates and their position on issues. When do you do that? You do that during the election time. Not 2 years before an election.

I believe the contributing of money to promote and broadcast or amplify speech is covered by the first amendment. I do not think that is a matter of serious debate. Some have suggested otherwise. They said money is just an inanimate object. But if you want to be able to speak out and you cannot get on television, or you cannot get on radio, or you cannot afford to publish newspapers or pamphlets, then you are constrained in your ability to speak out.

The Supreme Court dealt with this issue quite plainly in Buckley v. Valeo in 1976. A string of cases since that time have continued that view.

In Buckley they said the following:

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

They go on to say:

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

What is that Court saying? That Court is saying the right to decide who says what in a political environment is the right of the people and associations of people. They have that right. The Government does not have the right to restrain them and restrict that and to limit their debate, even if it is aimed at us in the form of a negative ad and it hurts our feelings and we wish it had not happened. We do not have the right to tell people they cannot produce honest ads, hard-hitting ads against us. If we ever get to that point, I submit, our country will be less free, you will have less ability to deal with incumbent politicians who may not be the kind that are best for America.

In the Buckley case the Court held that political contributions constitute protected speech under the first amendment.

I remain at this point almost stunned that earlier in this debate 40 Members of this Senate voted to amend the first amendment of the Constitution of the United States. Fortunately, 60 voted no. We had 38 vote yea in 1997 or 1998, and last year it dropped down to 33. But this year 40 voted for this amendment. It would have empowered Congress and State legislators, government, to put limits on contributions and expenditures by candidates and groups in support of and in opposition to candidates for office. Just as they outlined in Buckley.

That is a thunderous power we were saying here, that we were going to empower State legislatures and the U.S. Congress to put limits on how much a person and group could expend in support of or in opposition to a candidate. Think about that. Where are our civil libertarian groups?

I have to give the ACLU credit, they have been consistent on this issue. They have studied it. They know this is bad, and they have said so. But too many of our other groups—I don't know whether they are worried about the politics of it or what, but they have not grasped the danger to free speech and full debate we are having here.

It seems to me we are almost losing perspective and respect for the first amendment that protects us all. In this debate we have focused on what the courts have held with regard to the first amendment and to campaign finance. I remain confident that significant portions of the legislation as it is now pending before us will be struck down by Federal courts.

We ought not to vote for something that is unconstitutional. We swore to uphold the Constitution. If we believe a bill is unconstitutional, we should not be passing it on the expectation that someday a court may strike it down, even if we like the goal. If it violates the Constitution, each of us has a duty, I believe, to vote no. The idea that we

can pass a law that would say that within 60 days of an election a group of union people, a group of businesspeople, a group of citizens, cannot get together and run an ad to say that JEFF SESSIONS is a no-good skunk and ought not be elected to office, offends me. Why doesn't that go to the heart of freedom in America? Where is our free speech crowd? Where are our law professors and so forth on this issue? It is very troubling to me, and I believe it goes against our fundamental American principles.

I will conclude. I make my brief remarks for the record tonight to say I believe this law is, on balance, not good. I believe its stated goal of dealing with corruption in campaigns is not going to be achieved. I believe it is the case with every politician I know, that votes trump money every time anyway. If you have a group of people in your State you know and respect, you try to help them. Just because they may give you a contribution doesn't mean that is going to be the thing that helps you the most. Most public servants whom I know try to serve the people of the State and try to keep the people happy and do the right things that are best for the future.

I believe this bill is not good, that the elimination of the corrupt aspects we are trying to deal with will not ultimately be achieved. At the same time, I believe we will have taken a historic step backwards, perhaps the most significant retrenchment of free speech and the right to assemble, and free press, that has occurred in my lifetime that I can recall. This is a major bit of legislation that undermines our free speech.

I know we have talked about all the details and all the little things. There are some things in this bill I like. I wish we could make them law. But as a whole, we ought not pass a piece of legislation that would restrict a group of people in America from coming together to raise money and speak out during an election cycle, 60 days, 90 days, 10 days, 5 days, on election day—they ought not be restricted in that effort. In doing so, we would have betrayed and undermined our commitment to free speech and free debate that has made this country so great.

Mr. President, I will proceed to see if I can close us out for the night.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO THE LATE CONGRESSMAN NORMAN SISISKY

Mr. WARNER. Mr. President, I am joined by my colleague, Senator ALLEN. We would like to address the Senate for a period not to exceed 10 minutes.

Mr. President, today, just hours ago, Senator ALLEN and I were informed of the loss of one of our Members of Congress from the State of Virginia, NORMAN SISISKY. It has been my privilege to have served with him in Congress throughout his career. Our particular responsibilities related to the men and women of the Armed Forces—I serving on the Senate Committee on Armed Forces and he on the House National Security Committee.

Our Nation has lost a great patriot in this wonderful man who started his public service career in 1945 as a young sailor in the U.S. Navy. In total, he served some 30 years, including his Naval service, service in the Virginia General Assembly, and in the service of the Congress of the United States.

The men and women of the Armed Forces owe this patriot a great deal, for he carried forth his earliest training in the Navy until the last breath he drew this morning. They were always, next to his family, foremost in his mind.

Throughout his legislative career in the Congress, many pieces of legislation bear his imprint and his wisdom on behalf of the men and women in the Armed Forces.

Mr. President, it is a great loss to the Commonwealth of Virginia, this distinguished public servant. It is a great loss to me of a beloved friend, a dear friend. My heart and my prayers go to his widow—a marriage of some 50 years—and to his family.

Mr. President, I yield the floor.

Mrs. BOXER. Mr. President, I just thank my two colleagues for bringing this information to the Senate. I came into the House of Representatives with NORMAN SISISKY. What a terrific person he was to work with. He had a wonderful sense of humor, was very dedicated, as my friend pointed out, to his country. He was very patriotic, and he was a real fighter for his district.

I want to associate myself with the eloquent words of Senator WARNER and Senator ALLEN.

Mr. ALLEN. Mr. President, I echo the words of the senior Senator from Virginia, JOHN WARNER. NORMAN SISISKY was a man who was loved all across Virginia. As the Senator said, he started his career in the Depression and served in the armed services. He also was a very successful businessman in the private sector. While he was a strong advocate for the armed services and the strength of our Nation, he also brought forth commonsense business principles of logistics and efficiency, whether it was in the days he was in the general assembly or in his many years of service in the U.S. House of Representatives.

He clearly was one of the leaders to whom people on both sides of the aisle would look. When there was a need for getting good, bipartisan support, obviously, folks would go to Senator WARNER. On the Democrat side, they looked to NORM SISISKY. NORM SISISKY cared a great deal, as Senator WARNER said, about the men and women who wear the uniform. He wanted to make sure they had the most advanced equipment, the most technologically advanced armaments for their safety when protecting our interests and freedoms abroad.

He was a true hero to many Virginians, not just in his district but all across the Commonwealth of Virginia, always bridging the partisan divides, trying to figure out what is the best thing for the people of America and also freedom-loving people around the world.

I will always remember NORM SISISKY as a person. I will always remember that smiling face, and he had that deep voice and that deep laugh, hardy laugh.

He was one who was always exuberant, always passionate, no matter what the effort, what the cause. You could be standing on the corner waiting for the light to change, and NORM would be carrying on with great passion and vigor about whatever the issue was. He would thrive on figuring out: Here is the way we will maneuver through the bureaucracy to get this idea done.

He truly was a wonderful individual. Everyone here speaks of him as a fellow Member of the House of Representatives.

When I was Governor, this man went beyond the call of duty. We were trying to get the department of military affairs to move from Richmond to Fort Pickett to transform that base which had been closed.

NORM SISISKY spent weekends talking with members on the other side of the aisle in the Virginia General Assembly, beyond the call of duty, to make sure we could move the headquarters to Fort Pickett and that the environmental aspects were cleaned up at no expense to the taxpayers, keep the facility open, and transform it to commercial use to benefit the entire Blackstone community.

The people in Southside Virginia will be forever grateful for what NORM SISISKY did in making sure Fort Pickett is there as a military facility for guard units in the Army, as well as private enterprise efforts and helping protect the jobs and people of that community.

Mr. REID. Will the Senator yield?

Mr. ALLEN. I will yield shortly.

Congressman NORM SISISKY was a great Virginian. He was a great American. I know our thoughts and prayers are there for his wife Rhoda. I know at least two of his sons very well, Mark and Terry, as well as Richard and Stuart.

Our prayers and thoughts go out to them. We tell them: Please realize NORM still lives on in you, in your blood, and also his spirit.

We also share our grief with his very dedicated and loyal staff who shared his passion for the people of Virginia and the people of America.

Mr. WARNER. Mr. President, if I may add to what my distinguished colleague said, we shall work together to

see whether or not an appropriate portion of Fort Pickett—he just loved that base—can appropriately bear his name. It would mean a great deal to the men and women of the armed forces. We will do that.

Mr. ALLEN. That is a great idea.

Mr. REID. Will the Senator from Virginia yield?

Mr. ALLEN. Yes.

Mr. REID. Mr. President, as with Senator BOXER, I came to the House of Representatives in 1982. One of the freshman House Members was NORM SISISKY. Like Senator ALLEN, I can see that smile. He had an infectious smile. He was a friend. I enjoyed my service with that class of 1982. Part of my memories will always be NORM SISISKY.

I join in the comments made by my friends from Virginia and the Senator from California in recognizing a great public servant in NORM SISISKY.

Mr. WARNER. We thank our colleague for his remarks.

Mr. NELSON of Florida. Will the Senator from Virginia yield?

Mr. WARNER. Yes.

Mr. NELSON of Florida. Mr. President, I say to the Senators, oh, the gossamer thread of life cut short so quickly for such a great servant of the State of Virginia and of the United States of America with whom I had the privilege of serving in the House. He never met a man he did not like, and he was passionate about Government service. I thank my colleagues for calling this sad news to our attention and for the opportunity to respond.

Mr. WARNER. Mr. President, we thank our colleague.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, briefly, I do not claim a close relationship with NORM SISISKY, but I have had the great privilege of serving on the Armed Services Committee with Senator WARNER for the last 18 years, and I can remember every year when we would go into conference with the House of Representatives, NORM would be there. He would be championing the positions he felt strongly about and that were important to the people of Virginia. I also mourn his loss and recognize the important loss it is to Virginia and to this Congress.

Mr. WARNER. Mr. President, we thank our colleague.

TRIBUTE TO PUNCH GREEN

Mr. SMITH of Oregon. Mr. President, the great Oliver Wendell Holmes once said, ''To live fully is to be engaged in the passions of one's time.'' Few Oregonians—and few Americans—have lived a life as full as Alan ''Punch'' Green's. Alan Green was known to us who loved him as ''Punch.'' I say that few have lived a life as full as Punch's because few have made such a positive difference in the passions of our time.

Punch passed away last Friday at the age of 75. And as his many friends—myself included—struggle to get used to the fact that we can no longer call Punch for his straightforward advice, I would like to pay tribute here on the Senate floor to this remarkable Oregonian.

Punch was a member of what has been termed ''The Greatest Generation.'' Like so many others of that generation, Punch willingly risked his life for our country, as he served with distinction in the Pacific theater during World War II. And when he returned to Oregon following the war, Punch dedicated much of his life to making Oregon and America a better place in which to live, work, and raise a family.

He founded and ran a number of businesses, where he earned a reputation as a caring and fair manager. He became active in the Republican Party, serving as chair of campaigns for Presidents Ford, Reagan, and Bush, and serving as a trusted mentor to countless other candidates, myself included. Indeed, when I began my campaign for the Senate, one of the first people I sought out for advice and support was Punch Green, and I could not have asked for a more loyal friend.

Punch loved his home city, the city of Portland, OR, and he understood the importance of ensuring that Portland remained true to its name. As a commissioner and as President of the Port of Portland, Punch skillfully guided the port through an era of major growth and expansion. Punch's leadership on these issues came to the attention of President Reagan, who chose Punch to serve as chair of the Federal Maritime Commission, a post he filled with great skill for 4 years.

Punch was nearing what many consider ''retirement age'' in the 1980s, and he certainly had earned the right to take it easy and spend time with his family. But Punch was always willing to answer the call of his country, and former President Bush was calling. In 1989, Punch packed his bags and accepted President Bush's request to serve as United States Ambassador to Romania.

Punch arrived at the embassy in Bucharest just 2 weeks before the fall of the Ceausescu dictatorship. As tensions mounted in that country and explosions could be heard in the distance, Punch evacuated women and children from the embassy, and slept on his office couch for 10 days. Punch would later tell me that one of the highlights of his life was waving an American flag from the embassy window to the thunderous applause and cheers of thousands of Romanian citizens who were celebrating the end of Ceausescu's bloody reign. Punch's leadership in Romania at this critical time was recognized in 1992, when he received the State Department's Distinguished Honor Award.

When his assignment in Romania came to its conclusion, Punch returned to Portland, where he continued to provide his inimitable leadership to a variety of worthy causes. One which was especially close to his heart was that of the Oregon Humane Society, which now has a beautiful new facility in Portland, thanks, in no small part, to Punch's vision and generosity.

My thoughts today are with Punch's wife, Joan, his three daughters, and eight grandchildren. The Greek poet Sophocles once wrote that ''One must wait until the evening to see how splendid the day has been.'' Although Punch left us much too early, it is my prayer that those who loved him will take solace in the fact that as he neared the evening of his time here on Earth, Punch could look back at a life rich with family, rich with friends, and rich with making a difference in the passions of our time, and he could say that the day has indeed been splendid.

NATIONAL WOMEN'S HISTORY MONTH—RECOGNIZING PROMINENT WOMEN OF ARKANSAS

Mrs. LINCOLN. Mr. President, as we celebrate the remaining days of National Women's History Month, I want to call attention to several extraordinary women from my home state of Arkansas who have devoted their lives to improving our communities and lending a hand to those in need.

But before I talk about them individually, I first want to say a few words about a woman who is special not only to many generations of Arkansans but to the members of this body. That woman is Hattie Caraway.

In 1932, Hattie Caraway of Arkansas became the first woman ever elected to the United States Senate after winning a special election to fill the remaining months of her husband's term. Arkansans elected Hattie Caraway to the Senate two more times, and she served in the U.S. Senate until January, 1945.

Senator Caraway became the first woman to chair a Senate Committee and the first woman to take up the gavel on the Senate floor as the Senate's presiding officer. And when she finished her term, her Senate colleagues honored her for her service with a standing ovation on the Senate floor. Quite a feat for a woman back in 1945 especially since women had just won the right to vote only 25 years earlier!

There is no doubt that Hattie Caraway's service in the Senate paved the way for women seeking elective office. Thirty-one women have followed Hattie Caraway to the Senate, and today, a record high of 13 women are serving in the Senate at the same time. Combined with the 59 women in the U.S. House of Representatives, a record total of 72 women serve in the U.S. Congress today.

Another woman who is paving the way for women in politics in Arkansas is County Judge LaVerne Grayson. Judge Grayson last November became the first female county judge to serve Boone County, Arkansas.

Before attaining her judgeship, Judge Grayson was a nurse and Public Health Investigator Supervisor at the Arkansas Department of Health who helped

establish one of the first AIDS programs in northwest Arkansas. She was also an active community leader, serving with the American Red Cross, the LPN Advisory Board, the Salvation Army, and the North Arkansas College Board of Trustees. Judge Grayson is revered for her talents and her ability to balance her time effectively between a busy career and family, something which all working mothers aspire to do.

Other female leaders in Arkansas government have taken their talents to universities. Dr. Jane Gates of Jonesboro, who was a member Jonesboro Civil Service Commission, is now a Professor at Arkansas State University. Through her classes on public policy and government, Dr. Gates draws on her experience in government to encourage young women and men to seek public office.

That brings me to another woman who is making a difference in education. Dr. Trudie Reed, who is the President of Philander Smith College in Little Rock, has effectively promoted the contributions of African-Americans and has spearheaded a successful capital campaign drive to increase the college's endowment. Under Dr. Reed's leadership, the historically-black college has grown to be one of the best educational institutions in Central Arkansas. Over the past year, the college has received over $18 million dollars from various foundations and donors. With the money, the college will build a new library and a new science building.

Other women I want to mention today have made great contributions to their communities. Spurred by the tremendous love and joy she has experienced from adopting two children from Korea and Thailand, Connie Fails of Little Rock has reached out to many families throughout Arkansas and across the nation to help them adopt a child internationally.

In addition to running a successful clothing boutique in Little Rock, Connie works in her spare time as an international adoption escort, traveling to foreign countries and escorting adoptive children to new homes all across the United States. She has also served as the private sector representative to the White House for the Hague Convention. Connie has helped many children, particularly disabled children from disadvantaged countries, find safe, permanent, and loving homes.

Another woman who has reached out to help her community is Donna Holmes of El Dorado. For the past two years, Donna has been the Chairman of Interfaith Help Services, which is a seven-member church collaborative effort that provides financial assistance to underprivileged residents in the form of medical assistance, dental assistance, monthly expense assistance, and a food pantry.

I recently nominated Donna for the Mitsubishi Motors Unsung Heroine Award, which honors women who have gone beyond the call of duty to serve those in need. Mitsubishi has donated $5,000 to Interfaith Help Services, and PBS will produce a documentary about Donna this spring. I am so proud and grateful for Donna's incredible efforts. Under her leadership, Interfaith Help Services has helped over 6,900 single parents, children, and families since 1991.

As we recognize the great accomplishments women have made over the centuries, it is with great respect and admiration that I pay personal tribute to the women of Arkansas today. Their achievements in the areas of government, education, and community service have made them outstanding local role models for young women and girls who aspire to make positive differences in their communities.

As the youngest woman to ever serve in the U.S. Senate, I share their desire to make our nation a better place for our children. I am humbled by and thankful for their work and am glad to have the opportunity to recognize them today.

BILL RADIGAN OF VERMILLION, SOUTH DAKOTA

Mr. DASCHLE. Mr. President, I was deeply saddened today to learn of the passing of a dedicated public servant and a dear friend to South Dakota and to me. Bill Radigan spent his entire life serving those around him, and he will certainly be missed.

As a young man, Bill joined the Army Air Corps, so that he could serve his country during World War II. After the war, he returned to his hometown of Vermillion, SD to continue what would become a lifelong commitment to public service. He served Clay County with the U.S. Postal Service for 35 years and coordinated Vermillion's school bus system. Thousands across the State benefitted from Bill's work with the American Legion and the VFW, where he served as secretary of the South Dakota Teener Baseball program for more than 30 years, and as State Quartermaster/Adjunct for nearly 50 years. For 55 years he was a member of the Vermillion Volunteer Fire Department, where he served as secretary-treasurer. Bill was a dedicated husband to his wife Susie, the loving father of 11, and a grandfather to many.

In 1988, Bill ran for, and was elected to, the Vermillion City Council. Six years later he was elected mayor. Vermillion has been well served by its mayor, and, under his leadership, the city has embarked on a number of exciting projects that will sustain the community's prosperity well into the future.

Bill Radigan's list of accomplishments is certainly impressive. But those activities only began to scratch the surface of who Bill was and why he will be missed. Bill didn't engage in public service because he wanted to add to a list of accomplishments. He simply saw something that needed to be done, and he stepped forward to answer the call. From serving in the military, to agreeing to help drive busloads of children to school, no job was too daunting, or too insignificant, for Bill Radigan.

As a mayor, Bill was universally recognized as someone who was fair, who truly valued citizen involvement in the governing process, and who cared deeply about his community. From the business community to college students, Bill Radigan truly valued every Vermillion citizen's thoughts on the issues confronting the city. I have never heard of anyone who thought they were treated unfairly by Bill Radigan, and even those with whom he disagreed found him sincere and honest. Bill Radigan was effective because he based every decision he made as mayor on what he thought was best for the community. We could all learn a lot from Bill Radigan's commitment to his community and his approach to government.

I wish to express my sincere condolences to Bill Radigan's family and to the people of Vermillion. Mayor Radigan was a dedicated father, a model public servant, and a wonderful person. We will miss him.

BUDGET SCOREKEEPING REPORT

Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2001 budget through March 26, 2001. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2001 Concurrent Resolution on the Budget (H. Con. Res. 290).

The estimates show that current level spending is above the budget resolution by $33.9 billion in budget authority and by $21.8 billion in outlays. Current level is $14.1 billion above the revenue floor in 2001.

Since my last report, dated January 30, 2001, the Congress has taken no action that has changed budget authority, outlays, or revenues.

Mr. President, I ask unanimous consent to print a letter and enclosures from the Congressional Budget Office in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 27, 2001.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on

the 2001 budget and are current through March 26, 2001. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 290, the Concurrent Resolution on the Budget for Fiscal Year 2001.

Since my last report, dated January 25, 2001, the Congress has taken no action that has changed budget authority, outlays, or revenues.

Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosures.

TABLE 1.—FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT, AS OF MARCH 23, 2001

[In billions of dollars]

	Budget resolution	Current level [1]	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,534.5	1,568.4	33.9
Outlays	1,495.9	1,517.7	21.8
Revenues:			
2001	1,498.2	1,512.3	14.1
2001–2005	8,022.4	8,155.9	133.5
Debt Subject to Limit	5,663.5	5,654.3	−9.2
OFF-BUDGET			
Social Security Outlays:			
2001	336.5	337.2	0.7
2001–2005	1,765.0	1,767.3	2.3
Social Security Revenues:			
2001	501.5	501.5	(2)
2001–2005	2,740.8	2,740.8	(2)

[1] Current level is the estimated revenue and direct spending effects of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest information from the U.S. Treasury.

[2] Less than $50 million.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES, AS OF MARCH 26, 2001

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED PREVIOUS SESSIONS			
Revenues	n.a.	n.a.	1,514,820
Permanents and other spending legislation	972,555	923,811	n.a.
Appropriation legislation	911,231	892,084	n.a.
Offsetting receipts	−298,597	−928,677	n.a.
Total, enacted in previous sessions	1,585,189	1,517,218	1,514,820
ENTITLEMENTS AND MANDATORIES			
Adjustments to appropriated mandatories to reflect baseline estimates	−16,743	519	n.a.
Total Current Level	1,568,446	1,517,737	1,514,820
Total Budget Resolution	1,534,546	1,495,924	1,498,200
Current Level Over Budget Resolution	33,900	21,813	16,620
Current Level Under Budget Resolution	n.a.	n.a.	n.a.
MEMORANDUM			
Emergency designations for bills enacted this session	8,744	11,225	0

Note.—n.a. = not applicable.

Source: Congressional Budget Office.

SURVIVING SCHOOL VIOLENCE

Mr. LEVIN. Mr. President, earlier this week, a Today Show reporter interviewed Mr. Bob Stuber, a former police officer from California, who maintains a website called Escapeschool.com. Mr. Stuber's website gives advice to students who may one day find themselves caught in the crossfire of a shooting at school. The former police officer offers practical information in this day and age, such as what gunfire sounds like, what to do when a student hears gunfire, and what a student should look for in a hiding place.

It is simply heart breaking that this type of advice is even necessary. Yet, students in school are increasingly worried for their safety. Escapeschool.com is a valuable resource because in addition to giving advice to students, it also gives advice to schools and communities to try to prevent such shootings, and information for parents who want to communicate with their children about these events.

I encourage students and parents to look at this website and talk to each other about some of the dangers associated with guns. I also encourage my colleagues to look at the website with the hope that we in Congress can restart a dialogue about how to limit youth access to guns and reduce such shootings in American schools.

I ask consent to print in the RECORD excerpts from the transcript of the interview with Mr. Bob Stuber.

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

BOB STUBER DISCUSSES HIS ESCAPESCHOOL.COM PROGRAM TO TEACH CHILDREN WHAT TO DO DURING A SCHOOL SHOOTING

(Soledad O'Brien, co-host)

O'BRIEN. You give very specific advice. I want to get into some of it. If there is a shooting at a school, what should a student do?

Mr. STUBER. One of the very first things a student needs to know is that it's very hard to tell the difference between firecrackers and gunfire. Lots of times when you hear about these reports, you hear people say, 'I thought it was firecrackers. I went to see, and then I saw a shooter.' If you hear a sound, and you're not sure what it is, assume it could be gunfire and begin to take that defensive posture. It doesn't mean you have to jump under a table, just start thinking that way. That's the very first thing they need to know.

O'BRIEN. If it becomes clear that it is gunfire, should a student run?

Mr. STUBER. Absolutely! There are certain policies in place in some of the schools where under the best case scenario, they want them to go to a certain room and hide, and if you can do that, that's fine. But most of the time, you can't. Then we start talking about running. You want to keep this thing logical. Kids need to know how to run. For instance. . .

O'BRIEN. Where to run.

Mr. STUBER. Right. Where you—you don't want to run in a straight line. You want to either run in a zigzag fashion or you want to turn a corner because bullets don't turn corners. If you're going to hide and you pick a car, you want to hide at the front of the car where the engine block is, because that can stop a bullet. The middle of the car, the back of the car can't. Those little tips, and they're not frightening, those little tips are the things that make a difference.

O'BRIEN. Do you think a student should hide in a—in a shooting?

Mr. STUBER. Yeah, absolutely. What we think students should do first of all is—is, know the difference between cover and concealment. What they want to find is cover. For instance, a big tree with a giant trunk, that's cover. That will hide you and protect you. A hedge is concealment. It will hide you, but it won't protect you. Students have to find a place to hide where they can be safe. So the very first thing you begin to teach them, what to look for in a hiding spot.

O'BRIEN. If students are inside the classroom, is the best advice to stay inside the classroom? Or is the best advice to leave that classroom as soon as possible?

Mr. STUBER. It really—it really depends. There is no absolutes. If you can stay in that classroom, the teacher can lock the door. You can line up against the—the opposite wall, and—and you're going to be safe, that's fine. But if this action is coming down the hall, and it's coming to your classroom, you have to get out of there. So then you have to know, how should I get out? Should I go down the hall or should I go to the window, try to escape through the window? You know, we work with kids all the time. We—we set scenarios up. In one case I remember, we had kids go to the window to make an exit and because the windows wouldn't open, they naturally said, 'Well, we have to go down the hall.' They didn't think they could break the window and make an exit. You have to tell them that.

O'BRIEN. In one recent school shooting, there was an armed officer inside the school which managed to bring the shooting to a close pretty quickly.

Mr. STUBER. Right.

O'BRIEN. Do you think then that that's an indication that that's the way to go? Schools should have armed officers in the hallways?

Mr. STUBER. Well, you know, in the last two shootings, it kind of helped out, but there is no strong evidence that says it's a preventive tool. It was good that they were there. I'm not so sure schools have to go in that direction. There's so little data right now, you can't make a conclusive observation. So right now what we're trying to center on is the techniques that the students themselves can practice while all the data is being collected to make definitive prevention prognosis.

O'BRIEN. It seems critical that students report any threats that they hear. And yet time and time again, we hear that they don't. Oh, there were threats. They didn't think it was important.

Mr. STUBER. Right.

O'BRIEN. They didn't believe them. How do you make the threats actually get to the notice of the teachers?

Mr. STUBER. That is a big deal. You know, in almost every one of these shootings there has been threats, rumors or jokes. And some students haven't reported them. One of the reasons some students give is that there was no system for reporting anonymously. Schools have to provide a system where the student can report anonymously. It—because if the person finds out that you're the one that reported him, you're—you may end up getting in more trouble. So students are reluctant to report. They're also thinking, 'Well, I'm going to get my friend in trouble.' Look, it's like being at the airport. No jokes allowed in this area. Parents and schools have to tell them, report. Even a joke, you have to report.

O'BRIEN. Some good advice.

RADIATION EXPOSURE COMPENSATION ACT

Mr. DOMENICI. Mr. President, I ask my colleagues to imagine the following nightmare:

You have spent years in the uranium mines helping to build America's nuclear programs. As a result, you have contracted a debilitating and too often deadly radiation-related disease that has caused severe emotional and physical suffering. Most of life's joys have long since ended.

Your only solace is that the government is going to pay you for this suffering. Certainly, the money will never be enough to compensate you for what you've lost, but at least your medical bills will be paid. At least, if you lose this fight your family will be left with money.

However, when you open the Justice Department letter that you have long awaited, it reads:

I am pleased to inform you that your claim for compensation under the Radiation Exposure Compensation Act has been approved. Regretfully, because the money available to pay claims has been exhausted, we are unable to send a compensation payment to you at this time. When Congress provides additional funds, we will contact you to commence the payment process. Thank you for your understanding.

Unfortunately, my fellow Senators, this is not a bad dream, but rather the terrible reality for hundreds of uranium miners, federal workers, and downwinders who have contracted these deadly radiation-related diseases. One such individual is Bob Key.

Bob Key helped build our nation's nuclear arsenal and end the Cold War through his difficult work as a uranium miner. Little did he know at the time that the uranium was slowly ravaging his body. As a result, Mr. Key has spent many years enduring the grueling pain associated with pulmonary fibrosis, which requires him to be hooked to an oxygen tank for hours on end. Recently, Mr. Key, 61, needed a tracheotomy simply to help him breathe.

Yet, despite his enormous suffering, Mr. Key has not received the $100,000 compensation from the government for which he is entitled under the Radiation Exposure Compensation Act of 1990. Instead, he received a five-line IOU from the Justice Department stating that there was not enough money to indemnify him for his suffering. This is a disgrace.

Unfortunately, Mr. Key's horror story is a familiar one for many uranium miners, federal workers, and downwinders from New Mexico, Colorado, Arizona, and Utah. In some cases,the miners have died and their loved ones are left holding nothing but a Justice Department IOU. In 1990, when we passed the Domenici-authored Radiation Exposure Compensation Act, we never envisioned that these miners would receive IOUs. However, the fund is now bankrupt because of expansions in the program and Congress' failure to appropriate enough money.

This injustice must be rectified. I rise today to urge my colleagues to remedy this lack of funding. Those who gave so much for our nation's security through their work on our nuclear programs must be compensated for the enormous price they paid. Anything less is unacceptable.

Senator HATCH and I have introduced two bills that will provide full funding for the Radiation Exposure Compensation Trust Fund. We proposed legislation seeking $84 million in emergency supplemental appropriations to pay those claims that have already been approved as well as the projected number of approved claims for fiscal year 2001. This legislation would also make all future payments for approved claims mandatory.

With this legislation, we will ensure that those who gave so much for our nation will at least receive their deserved benefits. We must never again let their sacrifice go unanswered. I again ask my Senate colleagues to help us right this wrong and give these victims their just compensation. I ask unanimous consent that the March 27 New York Times article be printed in the RECORD.

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

[From the New York Times, March 27, 2001]

ILL URANIUM MINERS LEFT WAITING AS PAYMENTS FOR EXPOSURE LAPSE

(By Michael Janofsky)

GRAND JUNCTION, COLO., MARCH 20.—For all the reminders of Bob Key's cold war effort, mining uranium for American nuclear weapons programs, none stands out more than the tank of oxygen tethered to his throat. Mr. Key, 61, has pulmonary fibrosis, a scarring of the lungs that is often fatal. A recent tracheotomy helps air flow to his lungs through a tube connected to the tank.

A decade ago, Congress recognized the contributions of Mr. Key and other uranium miners and passed the Radiation Exposure and Compensation Act of 1990. Signed by President George Bush, the law established one-time payments of up to $100,000 to miners or their families and to people who lived downwind from the nuclear test sites in Nevada. Last year, Congress increased the payout to $150,000, added new medical benefits and expanded the number of workers eligible.

But after years of smooth operations, the program is broke. Scrambling last year to pass President Bill Clinton's final budget, lawmakers never debated the Justice Department's request for additional money to cover the expanded program even as new applications were pouring in, and by May, nothing was left. And Congress has been reluctant to act until it decides how to apportion the federal surplus and how much to cut taxes.

As a result, for the first time, claims from hundreds of eligible applicants like Mr. Key have been held up, with many of the applicants receiving i.o.u. letters from the Justice Department, which administers the program, saying their requests will be processed only after Congress appropriates more money.

And the demand is only increasing. Claims from another 1,600 applicants under the original law are pending, and the department estimates that as many as 1,050 new applicants are expected to file for benefits this year, a number that would raise the cost of the program to more than $80 million.

''It's been a bureaucratic travesty,'' said Representative Scott McInnis, a republican from Grand Junction, a city in western Colorado, who introduced legislation this year seeking $84 million to restore the program. ''These people are due their compensation. There is nothing to be adjudicated. The money is owed. The debt is due.''

For now, Congress has not decided how or when to continue the program. Lawmakers are discussing the possibility of legislation as part of the current year's budget to provide money right away.

Meanwhile, almost 200 people who have been approved for the money are still holding the i.o.u.'s, including relatives of some miners who have died of their illnesses while waiting.

''Just since January, we've lost five clients, and I'm sure there are more we're not aware of,'' said Keith Killian, a lawyer here who represents former uranium miners and their families. Rebecca Rockwell, a private investigator in Durango, Colo., said she represented the families of at least 10 clients with i.o.u. letters who have died.

Senator Pete V. Domenici of New Mexico and Senator Orrin G. Hatch of Utah, both Republicans, have introduced legislation similar to Mr. McInnis's, asking for enough money to pay all claims through this year and to make the program a permanent entitlement so Congress does not have to authorize spending each year. They have urged President Bush to include money for the program in a supplemental budget proposal for the current fiscal year.

But miners and their families have been told that no new spending is likely until Congress resolves its fiscal issues, a process that could delay disbursement of the miners' money for months, even a year.

''I'm bitter about it,'' said Mr. Key, who worked in the mines from 1959 through 1963 and, like other mine workers, said he was never warned of the health consequences of exposure to uranium.

''I wonder how well those guys in Washington would do, see how they would like it, tied to a chain like I am 24 hours a day,'' Mr. Key said. ''I know I owe taxes this year. I'm just going to tell them to take it out of my i.o.u.''

Worried that he will not live long enough to receive a check because of his lung disease, Jack Beeson, 67, a former miner from Moab, Utah, said: ''We worked in those mines, waiting for our golden years. Well, now it's our golden years, and it's done nothing but cost us gold. This is no way to live. I felt I was doing the government a service. Now, I feel they're doing me a disservice.''

To many of the former miners who extracted uranium from hundreds of mines in Colorado, Utah, New Mexico and Arizona, the i.o.u.'s are insulting. From the 1940's through 1971, when mining for the nuclear weapons program ended, they regarded themselves as patriots, equal to servicemen. The relatively high wages paid by the mines were a lure, but so was the idea that uranium mining was crucial to national security.

Lorna Harvey's father, Loren Wilcox, was a cattle rancher. But he disliked Russia so much, Ms. Harvey said, that he took a mining job in 1954 and worked it for two and a half years. ''He felt we needed to protect ourselves,'' she said. Mr. Wilcox died of lung cancer in 1969 at 62.

Most workers had no idea that the yellow ore they were mining could destroy their health. Wayne Hill, 69, who has lung cancer, said a tin cup hung at the entrance to one mine for miners and drivers to drink water dripping out of the rocks. ''It was cool, clear water,'' he said. ''I didn't know it was going to make me light up.''

So little was known or revealed about the health consequences of uranium exposure that workers used uranium dust for fertilizer and uranium rocks for doorstops. ''My mother made earrings out of it,'' Ms. Harvey said.

With deaths and illnesses mounting and ample scientific evidence to show that uranium exposure was a cause, Congress passed

legislation to compensate the miners in 1990. And for nearly 10 years, the Justice Department's annual requests for financing the program were met. To date, $268.7 million has been paid to 3,595 people. About the same number were denied because they lacked proper medical records or copies of company logs that showed how long they had worked in the mines.

The financial crunch arose when Mr. Clinton expanded the program at a time Congress appropriated only $10.8 million to cover existing claims, an amount that was exhausted quickly. Efforts by Mr. Domenici and others to cover the shortfall, as well as the new applicants, failed.

Some of the i.o.u. holders have lost hope of seeing the money. Darlene Pagel's husband, Duane, died of pulmonary fibrosis in 1986 at 55. Since then, Ms. Pagel said, she has worked two jobs to pay off his medical bills, which still amount to $26,922.

''He didn't know uranium could kill him,'' she said. ''If he'd have known he would have been dead at 55, he never would have taken the job.''

25TH ANNIVERSARY OF WASHINGTON METRO

Mr. SARBANES. Mr. President, tomorrow, March 29, 2001, the Washington Metropolitan Area Transit Authority will celebrate the 25th Anniversary of passenger service on the Metrorail system. I want to take this opportunity to congratulate WMATA on this important occasion and to recognize the extraordinary contribution Metro has made to this region and to our Nation.

For the past quarter century, the Washington Metro system has served as a shining example of a public investment in the Washington Metropolitan area's future. It provides a unified and coordinated transportation system for the region, enhances mobility for the millions of residents, visitors and the federal workforce in the region, promotes orderly growth and development of the region, enhances our environment, and preserves the beauty and dignity of our Nation's Capital. It is also an example of an unparalleled partnership that spans every level of government from city to state to federal.

Since passenger service first began in 1976, Metrorail has grown from a 4.6 mile, five station, 22,000 passenger service to a comprehensive 103-mile, 83 station, and 600,000 passenger system serving the entire metropolitan region, and with even more service and stations on a fast track toward completion. Today, the Metro system is the second busiest rapid transit operation in the country, carrying nearly one-fifth of the region's daily commuters traveling to the metropolitan core and taking more than 270,000 vehicles off the roads every day. It is also one of the finest, cleanest, safest and most reliable transportation systems in the Nation.

Reaching this important milestone has not been an easy task, by any measure. It took extraordinary vision and perseverance to build the 103 mile subway system over the past twenty five years and, as the Washington Post has recently underscored in two articles about the Metro system, it will require an equal or even greater commitment to address the challenges that lie ahead. I ask unanimous consent that the text of the first of these articles be included in the RECORD immediately following my statement.

The great communities throughout the world are the ones that have worked to preserve and enhance their historic and natural resources; provide good transportation systems for citizens to move to their places of employment and to public facilities freely; and invest in neighborhoods and local business districts. These are among the things that contribute to the livability of our communities and enrich the lives of our citizens. I submit that the Metro system and the regional cooperation which it has helped foster has helped make this region a community in which we can all be proud.

This week's celebration is a tribute to everyone involved in the continuing intergovernmental effort to provide mass transit to the people of the Washington Metropolitan area—those local, State and federal officials who had the vision to begin this project 25 years ago and who have worked so steadfastly over the years to support the system. This foresight has been well rewarded and I join in celebrating this special occasion.

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

[From the Washington Post, Mar. 25, 2001]

REGION'S SUBWAY SYSTEM BEGINS TO SHOW ITS AGE

(By Lyndsey Layton)

As Washington's Metro trains hummed to life 25 years ago, many people didn't know what to expect. It was, after all, among the first U.S. subway systems built from scratch, rather than cobbled together from several existing railroads, as in New York and Boston.

But from its opening on March 27, 1976, Metro was a new American monument. Embraced by locals and tourists, it became a $9.4 billion model for moving people swiftly between suburbs and the city. Riders have lately flocked to Metro faster than it can buy rail cars to carry them, a fortune never anticipated by its designers.

The Metro would provide to be far more than a people mover. It shaped the region in dramatic ways, turning the village of Bethesda into a small city, reviving sagging Clarendon, pumping new life into downtown by creating mass transit access that eventually lured the MCI Center and its professional sports teams to Gallery Place.

The Metro system has become—among many other things—a gathering place, a unifier, a matchmarker, a land developer, an economic power and a community planner.

But while Metro fulfilled some dreams, it left others unrealized. Ideas that made sense when the subway was built turned out to be mistakes. Escalators open to the sky are falling apart after decades of soaking in rain and snow. The two-track design of the railroad is too simple for increasing demands for service.

Metro is lapping up tax dollars to keep its aging equipment running.

And the rail lines don't reach where most movement now takes place: suburb to suburb. Transit managers have grand visions for Metro's next 25 years: They want to connect major suburbs with rail and to use the more flexible bus system to follow the market, joining suburbs, carrying the spillover from rail lines, stepping in to fill gaps.

They dream of a transit system that forges the region's destiny for the next quarter-century as it did for the past.

MOLDING THE REGION

The transit system has sprouted restaurant rows in Bethesda and Ballston, shops and offices in Pentagon City and around Union station, affordable housing in Virginia Square, economic revival on U Street. Metro means cheap mobility for college students.

It has helped diversify the inner suburbs, encouraging immigrants from Bolivia and Peru to settle in Arlington. It made it possible for many of the 300,000 federal employees to buy single-family homes in close-in communities and work in downtown Washington. It even gave a name to the neighborhood of Friendship Heights, which most called Chevy Chase in the days before the subway station.

Metro has tied together a region fractured by state lines, race and class.

''You've got people of different races, different classes, different job descriptions, from city and from suburb, old and young, able and disabled,'' said Zachary Schrag, a graduate student at Columbia University who is writing his dissertation about the Metro. ''And they actually treat each other pretty civilly most of the time.''

MOVING PEOPLE

Alan Sussman studies Torah on the Red Line. Frank Lloyd takes his twin girls for all-day rides as a cheap diversion. Oren Hirsch, 14, always tries to claim the seat directly behind the operator so he can peer through the smoked-glass window and watch the controls and the track bed rushing under the train.

Metro is carrying about 600,000 passengers a day on its trains and 500,000 on buses, making it the nation's second-busiest transit system behind New York's.

That's a ranking that none of the original planners dreamed of when they were designing the system in the late 1060s.

''I'm a believer, and it has even outstripped my expectations,'' said Cleatus Barnett, 73, who was appointed to the Metro board of directors in 1971 and is the longest continually serving member.

The subway takes more than 270,000 cars off the road each day, Metro officials say. Those cars would have used more than 12 million gallons of gasoline a year and needed 30 additional highway lanes and 1,800 acres of parking.

Mary Margaret Whipple, a state senator from Arlington and a past member of the Metro board, puts it this way, ''One hundred thousand people a day go underneath Arlington on the Metro system instead of through Arlington in their cars.''

As highway traffic gets worse, subway ridership has soared. Ridership records are shattered regularly, thanks in part to a robust economy, strong tourism, a new transit subsidy extended to federal workers and fares that haven't increased since 1995.

AN EARLY VISION

Before it opened, Metro had trouble recruiting workers, who were wary abut toiling in the dark underground. ''All people knew about subways was New York,'' said Christopher Scripp, a Cleveland Park Station manager, who was a Metrobus driver when he became one of the first subway employees.

The architect, Harry M. Weese, had been sent on a tour of European subways with instructions to combine the world's best designs into a new American monument.

Weese dreamed big, and a legion of engineers followed his concept to launch a transit system that would eventually cost $9.4 billion and stretch 103 miles across two rivers, two states and the District.

With their coffered concrete arches and floating mezzanines lighted dramatically from below, the stations were celebrated by everyone from architecture critics to construction workers.

DESIGN PROBLEMS

But planners can see only so far into the future. What they failed to recognize as a service area—the edge cities outside the orbit of downtown Washington—has left Metro with the challenge of trying to be useful to people who don't live or work where the subway lines run.

They plotted a hub-and-spoke pattern of five lines with 83 stations stretching from the suburbs to the center of the District to ferry federal workers from homes to offices. But development patterns have since strayed, creating suburban communities and office centers far from the subway lines in upper Montgomery, Howard, Southern Maryland, western Fairfax, Loudoun and Prince William.

Those patterns are going to intensify. In another 25 years, two-thirds of all daily trips in the region will be from suburb to suburb, according to the region's Transportation Planning Board. Transit advocates have been lobbying for several years for a Purple Line to connect Bethesda in Montgomery County with New Carrollton in Prince George's County. Advocates say the Purple Line is the best bet for a fast connection between the counties, since the proposed intercounty connector linking I–270 and I–95 has been sidelined.

Metro planners are also looking at ways to connect Prince George's County with Alexandria by running rail over the new Woodrow Wilson Bridge.

Metro has started several new suburb-to-suburb bus routes, though it acknowledges buses are a far cry from rapid rail service.

CHANGING COMMUNITIES

The original 103-mile Metro system was finished in January, when the final five stations opened on the Green Line in the District and Prince George's. While Metro is primarily a people mover, it also can change the look and feel of a community, for better or worse. Even in neighborhoods that waited many years for Metro service, people have mixed feelings about living on the subway line.

''The more accessible transportation is, the more likely developers are going to come into your neighborhood and price you out,'' said Brenda Richardson, a consultant who runs her firm, Women Like Us, from he rented home five blocks from the new Congress Heights Station.

''People here are worried about being displaced. We feel like we stayed here when things were awful, and now that the community is a prime place for development, we're going to be booted out.... Gentrification to a lot of black folks means the white folks are coming.''

Communities like Arlington and Bethesda either require affordable housing near Metro stations or offer incentives to developers who set aside a portion of a project to affordable housing.

Richardson wants a similar protection in the District. ''I don't like the idea that Metro can destabilize communities,'' she said. ''There needs to be some sort of policy that is set so that when Metro comes into neighborhoods, developers are not at liberty to push out longtime residents, seniors and renters.''

Exactly how Metro changes a community has plenty to do with the decisions made by the community's own planners and leaders.

Metro is the reason some places, like Bethesda or the stretch between Rosslyn and Ballston in Arlington, have seen thriving ''urban villages'' sprout up around their stations while other spots, such as Rhode Island Avenue in the District or Addison Road in Prince George's have stations that are relatively isolated and undeveloped.

ARLINGTON'S MODEL

Arlington County is widely seen as the gold standard for molding growth around Metro. Along the five-station corridor from Rosslyn to Ballston, which opened in 1979, Arlington leveraged the subway stations to attract jobs, housing and commercial development.

''There is no better success story,'' said Stewart Schwartz, of the Coalition for Smarter Growth.

The story starts with Arlington leaders, who recognized early on that Metro could be powerful enough to revitalize the sagging commercial corridor between Rosslyn and Ballston.

They fought to change the route of the subway, which had been planned along the median of I–66, and convinced Arlington taxpayers it would be worthwhile to pay extra to burrow the subway underground and pull it south to run between Wilson and Clarendon boulevards.

They worked with residents to establish a vision for the development they wanted and wrote zoning laws to make it happen. The plan was high-density, high-rise office, retail and residential space next to the stations, with a gradual tapering in height so that single-family homes remained untouched just two or three blocks away.

The streets around the stations welcome pedestrians, not cars. There is no Metro parking.

''We were willing to go through a major community transformation in order to maximize the value of this transit system,'' Whipple said. ''The feeling was that people could live and work near transit, and it should have a beneficial effect. And it has. We simply don't have the kinds of traffic problems that exist elsewhere.''

With offices, shops and housing near Metro, the station becomes as much destination as origin. Trains are full coming and going.

That's not the case for most suburban Metro stations. ''Most of the trains leave most of the stations most of the time essentially empty,'' said Ed Risse, a Vienna-based consultant who has closely studied the link between urban development and public transit systems such as Metro. ''In the morning, it's crowded and uncomfortable. But going in at midday and out in the morning, there are huge amounts of unused capacity. Looking ahead to the next 30 years, we need to much more efficiently use that capacity.''

OTHER APPROACHES

Fairfax County, meanwhile, largely squashed attempts to develop commercial and retail property around its Orange Line Metro stations. Risse worked on five different projects to develop land around the Vienna Metro station—they all failed to win approval.

County supervisors said they recognize that some development may be healthy at some stations and have approved a new zoning category that allows higher-density projects near Metro.

But Risse said the county is far from ready to embrace ''transit villages.''

''If you undertake transit-related development at Vienna or any of those stations, it's a long, acrimonious process,'' he said. ''There are vocal people who want to drive to the station, park and use it. A larger group wants others to drive to the station so they can keep driving. And the third group lives near the station and doesn't want anything built there.''

By contrast, Prince George's County has struggled to lure developers to its Metro stations. Most of its larger employers near Metro stations are federal agencies. Many of its stations are hard to reach by foot and are surrounded by large parking lots or garages.

''prince George's took a $10 billion investment and put it on the shelf,'' Schwartz said. ''The bottom line is, today there are four spurs of the Metro system in Prince George's—more than any other jurisdiction—and very little development.''

Prince George's planners forecast little additional development 25 years form now. Using projections made by local counties, the Metropolitan Washington Council of Governments created a map that predicts regional development by 2025. It shows that Prince George's offices expect few projects to be built around their Metro stations.

Metro was one of the first transit agencies in the country to sell or lease land it owns near stations. To date, Metro has approved about 40 such projects, of which 27 have been built and generate about $6 million in annual revenue for the agency. Metro has identified about 400 additional acres it wants to develop.

ROADS AND RAILS

Critics, such as the Chesapeake Bay Foundation, say Metro could be more aggressive in developing projects around its stations and that too much land is developed to parking and roads. The environmental group says Metro should instead develop shops, offices and restaurants so people would ride the trains to—as well as from—the station, to invigorate the community. But Metro General Manager Richard A. White said the system has historically stayed out of local affairs.

Meanwhile, the road network carries the load that Metro can't. The high-tech corridor of Northern Virginia, the biotech community in Montgomery County and the Navy's expanding air station in Southern Maryland are fed by congested highways or the overwhelmed Capital Beltway.

While 40 percent of the region rides mass transit into the core of Washington, the remaining 60 percent travel by automobile. And when you consider the total number of daily trips taken throughout the Washington region—including outer suburbs far from Metro—the percentage carried by transit drops to about 5 percent.

''There's just a limited number of people who can use it,'' said Bob Chase, of the Northern Virginia Transportation Alliance. ''If you live in Ballston and work in Farragut Square, fine. But that's not a lot of people.''

Still, the subway has a strong public image. In a recent poll of riders and non-riders conducted by Metro, 69 percent said they felt positively or very positively about Metro.

''Most people are for mass transit because they believe everyone else can use it,'' Chase said. ''They're driving down the road and they're thinking, 'Gee, if we only had transit, everyone else would ride it and get out of my way.' ''

Even as they celebrated the completion of the original system, Metro officials were working on three new projects—extending the Blue Line to Largo in Prince George's, building a New York Avenue station on the Red Line and extending rail to Dulles International Airport, with stops in Tysons Corner.

As Metro starts digging the rail bed for the new century, some say it should correct its mistakes.

''If they just run [rail to Dulles] out the highway median and don't focus on development at the stations, it will be a wasted investment,'' Schwartz said.

If Metro won't pull the rail to Dulles off the Dulles Toll Road and route it into the heart of the suburbs, it should make the most of the stations along the highway, Risse and Schwartz said. They want stations of the new millennium to be built on platforms over the highway that would also support stores, offices and housing—all of it rising into the sky over the roadway.

''While there is record ridership and we are doing a good job, it's like having a Class C basketball team beating all its opponents and saying that's good enough,'' Risse said. ''But there's Class B and Class A and Class AA. There's no reason this transit system can't be Class AA.''

FIFTH ANNIVERSARY OF RED TAPE REDUCTION ACT

Mr. BOND. Mr. President, five years ago today the Congress, without dissent in the Senate, took a historic step in reigning in the federal government's regulatory machine and protecting the interest of small businesses. My Red Tape Reduction Act, what others call the Small Business Regulatory Enforcement Fairness Act, ensured that small businesses would be given a voice in the regulatory process at the time when it could make the most difference: before the regulation is published as a proposal.

This act provides a number of provisions that have proven to make the regulatory process more attentive to the impact on small businesses, and consequently more fair, more efficient and more effective. Perhaps the best known of these provisions is the requirement that OSHA and EPA convene panels to receive comments from small businesses before their regulations are proposed. This gives these agencies the unique opportunity to learn up front what the problems with their regulation may be, and to correct these problems when it will cause the least difficulty. This has resulted in significant changes being made, and in one case, EPA abandoning a regulation because they recognized that the industry could deal with the issue more effectively on their own.

Experience with this panel process had proven to be an unequivocal success. The former chief counsel for advocacy of the Small Business Administration stated that, ''Unquestionably, the SBREFA panel process has had a very salutary impact on the regulatory deliberations of OSHA and EPA, resulting in major changes to draft regulations. What is important to note is that these changes were accomplished without sacrificing the agencies public policy objectives.''

Another provision of the Red Tape Reduction Act that was just exercised, was the Congressional Review Act, which gave Congress the ability to invalidate those regulations determined to be truly egregious and beyond repair. Thankfully, we had this measure available as a last resort to dispose of the Clinton OSHA ergonomics regulation, which was a monument to regulatory excess and failure to appreciate the impact on small businesses.

Finally, one other provision of the Red Tape Reduction Act is just now being invoked. The Red Tape Reduction Act corrected the Regulatory Flexibility Act's lack of enforcement by giving interested parties the opportunity to bring a legal challenge when they believed that an agency is in noncompliance. Litigation is now moving through the courts that takes advantage of this provision and will hold agencies accountable for their actions.

While the Red Tape Reduction Act has been a resounding success, it is clear that more needs to be done. Too many agencies are still trying to evade the requirements to conduct regulatory flexibility analyses that will identify the small business impacts of their regulations. We now realize that the IRS should also be required to conduct small business review panels so that their regulations will impose the least amount of burden while still achieving the mission of the agency.

These and other issues shall be addressed in future legislation that I will introduce. For now, let us all appreciate and celebrate the benefits that the Red Tape Reduction Act brought to both the agencies and small businesses.

WORK OPPORTUNITY IMPROVEMENT ACT OF 2001

Mr. BAUCUS. Mr. President, it is with great pleasure that I join my colleague and friend, Senator JEFFORDS to introduce S. 626, the Work Opportunity Improvement Act of 2001. This legislation would permanently extend the Work Opportunity Tax Credit, WOTC, and the Welfare-to-Work, W-t-W, tax credit. The measure would also modify WOTC's eligibility criteria to help those receiving food stamps qualify for the credit.

Over the past 5 years these tax credits have played an integral part in helping a million and a half of America's working poor transition into the work force. WOTC was enacted in September of 1996, and W-t-W a year later, in order to provide employers with the financial resources they would need to recruit, hire, and retain individuals who have significant barriers to work. Traditionally, employers have been resistant to hiring those coming off the welfare rolls not only because they tended to be less educated and have little work place experience, but also because welfare dependency fosters self esteem problems which need to be surmounted. But these hiring tax incentives have clearly demonstrated that employers can be enticed to overcome their natural resistance to hiring less skilled, economically dependent individuals provided they are supplied adequate financial incentives. No other hiring tax incentive or training program has been nearly as successful as WOTC and W-t-W in encouraging employers to change their hiring practices.

A vibrant public-private partnership has developed over the past 5 years where-by government has provided the incentives and program administration support required to induce employers to participate. Employers have responded by changing their hiring practices. Many employers have established outreach and recruitment programs to target eligible individuals. States have made these programs more employer-friendly by continually improving the way they are administered. But time and again, we hear from both employers and the State job services, which administer the programs, that the continued uncertainty surrounding short-term extensions impedes expanded participation and improvements in program administration. A permanent extension would induce many of the employers now participating to expand their recruitment efforts and encourage the States to commit more time and effort to perfecting their administration of the program. This in turn would mean that even more individuals would be helped to transition from welfare dependency to work. Precisely because these programs have proven to be such successes over the past 5 years that we believe they should be made permanent.

In addition to making the WOTC and W-t-W programs permanent, our legislation would improve the WOTC program by increasing the age ceiling in the food stamp category from age 21 to age 51. This would greatly improve the job prospects for many absentee fathers and other vulnerable males who are less likely to qualify under other categories. Making absentee fathers eligible for the WOTC credits would provide employers with the incentive to hire them and in so doing provide them with the sense of personal responsibility and community involvement that are essential first steps to their assuming their responsibility as parents.

We urge our colleagues to join us in cosponsoring this important legislation to permanently extend the Work Opportunity Tax Credit and Welfare-to-Work tax credit programs.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, March 28, 2001, the Federal debt stood at $5,734,570,704,080.99, Five trillion, seven hundred thirty-four billion, five hundred seventy million, seven hundred four thousand, eighty dollars and ninety-nine cents.

One year ago, March 28, 2000, the Federal debt stood at $5,733,742,000,000, Five trillion, seven hundred thirty-three billion, seven hundred forty-two million.

Five years ago, March 28, 1996, the Federal debt stood at $5,071,792,000,000, Five trillion, seventy-one billion, seven hundred ninety-two million.

Ten years ago, March 28, 1991, the Federal debt stood at $3,460,371,000,000, Three trillion, four hundred sixty billion, three hundred seventy-one million.

Fifteen years ago, March 28, 1986, the Federal debt stood at $1,981,783,000,000, One trillion, nine hundred eighty-one billion, seven hundred eighty-three million, which reflects a debt increase of almost $4 trillion, $3,752,787,704,080.99, Three trillion, seven hundred fifty-two billion, seven hundred eighty-seven million, seven hundred four thousand, eighty dollars and ninety-nine cents, during the past 15 years.

ADDITIONAL STATEMETNS

PURDUE UNIVERSITY AND UNIVERSITY OF NOTRE DAME WOMEN'S BASKETBALL TEAMS

• Mr. LUGAR. Mr. President, two years ago I rose to commend Purdue University's women's basketball team for winning the 1999 National Collegiate Athletic Association basketball championship. Today I again rise to honor the Lady Boilermakers for again making a trip to the NCAA Final Four. And this year, I also want to honor the women's basketball team of the University of Notre Dame as Indiana is exceptionally proud to have not one, but two women's basketball teams reaching the 2001 NCAA Final Four.

Notre Dame last represented Indiana in the women's NCAA Final Four in 1997. This year the Notre Dame women have achieved an exceptional sixth consecutive tournament appearance and eighth overall tournament appearance under Head Coach Muffet McGraw. Coach McGraw and All-American, Big East Player of the Year Ruth Riley have led the team to an outstanding 32–2 record, a school high for victories in one season.

Purdue's women have persevered through adversity to achieve success as they suffered the loss of team member Tiffany Young in a 1999 traffic accident. Team members experienced other personal losses and serious injuries, yet with skill and determination they have become the first team to reach the Final Four under three coaches: Lin Dunn in 1994, Carolyn Peck in 1999, and now current Coach Kristy Curry. Coach Curry, Big Ten Player of the Year Katie Douglas, and the rest of the Lady Boilermakers hold an impressive 30–6 record.

We celebrate the dedication of these women, their victories, and the tradition of sportsmanship and excellence present throughout Indiana. We send these two teams our best wishes as they proceed to their respective semifinal games.•

IN MEMORY OF ROWLAND EVANS

• Mr. HOLLINGS. Mr. President, the best example of the free press was Rowland Evans and the best brief on this outstanding journalist was from his partner, Robert D. Novak, in the Washington Post, Thursday, March 29. I ask consent that the brief be included in the RECORD for his friends that knew him and for the millions more that were informed by his writing.

The brief follows:

[From the Washington Post, Mar. 29, 2001]

ROWLAND EVANS, REPORTER

(By Robert D. Novak)

On Monday morning, Dec. 17, 1962, I returned from my honeymoon and found multiple phone messages from Rowly Evans on my desk in the Wall Street Journal's Washington bureau. Evans, a reporter for the New York Herald-Tribune, asked me at a subsequent lunch to collaborate with him in a daily newspaper column.

The goal was a product short on ideology, long on reporting. Our column first appeared on May 15, 1963, and ran in this space under our double byline until Evans retired from the column 30 years later. Over the years, I fear, we became more ideological. But we promised ourselves that every column would contain some information, major or minuscule, never previously reported.

We kept that promise, thanks to Evan's energies. Several obituaries noting the death of Rowland Evans from cancer on March 23 described him as a conservative. More appropriately, he should be remembered as a reporter and a patriot.

His model was the column written by the Alsop brothers—Joseph and Stewart—who combined dogged reporting with a passion for the security of the United States. Like Joe Alsop, Evans belonged to the Washington of black-tie dinner parties, still flourishing when our column began.

Rowly snagged stories on the Georgetown party circuit, including an exclusive on U.S. plans for an electronic wall to protect south Vietnam. But he relied mostly on old-fashioned reporting, featuring relentless interrogation of sources. Senators, Cabinet members and anonymous staffers lured to lunch or breakfast at the Metropolitan Club found themselves facing a questioner who insisted on answers. He traveled everywhere for stories, covering the Vietnam, Six-Day and Gulf wars, often at great physical risk.

Readers who thought they could spot the principal author of our columns would be surprised to learn that I was not responsible for ''Reassessing Goldwater,'' published on April 9, 1964. Since at that time I had close contact with Sen. Barry Goldwater, it was assumed that I had written the column disputing the conventional wisdom that Mr. Conservative was dead for the Republican presidential nomination. After much shoeleather reporting, Evans came to the conclusion that Goldwater quite likely would be the nominee.

He flourished when reporting on national security, using a melange of sources both prominent and shadowy. He was ahead of everybody in forecasting the breakdown of Soviet satellite rule in Poland and Czechoslovakia. In 1979, one Evans column after another exposed Soviet cheating on arms control agreements that U.S. officials tried to ignore. Evans considered that work the high point of his long career.

Nothing he did ever caused more trouble than his tough reporting on Israeli intransigence. Evans was not anti-Israel and certainly not antisemitic. He went to Lebanon in 1982 to cover an Israeli invasion of Lebanon that he deployed. But he found Palestinian atrocities in Sidon, Lebanon, that suggested ''the PLO has become permeated by thugs and adventurers.'' Although the late Yitzhak Rabin was his friend, he did not feel that the United States should be tied to the decisions of the Israeli government.

Our column encountered the most criticism when he investigated, years after the event, the Israeli attack that sank the U.S. Navy communications intelligence ship Liberty during the Six-Day War. It was not anti-Israeli bias that caused Evans to probe an incident that both governments wanted to hide. Rather, it was outrage—born of patriotic fervor—over the needless death of 34 U.S. Naval personnel that he laid at the feet of Israeli defense forces.

That same outrage had led Evans as a Yale freshman on Dec. 8, 1941, to protest the Japanese bombing of Pearl Harbor by enlisting in the Marine Corps, taking him to combat on Guadalcanal.

American security was his guiding star. It led him to support U.S. efforts to save Vietnam from communist oppression, though that stance eventually put him in opposition to his friend Robert F. Kennedy. It led him away from his family's ties with Democrats and toward the Reagan Revolution.

He was the life of every party be attended. But behind the charm of a Philadelphia society boy was a tough Marine who loved his country and never wavered in seeking the truth.•

BRYANNA HOCKING WINS MITCHELL SCHOLARSHIP

• Mr. SMITH of Oregon. Mr. President, I am delighted to congratulate an Oregon citizen and former intern in my office, Bryanna Hocking, of Eugene, OR, on her selection as a recipient of a George J. Mitchell Scholarship to study in Ireland beginning in the fall.

This competitive, national scholarship enables American university graduates to pursue a year of study at institutions of higher learning in Ireland and Northern Ireland. These scholarships are awarded to individuals between the ages of 18 and 30 who have shown academic distinction, commitment to service, and potential for leadership.

Bryanna will be an excellent student ambassador to Ireland. In May 2000, she received a Bachelor of Science in Foreign Service from Georgetown University's Walsh School of Foreign Service. An active member of her community, she was founder and co-chair of the Georgetown Women's Guild, which organized forums and discussions at the University on women's issues and served on the executive board of the Georgetown College Republicans.

Bryanna is an aspiring journalist, an ambition sparked by her concerns about how the media dealt with the Balkans, Rwanda, and other areas where ethnic strife led to genocide. Bryanna hopes that she can combine her passion for journalism and international affairs in a career in which she contributes to increased harmony among the world's peoples. I congratulate her and wish her luck in her peace and development studies at the University of Limerick.•

DR. GEORGE W. ALBEE, DISTINGUISHED VERMONTER

• Mr. LEAHY. Mr. President, on Friday April 5, a distinguished retired Vermonter, Dr. George W. Albee will receive the American Psychological

Association's Presidential Citation for the work he has done in the field of psychology over the last 50 years.

Dr. Albee and his family moved to Vermont in the early 1970's, after a long and prolific career at Case Western Reserve University in Cleveland. He taught and wrote at the University of Vermont for the next 25 years, and was an active and influential member of Vermont's academic community.

Dr. Albee's career began in a small office at APA's national headquarters in Washington in the early 1950's. In the fall of 1953, he went to Finland after landing a Fulbright Professorship at Helsinki University. He returned to accept a job in the Department of Psychology at Western Reserve University, and was named George Trumbull Ladd Distinguished Professor of Psychology in 1958.

Under President Eisenhower, Albee was the Director of the Task Force on Manpower of the Joint Commission on Mental Illness and Health. The book that he wrote, coupled with the work and recommendations of the commission, helped lead to the establishment and development of community mental health centers.

He also served as a consultant to the U.S. Surgeon General, the Peace Corps, and headed President Carter's Commission on Mental Health in 1977.

Prior to moving to Vermont, Albee was elected President of the American Psychological Association where he served with distinction during a turbulent time of change in the psychological and psychiatric communities.

He was always known in Vermont as a leader also willing to wade into controversy and fight for the causes he believed in. In 1977, he began an annual conference at UVM on the Primary Prevention of Psychopathogy, which over the years have brought scholars and policy makers from around the country and around the world to discuss ways to shape local state and national policies on a range of important public policy areas.

In addition to his prolific writings, Dr. Albee taught thousands of undergraduate and graduate students at UVM. His contribution to Vermont and our nation has been profound. I am honored to consider him and his wife Margaret friends—and am proud that he has raised four children, all of whom are contributing in their own ways to making this world a better place.

A previous award Dr. Albee received articulated better than I his contribution to the field of psychology. Its says:

Dr. Albee has had an active role in plotting the direction and independence of professional psychology. He saw and articulated early the need for an independent profession of psychology, freed from the domination of older professions and older models. His "Declaration of Independence for Psychology" has been reprinted endlessly. His argument and clinical psychology students should be trained in a service center operated by psychology was widely accepted. His study of the nation's manpower needs and resources in mental health was one of the major influences in developing the community mental health center movement. He has been a frequent critic of the mental health establishment, but he has been as sharply critical of his own field when it seemed tempted to yield principle for power and status. At times of greatest crisis, however, George W. Albee has helped find ways of compromise which have held psychology together.

I congratulate Dr. Albee for this award.●

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.)

MESSAGE FROM THE HOUSE

At 5:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6. An act to amend the Internal Revenue Code of 1986 to reduce the marriage penalty by providing for adjustments to the standard deduction, 15-percent rate bracket, and the earned income credit, to increase the child credit, and for other purposes.

The message also announced that the House has heard with profound sorrow of the death of the Honorable NORMAN SISISKY, a Representative from the Commonwealth of Virginia. That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral. That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of applicable accounts of the House. That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased. That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The message further announced that pursuant to 22 U.S.C. 276h, the Speaker appoints the following Member of the House of Representatives to the Mexico-United States Interparliamentary Group: Mr. KOLBE of Arizona, Chairman.

The message also announced that pursuant to section 228(d)(1) of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106–181), the Minority Leader appoints the following individual to the National Commission to Ensure Consumer Information and Choice in the Airline Industry: Mr. Thomas P. Dunne, Sr. of Maryland Heights, Missouri.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance:

Special Report entitled "Report on the Activities of the Committee on Finance of the United States Senate During the 106th Congress" (Rept. No. 107–8).

By Mr. HELMS, from the Committee on Foreign Relations:

Special Report entitled "Legislative Activities Report of the Committee on Foreign Relations" (Rept. No. 107–9).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. WARNER for the Committee on Armed Services.

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. James D. Bankers, 0000
Brig. Gen. Marvin J. Barry, 0000
Brig. Gen. John D. Dorris, 0000
Brig. Gen. Patrick J. Gallagher, 0000
Brig. Gen. Ronald M. Sega, 0000

To be brigadier general

Col. Thomas A. Dyches, 0000
Col. John H. Grueser, 0000
Col. Bruce E. Hawley, 0000
Col. Christopher M. Joniec, 0000
Col. William P. Kane, 0000
Col. Michael K. Lynch, 0000
Col. Carlos E. Martinez, 0000
Col. Charles W. Neeley, 0000
Col. Mark A. Pillar, 0000
Col. William M. Rajczak, 0000
Col. Thomas M. Stogsdill, 0000
Col. Dale Timothy White, 0000
Col. Floyd C. Williams, 0000

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Martha T. Rainville, 0000

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Dennis A. Higdon, 0000
Brig. Gen. John A. Love, 0000
Brig. Gen. Clark W. Martin, 0000
Brig. Gen. Michael H. Tice, 0000

To be brigadier general

Col. Bobby L. Brittain, 0000
Col. Charles E. Chinnock Jr., 0000
Col. John W. Clark, 0000
Col. Roger E. Combs, 0000
Col. John R. Croft, 0000
Col. John D. Dornan, 0000
Col. Howard M. Edwards, 0000
Col. Mary A. Epps, 0000

Col. Harry W. Feucht Jr., 0000
Col. Wayne A. Green, 0000
Col. Gerald E. Harmon, 0000
Col. Clarence J. Hindman, 0000
Col. Herbert H. Hurst Jr., 0000
Col. Jeffrey P. Lyon, 0000
Col. James R. Marshall, 0000
Col. Edward A. McIlhenny, 0000
Col. Edith P. Mitchell, 0000
Col. Mark R. Ness, 0000
Col. Richard D. Radtke, 0000
Col. Albert P. Richards Jr., 0000
Col. Charles E. Savage, 0000
Col. Steven C. Speer, 0000
Col. Richard L. Testa, 0000
Col. Frank D. Tutor, 0000
Col. Joseph B. Veillon, 0000

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Robert M. Carrothers, 0000

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Robert M. Diamond, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Eugene P. Klynoot, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Paul C. Duttge III, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Joseph M. Cosumano Jr., 0000

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Perry V. Dalby, 0000
Brig. Gen. Carlos D. Pair, 0000

To be brigadier general

Col. Jeffery L. Arnold, 0000
Col. Steven P. Best, 0000
Col. Harry J. Philips Jr., 0000
Col. Coral W. Pietsch, 0000
Col. Lewis S. Roach, 0000
Col. Robert J. Williamson, 0000
Col. David T. Zabecki, 0000

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Robert G.F. Lee, 0000

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Kenneth C. Belisle, 0000
Rear Adm. (lh) Mark R. Feichtinger, 0000
Rear Adm. (lh) John A. Jackson, 0000
Rear Adm. (lh) John P. McLaughlin, 0000
Rear Adm. (lh) James B. Plehal, 0000
Rear Adm. (lh) Joe S. Thompson, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. James C. Dawson Jr., 0000

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. WARNER. Mr. President, for the Committee on Armed Services, I report favorably nomination lists which were printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nominations beginning LAUREN N. JOHNSON-NAUMANN and ending ERVIN LOCKLEAR, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Air Force nominations beginning EDWARD J. FALESKI and ending TYRONE R. STEPHENS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Air Force nomination of WILLIAM D. CARPENTER, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Air Force nominations beginning ANTOIN M ALEXANDER and ending TORY W WOODARD, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Air Force nominations beginning PHILIP M ABSHERE and ending ROBERT P WRIGHT, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Air Force nominations beginning WILLIAM R ACKER and ending CHRISTINA M K ZIENO, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Air Force nominations beginning ROBERT C ALLEN and ending RYAN J ZUCKER, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Air Force nominations beginning FREDERICK H ABBOTT III and ending MICHAEL F ZUPAN, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning KENT W ABERNATHY and ending ROBERT E YOUNG, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nomination of Brian J.* Sterner, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning WILLIAM N.C. CULBERTSON and ending ROBERT S. MORTENSON JR., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning MARK DICKENS and ending EDWARD TIMMONS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning JOSEPH N.* DANIEL and ending PHILLIP HOLMES, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning JOE R. BEHUNIN and ending RANDALL E. SMITH, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning ROBERT G. CARMICHAAEL JR. and ending LARRY R. JONES, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning JAMES P. CONTRERAS and ending ROBERT D. WILLIAMS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning CHERYL E. CARROLL and ending SUSAN R.* MEILER, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning JEFFREY A * ARNOLD and ending CHARLES L YOUNG, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning CARA M * ALEXANDER and ending KRISTIN K * WOOLLEY, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nominations beginning HANSON R BONEY and ending WILLIAM D WILLETT, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Army nomination of Joe L. Price, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on March 6, 2001.

Army nominations beginning JAY M. WEBB and ending SIMUEL L. JAMISON, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 8, 2001.

Navy nomination of Edward Schaefer, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Navy nominations beginning TERRY W. BENNETT and ending LAWRENCE R WILSON, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Navy nomination of James G. Liddy, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on March 8, 2001.

Navy nomination of Anthony W. Maybrier, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on March 8, 2001.

Marine Corps nominations beginning JOSEPH D. APODACA and ending CHARLES A. JOHNSON JR., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Marine Corps nominations beginning JOHN A AHO and ending JEFFREY R ZELLER, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

Marine Corps nominations beginning WILLIAM S AITKEN and ending DOUGLAS P YUROVICH, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2001.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HUTCHINSON:

S. 644. A bill to authorize the establishment of a suboffice of the Immigration and Naturalization Service in Fort Smith, Arkansas; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. HATCH, Mr. KOHL, Mr.

BIDEN, Mrs. FEINSTEIN, Mr. SESSIONS, Mr. GRASSLEY, and Mrs. CLINTON):

S. 645. A bill to require individuals who lobby the President on pardon issues to register under the Lobbying Disclosure Act of 1995 and to require the President to report any gifts, pledges, or commitments of a gift to a trust fund established for purposes of establishing a Presidential library for that President after his or her term has expired; to the Committee on Governmental Affairs.

By Mr. FEINGOLD:

S. 646. A bill to reform the Army Corps of Engineers; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mr. CHAFEE):

S. 647. A bill to amend the Foreign Assistance Act of 1961 to enable Congress to better monitor and evaluate the success of the international military education and training program in instilling democratic values and respect for internationally recognized human rights in foreign military and civilian personnel; to the Committee on Foreign Relations.

By Mr. SCHUMER:

S. 648. A bill to provide signing and mastery bonuses and mentoring programs for math and science teachers; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself and Mr. DORGAN):

S. 649. A bill to modify provisions relating to the Gun-Free Schools Act; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER (for herself and Mr. WYDEN):

S. 650. A bill to amend the Mineral Leasing Act to prohibit the exportation of Alaska North Slope crude oil; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REED (for himself, Mr. JEFFORDS, Ms. MIKULSKI, Ms. COLLINS, Mr. WELLSTONE, and Mrs. CLINTON):

S. 651. A bill to provide for the establishment of an assistance program for health insurance consumers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. EDWARDS (for himself, Mr. JEFFORDS, Mr. LEAHY, and Mr. WELLSTONE):

S. 652. A bill to promote the development of affordable, quality rental housing in rural areas for low-income households; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAYH (for himself, Mr. DOMENICI, Mrs. LINCOLN, Mr. LUGAR, Mr. GRAHAM, Mr. VOINOVICH, Mr. CARPER, Mr. LIEBERMAN, Mr. JOHNSON, Mr. MILLER , Ms. LANDRIEU, Mr. BREAUX, and Mr. KOHL):

S. 653. A bill to amend part D of title IV of the Social Security Act to provide grants to States to encourage media campaigns to promote responsible fatherhood skills, and for other purposes; to the Committee on Finance.

By Mr. TORRICELLI:

S. 654. A bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. INOUYE):

S. 655. A bill to amend the Internal Revenue Code of 1986 to exempt from income taxation income derived from natural resources-related activity by a member of an Indian tribe directly or through a qualified Indian entity; to the Committee on Finance.

By Mr. REED (for himself, Mr. BROWNBACK, and Mr. WELLSTONE):

S. 656. A bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence; to the Committee on the Judiciary.

By Mr. LUGAR (for himself and Mr. HARKIN):

S. 657. A bill to authorize funding for the National 4-H Program Centennial Initiative; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 658. A bill to amend title 32, United States Code, to authorize units of the National Guard to conduct small arms competitions and athletic competitions, and for other purposes; to the Committee on Armed Services.

By Mr. CRAPO (for himself, Mr. CRAIG, Mr. HAGEL, Mr. COCHRAN, Mrs. LINCOLN, Mr. ROBERTS, Mr. HELMS, Mr. DAYTON, and Mr. HUTCHINSON):

S. 659. A bill to amend title XVIII of the Social Security Act to adjust the labor costs relating to items and services furnished in a geographically reclassified hospital for which reimbursement under the medicare program is provided on a prospective basis; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. INOUYE):

S. 660. A bill to amend the Internal Revenue Code of 1986 to provide for the issuance of tax-exempt bonds by Indian tribal governments, and for other purposes; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. BREAUX, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. GRAMM, Mr. NICKLES, and Mrs. LINCOLN):

S. 661. A bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel exercise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury; to the Committee on Finance.

By Mr. DODD (for himself, Mr. BYRD, Mr. SANTORUM, Mr. CONRAD, Mr. FEINGOLD, Mr. KENNEDY, Mr. KOHL, Mr. LEAHY, Mr. DORGAN, and Mr. VOINOVICH):

S. 662. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or to other wise commemorate, certain individuals; to the Committee on Veterans' Affairs.

By Mr. WELLSTONE (for himself and Mr. DAYTON):

S. 663. A bill to authorize the President to present a gold medal on behalf of Congress to Eugene McCarthy in recognition of his service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG (for himself and Mr. KOHL):

S. 664. A bill to provide jurisdictional standards for the imposition of State and local tax obligations on interstate commerce, and for other purposes; 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 Mr. KERRY:

S. Res. 65. A resolution honoring Neil L. Rudenstine, President of Harvard University; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 77

At the request of Mr. DASCHLE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 77, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 121

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 121, a bill to establish an Office of Children's Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children, and for other purposes.

S. 128

At the request of Mr. JOHNSON, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 128, a bill to amend the Federal Deposit Insurance Act to require periodic cost of living adjustments to the maximum amount of deposit insurance available under that Act, and for other purposes.

S. 131

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 131, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 145

At the request of Mr. THURMOND, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 145, a bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes.

S. 152

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 152, a bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction.

S. 170

At the request of Mr. REID, the names of the Senator from Florida (Mr. GRAHAM), the Senator from New Jersey (Mr. CORZINE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S . 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 177

At the request of Mr. AKAKA, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 177, a bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 203

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 203, a bill to amend the Internal Revenue Code of 1986 to provide an above-the-line deduction for qualified professional development expenses of elementary and secondary school teachers and to allow a credit against income tax to elementary and secondary school teachers who provide classroom materials.

S. 213

At the request of Mr. HATCH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 213, a bill to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails.

S. 234

At the request of Mr. GRASSLEY, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 234, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services.

S. 250

At the request of Mr. BIDEN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 250, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 255

At the request of Ms. SNOWE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 255, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 289

At the request of Mr. SESSIONS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 289, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

S. 313

At the request of Mr. GRASSLEY, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 313, a bill to amend the Internal Revenue Code of 1986 to provide for Farm, Fishing, and Ranch Risk Management Accounts, and for other purposes.

S. 338

At the request of Mr. ENSIGN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 338, a bill to protect amateur athletics and combat illegal sports gambling.

S. 349

At the request of Mr. HUTCHINSON, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 349, a bill to provide funds to the National Center for Rural Law Enforcement, and for other purposes.

S. 403

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 403, a bill to improve the National Writing Project.

S. 410

At the request of Mr. CRAPO, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 410, a bill to amend the Violence Against Women Act of 2000 by expanding legal assistance for victims of violence grant program to include assistance for victims of dating violence.

S. 413

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 413, a bill to amend part F of title X of the Elementary and Secondary Education Act of 1965 to improve and refocus civic education, and for other purposes.

S. 414

At the request of Mr. CLELAND, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 414, a bill to amend the National Telecommunications and Information Administration Organization Act to establish a digital network technology program, and for other purposes.

S. 530

At the request of Mr. GRASSLEY, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 530, a bill to amend the Internal Revenue Code of 1986 to provide a 5–year extension of the credit for producing electricity from wind.

S. 540

At the request of Mr. DEWINE, the names of the Senator from Montana (Mr. BURNS), the Senator from Idaho (Mr. CRAIG), the Senator from Nebraska (Mr. HAGEL) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 567

At the request of Mr. SESSIONS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 567, a bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners.

S. 599

At the request of Mr. ROBERTS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 599, a bill to amend the Omnibus Trade and Competitiveness Act of 1988 to establish permanent trade negotiating and trade agreement implementing authority.

S. CON. RES. 8

At the request of Ms. SNOWE, the names of the Senator from Wyoming (Mr. ENZI), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Alabama (Mr. SHELBY), the Senator from Washington (Ms. CANTWELL), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Con. Res. 8, a concurrent resolution expressing the sense of Congress regarding subsidized Canadian lumber exports.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. RES. 41

At the request of Mr. SHELBY, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. Res. 41, a resolution designating April 4, 2001, as ''National Murder Awareness Day.''

S. RES. 44

At the request of Mr. COCHRAN, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Hawaii (Mr. AKAKA), the Senator from Washington (Mrs. MURRAY), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. Res. 44, a resolution designating each of March 2001, and March 2002, as ''Arts Education Month.''

S. RES. 63

At the request of Mr. CAMPBELL, the names of the Senator from Maine (Ms. SNOWE), the Senator from New York (Mr. SCHUMER), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Res. 63, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUTCHINSON:

A bill to authorize the establishment of a suboffice of the Immigration and Naturalization Service in Fort Smith, Arkansas; to the Committee on the Judiciary.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that a copy of the ''Fort Smith INS Suboffice Act'' be printed in the RECORD.

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

S. 644

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 ''Fort Smith INS Suboffice Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Immigration and Naturalization Service office in Fort Smith, Arkansas, is an office within the jurisdiction of the district office in New Orleans, Louisiana.

(2) During the past 10 years, the foreign national population has grown substantially in the jurisdictional area of the Fort Smith office.

(3) According to the 2000 census, Arkansas' Hispanic population grew by 337 percent over the Hispanic population in the 1990 census. This rate of growth is believed to be the fastest in the United States.

(4) Hispanics now comprise 3.2 percent of Arkansas' population and 5.7 percent of the Third Congressional District of Arkansas' population.

(5) This dramatic increase in immigration will continue as the growing industries and excellent quality of life of Northwest Arkansas are strong attractions.

(6) Interstates 540 and 40 intersect in Fort Smith and air transportation is readily available there.

(7) In the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, Congress directed the Immigration and Naturalization Service to review the staffing needs of the Fort Smith office.

(8) A preliminary review shows that the Fort Smith office is indeed understaffed. The office currently needs an additional adjudication officer, an additional information officer, a part-time ''jack-of-all-trades'' employee, 2 full-time clerks, and 1 additional enforcement officer.

(9) A suboffice designation would enable the Fort Smith, Arkansas, office to obtain additional staff as well as an Officer-in-Charge who would have the authority to sign documents and take actions related to cases which now must be forwarded to the New Orleans District Office for approval.

(10) The additional staff, authority, and autonomy that the suboffice designation would provide the Fort Smith office would result in a reduction in backlogs and waiting periods, a significant improvement in customer service, and a significant improvement in the enforcement of the immigration laws of the United States.

(11) The designation of the Fort Smith office as a suboffice would show that the Immigration and Naturalization Service is—

(A) committed to facilitating the legal immigration process for those persons acting in good faith; and

(B) likewise committed to enforcing the immigration laws of the United States.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each fiscal year to establish and operate an Immigration and Naturalization Service suboffice in Fort Smith, Arkansas.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. HATCH, Mr. KOHL, Mr. BIDEN, Mrs. FEINSTEIN, Mr. SESSIONS, Mr. GRASSLEY, and Mrs. CLINTON):

S. 645. A bill to require individuals who lobby the President on pardon issues to register under the Lobbying Disclosure Act of 1995 and to require the President to report any gifts, pledges, or commitments of a gift to a trust fund established for purposes of establishing a Presidential library for that President after his or her term has expired; to the Committee on Governmental Affairs.

Mr. SPECTER. Mr. President, this legislation follows consideration by the Judiciary Committee of the pardons issued by former President Clinton on January 20, the last day of his administration, and seeks to reform and correct a couple of major gaps which are present in existing procedures in two respects; stated succinctly, to require that lobbyists, such as Jack Quinn, be required to register and that contributions to Presidential libraries be subject to public disclosure.

I offer this legislation on behalf of myself, Senators LEAHY, HATCH, KOHL, BIDEN, FEINSTEIN, SESSIONS, GRASSLEY, and CLINTON.

The public record is filled with the details as to what happened with the notorious pardon of Marc Rich, who was a fugitive for some 17 years, where a pardon was granted at the very last minute without the pardon attorney at the Department of Justice being informed of the situation until 1 a.m. on January 20.

When the pardon attorney called the White House to try to get some information about Marc Rich and Pincus Green, he was told that they were ''traveling abroad.''

When the pardon attorney testified at the Judiciary Committee hearing under my questioning, and testified that they were ''traveling abroad,'' he about broke up the hearing room, for that characterization to be made of someone who had been a fugitive for 17 years.

In granting the pardon, former President Clinton notified Ms. Beth Dozoretz, who was very active in lobbying for the pardon, at 11 o'clock on January 19, some 2 hours in advance of telling the pardon attorney, and there had been extensive lobbying by Ms. Denise Rich, the former wife of Marc Rich.

The legislation we are introducing will require that someone such as Jack Quinn be registered as a lobbyist.

Without going into the details—and they are set forth in the Judiciary Committee hearing—there were major efforts made to keep this activity under the so-called radar screen so that nobody would know about it.

This legislation would require someone in Jack Quinn's position to register and be known publicly, and then with the kind of public pressure which would be brought, I think it highly likely that a pardon such as that granted to Marc Rich would never have been granted.

The second provision deals with contributions for pledges or commitments to raise money for Presidential libraries. This legislation provides that there should be public disclosure of those contributions, pledges, or commitments to raise money, where those pledges or commitments are made during the term of office.

A pledge to contribute money to a Presidential library has a great many of the same characteristics as a campaign contribution. The question is raised about whether or not there is favoritism or influence sought from that kind of a monetary contribution. By having the public disclosure, then it would be within public view.

That is the essence of the legislation.

Mr. President, the Senate Judiciary Committee inquiry into the pardons and commutations issued by former President Clinton on January 20, 2001, has disclosed major gaps which can be addressed through legislation. Today I am introducing a bill to address two of these subjects.

My bill requires individuals who urge officials in the White House to grant clemency to register as lobbyists. There is currently no requirement for them to do so. This bill will also require the disclosure of donations or pledges of $5,000 or more, or commitments to raise $5,000 or more for presidential libraries while the President is still in office. Such donations, pledges or commitments are not currently subject to disclosure, creating a situation where individuals could make large contributions to the President's library foundation in the hope of influencing favorable action by the President.

The Senate investigation of the pardons matter has been forward-looking from the beginning. The objective of the inquiry was to get the facts out in the open. Once the facts were known, the question was whether legislative remedies were appropriate.

This legislation does not deal with the President's power to grant executive clemency since any changes in that power would require a constitutional amendment.

Former President Jimmy Carter called the pardon of fugitive commodities trader Marc Rich ''disgraceful,'' and Democratic Representative HENRY WAXMAN said that ''the failures in the pardon process should embarrass every Democrat and every American.'' The outrage over former President Clinton's last minute pardons is bi-partisan, and I expect there will be bi-partisan support for this legislation to fix the problems disclosed by the Senate Judiciary Committee inquiry.

The pardons of Marc Rich and Pincus Green have sparked the most public

outrage, and rightly so. The actions of Hugh Rodham, who took more than $400,000 for his limited work on the clemency requests for Almon Glenn Braswell and Carlos Vignali, Jr., and Roger Clinton, who is reportedly under investigation for trying to peddle access to the White House in relation to pardons, are similarly outrageous. There are undoubtedly others who made money from the pardons process, or at least tried to do so. But let us at least identify them as what they are—lobbyists. When you get paid money, in some of these cases, lots of money, to argue for a pardon because you know the President of the United States, or someone like a relative who is close to the President, what you are doing is lobbying. Shining sunlight on the activities of these pardon lobbyists will further the cause of good government.

In a February 18, 2001 op-ed in the New York Times, former President Clinton said that he had decided to grant Rich and Green clemency for a number of legal and foreign policy reasons, but it's hard to see how the facts of the case add up to a pardon. Rich fled to Switzerland in 1983, shortly before he was indicted on 65 counts of racketeering, tax evasion, mail fraud, wire fraud, violation of Department of Energy regulations, and trading with the enemy. Then he tried to renounce his citizenship. Although he could afford the best lawyers in the business, Rich refused to return to the United States to plead his case in court. At the time of his pardon, he was still listed on the Justice Department's list of top international fugitives. Over the course of seventeen years and three administrations, Rich repeatedly tried to get the Justice Department to offer him a deal on favorable terms. When that failed, he orchestrated a plan last year to get a grant of executive clemency to wipe out the charges against him so he would never even have to stand trial. In the end, Mr. Rich got his pardon, but the way he got it shows the need for requiring pardon lobbyists to register.

In late 2000, after failing to get the Southern District of New York to make a deal that didn't involve any jail time for Rich and Green, the Rich legal team began seriously pursuing a pardon strategy. There is some disagreement on the timing of the decision to seek a pardon, but the important point is that, once the decision was made to take the case to the White House, the Rich legal team wanted to keep their activities out of public view so the Southern District of New York, or someone else who would oppose the pardon, wouldn't weigh in and scotch the deal.

There is some evidence that the Rich legal team was considering seeking a pardon as early as March, 1999. A log from the law firm of Arnold and Porter cites a March 12, 1999, memorandum from Carol Fischer to Robert Fink, one of Mr. Rich's lawyers. The document is titled ''Legal Research re: Pardon Power.'' Clearly there was some consideration of seeking a pardon, or there wouldn't have been a need to do research on the pardon power.

On February 10, 2000, Robert Fink wrote an e-mail to Avner Azulay, who works for Mr. Rich in Israel. Fink told Azulay that the latest efforts to make a deal with the Southern District of New York had failed because the Department of Justice would not negotiate unless Mr. Rich returned to the United States to face the charges. Azulay replied the same day, saying that ''The present impasse leaves us with only one other option: the unconventional approach which has not yet been tried and which I have been proposing all along.''

There is also a March 20, 2000 e-mail from Azulay to Fink. In this e-mail, Azulay tells Fink that ''We are reverting to the idea discussed with Abe which is to send DR [Denise Rich] on a ''personal'' mission to NO1. [undoubtedly President Clinton] with a well prepared script.''

Mr. Quinn has testified that the idea of a pardon did not receive serious consideration until late in the year, but these e-mails raise questions about that assertion. Under ordinary circumstances, it would be of no interest when the Rich team made a decision to seek a pardon, but it is important in this case because there are other e-mails showing that they tried very hard to keep their efforts secret. For example, in a December 26, 2000 e-mail, Fink told Quinn that ''Frankly, I think we benefit from not having the existence of the petition known, and do not want to contact people who are unlikely to really make a difference but who could create press or other exposure.''

Later, in a January 9, 2001, e-mail, Quinn told Fink, ''I think we've benefitted from being under the press radar. Podesta said as much.'' How did they benefit? They benefitted by not having the U.S. Attorney from the Southern District of New York weigh in with the White House, by not having the kind of scrutiny from the press that the case has had since January. Does anyone seriously believe that former President Clinton would have granted this pardon if the story had broken, with all the details out in the open, in early January instead of after the pardon was already a done deal? Of course not. Jack Quinn counted on being under the radar, and it worked.

This legislation will make it harder for the Jack Quinn's of the future to stay under the radar. When pardon lobbyists are required to register, they won't be able to hide their actions until it is too late for anyone to act. If Jack Quinn had been required to register as a lobbyist when he started urging officials at the White House to grant clemency to Rich and Green, the chances are good that this story would have had a different ending.

This legislation would also cover the activities of Hugh Rodham, who made more than $400,000 working to get clemency for Almon Glenn Braswell and Carlos Vignali, Jr. Mr. Braswell is the subject of an ongoing investigation related to allegations of tax evasion, and clearly should not have been granted a pardon. Mr. Vignali was one of the top members of a drug smuggling organization that shipped more than 800 pounds of cocaine from the Los Angeles area to Minnesota. He was not a likely candidate to have his sentence commuted, and the Pardon Attorney reportedly recommended that the request be denied. Several of the members of the drug ring who had smaller roles that Vignali did are still sitting in jail.

But Carlos Vignali got a pardon. Hugh Rodham's role should have been subject to public disclosure since he had close family ties to the White House, reportedly lived at the White House for the last several weeks of the Clinton Administration and had documents shipped to himself there.

Roger Clinton was also reportedly involved in several attempts to get paid for getting pardons for his friends. This matter, like several others, is reportedly being investigated by the U.S. Attorney for the Southern District of New York. It remains to be seen what she will find, but we don't have to wait for the end of her investigation to know that if an individual trades on his access to the White House to make money, that's lobbying, and he or she should be required to register as a lobbyist.

The second part of this bill requires the public disclosure of donations or pledges of $5,000 or more, or commitments to raise $5,000 or more for presidential libraries while the president is still in office. There are presently no requirements to make such donations public, and the Clinton library foundation has resisted efforts to review it's donor list.

Presidential libraries are a relatively new phenomenon, with only ten of them in existence. Under current law, presidential libraries are built with private funds, then turned over to the National Archivist for operation. Amendments to the Presidential Libraries Act have mandated the establishment of an endowment to cover some of the costs of operating the library. These goals are usually met through the establishment of a charitable organization, a 501(c)(3) corporation.

Former Presidents Carter and Bush did not raise any money for their libraries while they were in office because they were concentrating on getting re-elected. Because both of these Presidents lost their re-election bids, they never faced a situation of having to raise money for a library while they were still in office.

Former Presidents Reagan and Clinton, as two term Presidents, began raising money for their libraries during their second terms. Officials from the Reagan library have said that the library fund received several large contributions from corporate donors while

former President Reagan was still in office, but the big corporate donations tailed off rapidly when the President left office.

It is not necessary to suggest that there was any wrongdoing on the part of former President Reagan or of former President Clinton to realize that a donor could make a large donations to a presidential library in the hope of receiving a favorable action from the President in exchange for the donation. The fact that these donations can be made without public disclosure makes them a matter of even greater concern.

The Rich case highlights the need for public disclosure of donations while the President is still in office. Denise Rich, Marc Rich's former wife, was deeply involved in trying to get a pardon for Rich. She also gave at least $450,000 to former President Clinton's library foundation. Beth Dozoretz, former finance chair of the Democratic National Committee who pledged to raise $1 million for the Clinton library, also worked on the Rich pardon.

Ms. Dozoretz's involvement in the Rich case is remarkable in that the former President spent far more time talking to her about it than he did talking to the prosecutors in the Southern district of New York. Ms. Dozoretz had at least three conversations with former President Clinton about the Rich pardon, including one at 11 p.m. on January 19, 2001, the night before the pardon was actually issued.

Ms. Dozoretz had been scheduled to meet with my staff, but she changed attorneys and declined to be interviewed. But we found out that she had called the President on the night of January 19, at about 11 P.M. to thank him for granting the pardon for Marc Rich. If Ms. Dozoretz knew of the Rich pardon in time to call the President at 11 P.M. on the evening of January 19, she found out about the decision at least two hours before Pardon Attorney Roger Adams, the official who was charged with actually writing up the pardon warrant. Mr. Adams testified that he had not heard that Rich and Green were being considered for clemency until almost 1 A.M. on the morning of January 20. Mr. Adams was told by the White House counsel's office that there probably wouldn't be much information available on Rich and Green because they had been ''living abroad'' for several years. That was a strange way of saying they were fugitives, but Mr. Adams was later able to figure that out himself. He had his staff research the Internet to see what he could learn about these two men, and he learned that they were on the Justice Department's list of most wanted international fugitives. When he relayed his concerns to the White House, he was told to prepare the pardon documents anyway.

Ms. Dozoretz has refused to say from whom she learned that the President had decided to grant Rich's clemency request, but she apparently knew before the official who was charged with overseeing the pardon process. Ms. Dozoretz has asserted her privelege against self-incrimination under the Fifth Amendment, so we have no way of knowing exactly how she learned that the decision had already been made on January 19.

But we do have other relevant information. First, Beth Dozoretz pledged to raise $1 million for the Clinton library. Former President Clinton spoke to Ms. Dozoretz on January 10, 2001, when she was with Ms. Rich in Aspen. According to a January 10, 2001, e-mail from Robert Fink to Jack Quinn, Ms. Dozoretz received a phone call from POTUS, the President, on January 10. Mr. Fink went on to quote former President Clinton as saying ''that he wants to do it and is doing all possible to turn around the WH counsels.'' Ms. Dozoretz has denied saying that the President was trying to turn around the WH [White House] counsels, but she has not offered any explanation for what happened. It has been asserted that the message was garbled, but that explanation is inconsistent with the facts. All of former President Clinton's top advisers in the White House—including his Chief of Staff, John Podesta; his White House Counsel, Beth Nolan; and Bruce Lindsey, one of his closest political advisers who held the title of Assistant to the President—looked at the facts and recommended against a pardon. That is consistent with the former President having to turn around his White House counsels.

Former President Clinton was unable to turn around his counsels, but in the end it didn't matter. He issued the pardons anyway, and created a firestorm. When a President ignores the advice of his closest advisors, there isn't much we can do since the power of executive clemency is in the hands of the President alone. But the Congress can and should ensure that bad judgement on the part of a President does not undermine the public's confidence in government. The two provisions in this legislation will help to restore public confidence in the pardon process.

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. 645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISCLOSURE OF LOBBYING ACTIVITIES WITH RESPECT TO PRESIDENTIAL PARDONS.

Section 3(8) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(8)) is amended—

(1) in subparagraph (A)—

(A) in clause (iii), by striking ''or'' after the semicolon;

(B) in clause (iv), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(v) the issuance of a grant of executive clemency in the form of a pardon, commutation of sentence, reprieve, or remission of fine.''; and

(2) in subparagraph (B)(xii), by striking ''made to'' and inserting ''except as provided in subparagraph (A)(v), made to''.

SEC. 2. AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.

Section 102(a) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by adding at the end the following:

''(9) If the reporting individual is the President and is currently serving as the President, the identity of the source, a brief description, and the value of all gifts, pledges, or commitments of a gift aggregating $5000 or more for the establishment of a Presidential library for that President after his or her term has expired received from any source other than a relative of the President during the preceding calendar year. Information required to be reported under this paragraph shall be made publicly available in accordance with this Act.''.

Mr. LEAHY. Mr. President, I rise today with the senior Senator from Pennsylvania to introduce legislation aimed at making our government more open and accountable to the American people. We are pleased to be joined by six other members of the Judiciary Committee, Senators HATCH, KOHL, BIDEN, FEINSTEIN, SESSIONS, GRASSLEY, and by the new junior Senator from New York, Senator CLINTON.

Our bill closes two loopholes in the laws governing what government officials and those who lobby them must disclose. First, it amends the Ethics in Government Act of 1978 to require the President to report any gifts or pledges of $5,000 or more to a presidential library during the President's term in office. Second, it adds to the list of individuals who must register under the Lobbying Disclosure Act of 1995 those who lobby on behalf of a client for a grant of executive clemency.

This legislation builds on a hearing held by the Judiciary Committee on February 14, 2001, relating to the pardons granted by President Clinton in his last days in office. I said then that we needed to view these pardons as a whole and in their historical and constitutional context, not focus exclusively on one or two controversial cases. In this way, we could learn valuable lessons for the future.

The legislation that we introduce today is a pragmatic and forward-looking response to customs and practices that long predate the last Administration. As I have noted before, the controversies surrounding President Clinton's pardons are not unique.

Other presidents raised substantial funds for their libraries while still in office. The Ronald Reagan Presidential Foundation opened its doors and began fundraising in February 1985, nearly four years before President Reagan left office. By November 1991, the Foundation had raised between $45 and $65 million. Much of that amount came in large lump sums from big corporations, a source of funding that reportedly dried up when President Reagan returned to private life.

Fund raising for the Bush library also began while the president was still

in the White House. The Arkansas Democrat-Gazette, in an article dated May 25, 1997, quoted former Bush aide Jim Cicconi as saying that fund raising for the library remained ''low key'' and ''very discreet'' until the president left office in 1993. Established in 1991, while the president was campaigning for reelection, the George Bush Presidential Library Foundation initially consisted of three people, including Mr. Cicconi and the president's son, George W. Bush.

I should add that the donor lists for the Reagan and Bush libraries were not and have never been disclosed to the public, a failure of transparency for which President Clinton, but not his predecessors, has been roundly criticized.

President Clinton was also not the first Chief Executive to grant clemency to friends or family members of major contributors. The very first pardon granted by the elder President Bush went to Armand Hammer, the late chairman of Occidental Petroleum Corporation, who pleaded guilty in 1975 to making illegal contributions to Richard Nixon's reelection campaign. Not long before he received his pardon, Hammer gave over $100,000 to the Republican party and another $100,000 to the Bush-Quayle Inaugural Committee. The team of lawyers that won Hammer his pardon included former Reagan Justice Department official, Theodore Olson. While Mr. Olson's name is well-known now, he was recently nominated to be Solicitor General, it was more important at the time that he was a close friend of C. Boyden Gray, the White House Counsel, and Richard Thornburgh, the Attorney General.

Let me note one more example from the end of the first Bush Administration: In January 1993, two days before leaving the White House, President Bush pardoned Edwin Cox, Jr., the son of a wealthy Texas oilman. The Cox pardon was lobbied for by Bill Clements, the former governor of Texas, who contacted James Baker, then White House Chief of Staff. Not surprisingly, Mr. Baker mentioned the Cox family largesse in a note to the White House Counsel, referencing Edwin Cox Sr. as a ''longtime supporter of the president's.'' The Cox family had in fact contributed nearly $200,000 to the Bush family's political campaigns and to other Republican campaign committees. Shortly after the president pardoned his son, Cox Sr. made a generous contribution to the Bush Presidential Library. His name is now etched in gold on the exterior of the Library alongside the names of other ''benefactors,'' those contributing between $100,000 and $250,000.

I mention these Bush-era pardons because they demonstrate that pardons which have become controversial and appear improper given the confluence of insider lobbying and financial contributions are not unique to the end of President Clinton's term in office. The bill we introduce today will bring a greater degree of transparency into the clemency process and so reduce the appearance of impropriety that may otherwise attach to a presidential pardon.

I thank Senator SPECTER for the thoughtful and even-handed manner in which he conducted the Committee's hearing last month, and commend him for seeking constructive and bipartisan solutions.

By Mr. FEINGOLD.

S. 646. A bill to reform the Army Corps of Engineers; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Corps of Engineers Reform Act of 2001. I am joined today in this effort by my colleague in the other body, Congressman RON KIND.

As I introduce this bill, I realize that it is a work in progress. Reforming the Corps of Engineers will be a difficult task for Congress. It involves restoring credibility and accountability to a federal agency rocked by recent scandals, and yet an agency that we in Wisconsin, and many states across the country, have come to rely upon. From the Great Lakes to the mighty Mississippi, the Corps is involved in providing aids to navigation, environmental remediation, water control and a variety of other services to my state. My office has strong working relationships with the Detroit, Rock Island, and St. Paul District Offices that service Wisconsin, and I want the cloud over the Corps to dissipate so that the Corps can continue to contribute to our environment and our economy.

This legislation evolved from my experience in seeking to offer an amendment last year to the Water Resources Development Act of 2000 to create independent review of Army Corps of Engineers' projects. My interest in an independent review amendment was shared by the Minority Leader, Mr. DASCHLE, and the Senator from California, Mrs. BOXER, and a number of taxpayer and environmental organizations including: the League of Conservation Voters, American Rivers, Coast Alliance, Earthjustice Legal Defense Fund, Izaak Walton League of America, Natural Resources Defense Council, Sierra Club and Taxpayers for Common Sense.

In response to my initiative, the bill's managers, Senator SMITH and Senator BAUCUS, adopted an amendment as part of their Manager's Package which should help get the Authorizing Committee, the Environment and Public Works Committee, the additional information it needs to develop and refine legislation on this issue through a one year study by the National Academy of Sciences, NAS, on peer review. As part of the discussions with the Senator from New Hampshire, Mr. SMITH, and the Senator from Montana, Mr. BAUCUS, over the amendment I intended to offer, they have agreed that as the NAS conducts its review, they will hold hearings on the issue of Corps reform and on this bill. It is my hope that through hearings the NAS study and my bill can dovetail nicely so that we have a fully vetted bill which can then be fine-tuned by the NAS recommendations. I feel that this body should pass a serious reform bill this year.

The bill I introduce today addresses more than the issue of independent review of Corps Projects. The bill is a comprehensive revision of the project review and authorization procedures at the U.S. Army Corps of Engineers. The aim is to increase transparency and accountability, to ensure fiscal responsibility, to balance economic and environmental interests, and to allow greater stakeholder involvement.

The National Research Council recently completed a study of the Corps' analysis of a proposed extension of several locks on the Upper Mississippi River, Illinois Waterway after approximately $50 million was spent examining the feasibility of the proposed project. The National Research Council made several recommendations to revise the inland waterway and water resources system planning. And, as I mentioned, a second National Research Council study, required by the Water Resources Development Act of 2000, is now examining whether the Corps should establish a program of independent review of projects.

This bill builds on the key recommendations of the National Research Council study:

The Corps should have project review by an interdisciplinary group of experts outside the Corps of Engineers,

The Corps should include a broader range of stakeholders in the planning process,

The Corps should revise the water resources project planning framework in their internal planning documents (known as the Principles and Guidelines) so that ecological concerns are not considered secondary to economic benefits.

The bill achieves this by creating both Stakeholder Advisory Committees and Independent Review Panels. Currently, the Corps goes through a multistep process leading to project approval and construction. In the existing process, the public has limited involvement and environmental costs can be underestimated.

Stakeholder Advisory Committees—comprised of a balance of local government, other federal agencies, interest groups reflecting social, economic, and environmental interests, and interested private citizens—are authorized to provide input in the planning process. The Corps is required to form a Committee under the bill upon receipt of a written request to the Corps by any person to do so. The Committee is comprised of volunteers, and is allowed to provide input to the Corps beginning in the early project stages, such as the drafting of a feasibility study for a project, and conclude at the release of a draft environmental impact statement when the broader public is

brought into the project. The Corps is also restricted so that they can spend no more than on the staffing or operations of $250,000 a Committee. In addition, Committee meetings must meet the requirements of the Federal Advisory Committee Act, FACA. Any Committee expenses are to be considered as part of the total costs of the project.

The bill also provides a comprehensive review of water resources projects by a panel with expertise in biology, engineering and economics. The projects that will become subject to review include any projects, or significant modifications to existing projects:

with an estimated cost of over $25 million (approximately 40 percent of the projects funded through the Water Resources Development Act),

for which the Governor of an affected State requests independent review,

that are determined to have significant adverse impacts on fish and wildlife after implementation of proposed mitigation plans by the US Fish and Wildlife Service, For which the head of another Federal Agency charged with reviewing the project determines that the project has a significant adverse impact on environmental, cultural, or other resources under their jurisdiction, or

Determined by the Corps to be ''controversial'' in its scope, impact, or cost-benefit analysis.

To address concerns that the Independent Review Panel needs to be truly independent, the Office of Independent Review is established within the Office of the Assistant Secretary for Civil Works. This office, located in the Pentagon, provides the greatest amount of independence for the review process since the Office of the Assistant Secretary is separate from and above the Chief of Engineers who runs the Corps. Independent reviews are required to be completed in 180 days after they start. They are able to run concurrently with the Environmental Impact Statement Process under NEPA, and, ideally, will conform to that time frame.

As with the Stakeholder Committees, the costs of these Panels are capped at no more than $500,000. Any panel expenses are to be considered as part of the total costs of the project and a Panel's product is required to be released to the public and to be submitted to Congress.

It is my hope that this legislation will increase transparency of the Corps' decision-making process through greater accessibility by the public and interested stakeholder groups. While there are heartening signs of reform in the Corps Civil Works program, Congress should be working to create an independent process to help affirm when the Corps gets it right and help to provide a means for identifying problems before taxpayer funded construction investments are made. Today we begin that work in earnest.

I feel that this bill is a practical first step down the road to a reformed Corps of Engineers. Independent review would catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, and would provide planners desperately needed support against the never ending pressure of project boosters. Those boosters, Mr. President, include Congressional interests, which is why I believe that this body needs to champion reform—to end the perception that Corps projects are all pork and no substance.

I wish it were the case, that I could argue that additional oversight were not needed, but unfortunately, I see that there is need for additional scrutiny. In the Upper Mississippi there is troubling evidence of abuse. There is troubling evidence from whistleblowers that senior Corps officials, under pressure from barge interests, ordered their subordinates to exaggerate demand for barges in order to justify new Mississippi River locks. This is a matter which is still under investigation, and I hope that no evidence of wrongdoing will ultimately be found. Adequate assessment of the environmental impacts of barges is also very important. I am also concerned that the Corps' assessment of the environmental impacts of additional barges does not adequately assess the impacts of barge movements on fish, backwaters and aquatic plants. We should not gamble with the environmental health of the river. If we allow more barges on the Mississippi, we must be sure the environmental impacts of those barges are fully mitigated.

I am raising this issue principally because I believe that Congress should act to restore trust in the Corps if we are effectively going to address navigation and environmental needs. The first step in restoring that trust is restoring the credibility of the Corps' decision-making process.

Unfortunately, Congress now finds itself having to reset the scales to make economic benefits and environmental restoration co-equal goals of project planning. Our rivers serve many masters, barge owners as well as bass fisherman, and the Corps' planning process should reflect the diverse demands we place on them. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing more than the Corps estimated, and do not have unanticipated environmental impacts. This bill will help us monitor the result of projects so that we can learn from our mistakes and, when possible, correct them. As a first step, I have committed myself to making Corps reform a priority in this Congress with this bill. 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. 646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Corps of Engineers Reform Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definition of Secretary.

TITLE I—PROJECT PLANNING REFORM

Sec. 101. Principles and guidelines.
Sec. 102. Stakeholder advisory committees.
Sec. 103. Independent review.
Sec. 104. Public access to information.
Sec. 105. Benefit-cost analysis.
Sec. 106. Project criteria.

TITLE II—MITIGATION

Sec. 201. Full mitigation.
Sec. 202. Concurrent mitigation.
Sec. 203. Mitigation tracking system.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Corps of Engineers is the primary Federal agency responsible for developing and managing the harbors, waterways, shorelines, and water resources of the United States;

(2) the scarcity of Federal resources requires more efficient use of Corps of Engineers funding and greater oversight of Corps of Engineers analyses;

(3) demand for recreation, clean water, and healthy wildlife habitat must be reflected in the Corps of Engineers project planning process;

(4) the social and environmental impacts of dams, levees, shoreline stabilization structures, and other projects must be adequately considered and fully mitigated; and

(5) affected interests must play a larger role in the oversight of Corps of Engineers project development.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that the water resources investments of the United States are economically justified and enhance the environment;

(2) to provide independent review of Corps of Engineers feasibility studies, general reevaluation studies, and environmental impact statements;

(3) to ensure that mitigation for Corps of Engineers projects is successful and cost-effective;

(4) to enhance the involvement of affected interests in Corps of Engineers feasibility studies, general reevaluation studies, and environmental impact statements;

(5) to revise Corps of Engineers planning principles to meet the economic and environmental needs of riverside and coastal communities;

(6) to ensure that environmental analyses are considered to be co-equal to economic analyses in the assessment of Corps of Engineers projects, recognizing the need for sound science in the evaluation of the impacts on the health of aquatic ecosystems; and

(7) to ensure that the Corps of Engineers is making appropriate, up-to-date calculations in conducting cost-benefit analyses of Corps of Engineers projects.

SEC. 3. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of the Army.

TITLE I—PROJECT PLANNING REFORM

SEC. 101. PRINCIPLES AND GUIDELINES.

Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) is amended to read as follows:

''SEC. 209. CONGRESSIONAL STATEMENT OF OBJECTIVES.

''(a) IN GENERAL.—It is the intent of Congress that economic development and environmental protection and restoration be co-equal goals of water resources planning and development.

''(b) REVISION OF PRINCIPLES AND GUIDELINES.—Not later than 1 year after the date

of enactment of the Corps of Engineers Reform Act of 2001, the Secretary shall revise the principles and guidelines of the Corps of Engineers for water resources projects—

''(1) to provide for the consideration of ecological restoration costs under Corps of Engineers economic models;

''(2) to incorporate new techniques in risk and uncertainty analysis;

''(3) to eliminate biases and disincentives for nonstructural flood damage reduction projects;

''(4) to incorporate new analytical techniques;

''(5) to encourage, to the maximum extent practicable, the restoration of aquatic ecosystems; and

''(6) to ensure that water resources projects are justified by benefits that accrue to the public at large and not only to a limited number of private businesses.

''(c) UPDATE OF GUIDANCE.—The Secretary shall update the Guidance for Conducting Civil Works Planning Studies (ER 1105–2–100) to comply with this section.''.

SEC. 102. STAKEHOLDER ADVISORY COMMITTEES.

(a) IN GENERAL.—Upon receipt of a written request by any person or governmental entity, the Secretary shall establish, for each water resources project that is authorized or substantially modified after the date of enactment of this Act, a stakeholder advisory committee to assist the Secretary in the development of feasibility studies, general reevaluation studies, and environmental impact statements for the project.

(b) DURATION OF REVIEWS.—A stakeholder advisory committee established for a project under this section may provide advice to the Secretary during planning and design of the project, beginning with the initiation of the draft feasibility study for the project and ending with the issuance of the draft environmental impact statement for the project.

(c) MEMBERSHIP.—

(1) IN GENERAL.—A stakeholder advisory committee established for a project under this section shall be composed of—

(A) representatives of—

(i) State and local agencies;

(ii) tribal organizations;

(iii) public interest groups;

(iv) industry, scientific, and academic organizations; and

(v) Federal agencies; and

(B) other interested citizens.

(2) BALANCE.—The membership shall represent a balance of the social, economic, and environmental interests in the project.

(d) ROLE.—A stakeholder advisory committee established for a project under this section shall advise the Secretary but shall not be required to make a formal recommendation.

(e) COSTS.—The costs of a stakeholder advisory committee established for a project under this section—

(1) shall be a Federal expense;

(2) shall not exceed $250,000; and

(3) shall be considered to be part of the total cost of the project.

(f) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a stakeholder advisory committee established under this section.

SEC. 103. INDEPENDENT REVIEW.

(a) PROJECTS SUBJECT TO INDEPENDENT REVIEW.—

(1) IN GENERAL.—The Secretary shall ensure that feasibility studies, general reevaluation studies, and environmental impact statements for each water resources project described in paragraph (2) are subject to review by an independent panel of experts established under this section.

(2) PROJECTS SUBJECT TO REVIEW.—A project shall be subject to review under paragraph (1) if—

(A) the project has an estimated total cost of more than $25,000,000, including mitigation costs;

(B) the Governor of an affected State described in paragraph (4) requests the establishment of an independent panel of experts for the project;

(C) the Director of the United States Fish and Wildlife Service determines that the project is likely to have a significant adverse impact on fish or wildlife after implementation of proposed mitigation plans;

(D) the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse impact on environmental, cultural, or other resources under the jurisdiction of the agency after implementation of proposed mitigation plans; or

(E) the Secretary determines that the project is controversial under paragraph (3).

(3) CONTROVERSIAL PROJECTS.—

(A) DETERMINATION BY THE SECRETARY.—Upon receipt of a written request by an interested party or on the initiative of the Secretary, the Secretary shall determine whether a project is controversial for the purposes of paragraph (2)(E).

(B) CRITERIA.—The Secretary shall determine that a project is controversial if the Secretary finds that—

(i) there is a significant public dispute as to the size, nature, or effects of the project; or

(ii) there is a significant public dispute as to the economic or environmental costs or benefits of the project.

(4) AFFECTED STATE.—An affected State referred to in paragraph (2)(B) means a State that—

(A) is located at least partially within the drainage basin in which the project is located; and

(B) would be economically or environmentally affected as a consequence of the project.

(b) OFFICE OF INDEPENDENT REVIEW.—

(1) ESTABLISHMENT.—There is established in the Office of the Assistant Secretary of the Army for Civil Works an Office of Independent Review (referred to in this section as the ''Office'').

(2) DIRECTOR.—

(A) APPOINTMENT.—The head of the Office shall be the Director of the Office of Independent Review (referred to in this section as the ''Director''), who shall be appointed by the Secretary for a term of 3 years.

(B) SELECTION.—

(i) QUALIFICATIONS.—The Secretary shall select the Director from among individuals who are distinguished scholars.

(ii) CONSIDERATION OF RECOMMENDATIONS.—In making the selection, the Secretary shall consider any recommendations made by the Inspector General of the Army.

(C) LIMITATION ON APPOINTMENTS.—The Secretary shall not appoint an individual to serve as the Director if the individual has a financial or close professional association with any organization or group with a strong financial or organizational interest in an ongoing water resources project.

(D) TERMS.—An individual may not serve for more than 1 term as the Director.

(3) DUTIES.—The Director shall establish a panel of experts to review each project subject to review under subsection (a).

(c) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.—As soon as practicable after the Secretary selects a preferred alternative for a project subject to review under subsection (a), the Director shall establish a panel of experts to review the project.

(2) MEMBERSHIP.—A panel of experts established by the Director for a project shall be composed of not fewer than 5 nor more than 9 independent experts who represent a balance of areas of expertise, including biology, engineering, and economics.

(3) LIMITATION ON APPOINTMENTS.—The Director shall not appoint an individual to serve on a panel of experts for a project if the individual has a financial or close professional association with any organization or group with a strong financial or organizational interest in the project.

(4) CONSULTATION.—The Director shall consult with the National Academy of Sciences in developing lists of individuals to serve on panels of experts under this section.

(5) COMPENSATION.—An individual serving on a panel of experts under this section shall be compensated at a rate of pay to be determined by the Secretary.

(6) TRAVEL EXPENSES.—An individual serving on a panel of experts under this section shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) DUTIES OF PANELS.—A panel of experts established for a project under this section shall—

(1) review each feasibility study, general reevaluation study, and environmental impact statement prepared for the project;

(2) assess the adequacy of the economic models used by the Secretary in reviewing the project to ensure that—

(A) multiple methods of economic analysis have been used; and

(B) any regional effects on navigation systems have been examined;

(3) assess the adequacy of the environmental models and analyses used by the Secretary in reviewing the project;

(4) receive from the public, and review, written and oral comments of a technical nature concerning the project; and

(5) submit to the Secretary a report containing the panel's economic, engineering, and environmental analysis of the project, including the panel's conclusions on the feasibility studies, general reevaluation studies, and environmental impact statements for the project, with particular emphasis on matters of public controversy.

(e) DURATION OF PROJECT REVIEWS AND PANEL.—A panel of experts shall—

(1) complete review of a project under this section not later than 180 days after the date of establishment of the panel; and

(2) terminate upon submission of a report to the Secretary under subsection (d)(5).

(f) RECOMMENDATIONS OF PANEL.—

(1) CONSIDERATION BY SECRETARY.—After receiving a report on a project from a panel of experts under this section and before entering a final record of decision for the project, the Secretary shall—

(A) consider any recommendations contained in the report; and

(B) prepare a written explanation for any recommendations that are not adopted.

(2) PUBLIC REVIEW; SUBMISSION TO CONGRESS.—After receiving a report on a project from a panel of experts under this section, the Secretary shall—

(A) make a copy of the report and any written explanation of the Secretary on recommendations contained in the report available for public review in accordance with section 104; and

(B) submit to Congress a copy of the report and any such written explanation.

(g) COSTS.—

(1) IN GENERAL.—Subject to paragraph (2), the costs of a panel of experts established for a project under this section—

(A) shall be a Federal expense;

(B) shall not exceed $500,000; and

(C) shall be considered to be part of the total cost of the project.

(2) WAIVER.—The Secretary may waive the limitation specified in paragraph (1)(B) in any case in which the Secretary determines a waiver to be appropriate.

(h) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a panel of experts established under this section.

SEC. 104. PUBLIC ACCESS TO INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary shall ensure that information relating to the analysis of a water resources project by the Corps of Engineers, including all supporting data, analytical documents, and information that the Corps of Engineers has considered in the analysis, is made available to any individual upon request and to the public on the Internet.

(b) TYPES OF INFORMATION.—Information concerning a project that shall be made available under subsection (a) shall include—

(1) any information that has been made available to the non-Federal interests with respect to the project; and

(2) all data used by the Corps of Engineers in the justification and analysis of the project.

(c) EXCEPTION FOR TRADE SECRETS.—

(1) IN GENERAL.—The Secretary shall not make information available under subsection (a) that the Secretary determines to be a trade secret of the person that provided the information to the Corps of Engineers.

(2) CRITERIA FOR TRADE SECRETS.—The Secretary shall consider information to be a trade secret only if—

(A) the person that provided the information to the Corps of Engineers—

(i) has not disclosed the information to any person other than—

(I) an officer or employee of the United States or a State or local government;

(II) an employee of the person that provided the information to the Corps of Engineers; or

(III) a person that is bound by a confidentiality agreement; and

(ii) has taken reasonable measures to protect the confidentiality of the information and intends to continue to take such measures;

(B) the information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law; and

(C) disclosure of the information is likely to cause substantial harm to the competitive position of the person that provided the information to the Corps of Engineers.

SEC. 105. BENEFIT-COST ANALYSIS.

Section 308(a) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(a)) is amended—

(1) in paragraph (1)(B), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) any projected benefit attributable to any increase in the value of privately owned property, increase in the quantity of privately owned property, or increase in the value of privately owned services, that arises from the draining, reduction, or elimination of wetland.''.

SEC. 106. PROJECT CRITERIA.

After the date of enactment of this Act, the Secretary shall not submit to Congress any proposal to authorize or substantially modify a water resources project unless the proposal contains a certification by the Secretary that the project minimizes to the maximum extent practicable adverse impacts on—

(1) the natural hydrologic patterns of aquatic ecosystems; and

(2) the value or native diversity of aquatic ecosystems.

TITLE II—MITIGATION

SEC. 201. FULL MITIGATION.

Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) in paragraph (1)(A), by inserting ''fully'' before ''mitigate''; and

(2) by adding at the end the following:

''(3) STANDARDS FOR MITIGATION.—

''(A) IN GENERAL.—To mitigate losses to fish and wildlife resulting from a water resources project, the Secretary, at a minimum, shall acquire and restore 1 acre of habitat to replace each acre of habitat negatively affected by the project.

''(B) MONITORING PLAN.—The mitigation plan for a water resources project under paragraph (1) shall include a detailed and specific plan to monitor mitigation implementation and success.

''(4) DESIGN OF MITIGATION PROJECTS.—The Secretary shall—

''(A) design each mitigation project to reflect contemporary understanding of the importance of spatial distribution of habitat and the natural hydrology of aquatic ecosystems; and

''(B) fully mitigate the adverse hydrologic impacts of water resources projects.

''(5) RECOMMENDATION OF PROJECTS.—The Secretary shall not recommend a water resources project alternative or choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment completed after the date of enactment of this paragraph unless the Secretary determines that the mitigation plan for the alternative has the greatest probability of cost-effectively and successfully mitigating the adverse impacts of the project on aquatic resources and fish and wildlife.

''(6) COMPLETION OF MITIGATION BEFORE CONSTRUCTION OF NEW PROJECTS.—The Secretary shall complete all planned mitigation in a particular watershed before constructing any new water resources project in that watershed.''.

SEC. 202. CONCURRENT MITIGATION.

Section 906(a)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(a)(1)) is amended by adding at the end the following: ''To ensure concurrent mitigation, the Secretary shall complete 50 percent of required mitigation before beginning project construction and shall complete the remainder of required mitigation as expeditiously as practicable, but not later than the last day of project construction.''.

SEC. 203. MITIGATION TRACKING SYSTEM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a recordkeeping system to track—

(1) the quantity and type of wetland and other habitat types affected by the operation and maintenance of each water resources project carried out by the Secretary;

(2) the quantity and type of mitigation required for operation and maintenance of each water resources project carried out by the Secretary;

(3) the quantity and type of mitigation that has been completed for the operation and maintenance of each water resources project carried out by the Secretary; and

(4) wetland losses permitted under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and required mitigation for such losses.

(b) REQUIRED INFORMATION AND ORGANIZATION.—The recordkeeping system shall—

(1) include information on impacts and mitigation described in subsection (a) that occur after December 31, 1969; and

(2) be organized by watershed, project, permit application, and zip code.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public on the Internet.

By Mrs. FEINSTEIN (for herself and Mr. DORGAN):

S. 649. A bill to modify provisions relating to the Gun-Free Schools Act; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, today Senator DORGAN and I are introducing a bill to make four important changes to the current Gun-Free Schools Act, GFSA.

I am a proud sponsor of the Gun-Free Schools Act, which was enacted as part of the Elementary-Secondary Education Act in 1994. The law requires states receiving federal elementary-secondary education funds to have a state law requiring local school districts to expel from school for a period of not less than one year students who bring weapons to school.

A March report (ED–OIG/S03–A0018) prepared by the Inspector General, IG, of the U.S. Department of Education, highlights several improvements needed to clarify the law. This bill makes those important clarifications.

The IG's report, called a ''perspective paper,'' resulted from an audit that Senator DORGAN and I requested to examine the enforcement of the GFSA in seven States.

We live in a society today that is much different than when I grew up. Our nation is awash in guns and our children live in a culture of violence, bombarded by horrific images in movies, television, and video games. Combine these factors with a lack of parental supervision and this combustible mix has exploded again and again on too many school campuses.

In just the last few weeks alone, we've seen this mix erupt within just a few miles of each other in the San Diego area.

On March 5, a troubled young man named Charles ''Andy'' Williams brought a .22-caliber revolver to school, fired at random, killing two students and wounding 13 others at Santana High School, in Santee, California. And on March 22, an eighteen year-old shot five students at Granite Hill High School in El Cajon, California. Fortunately, in this case, no one was killed.

The Los Angeles Times summed up this epidemic aptly on March 6 and called on public officials to act, saying ''Nothing of course, assures that tragedy can be prevented, but leaders from the classroom to the White House can clearly take more steps to promote school safety.''

Now I know that gun laws are not the only answer to solving this problem, but they do represent part of the answer. But the fact is that even the most simple, rational, and targeted

measures to deter guns from falling into the hands of our young people have been cast aside.

The fact is that there are some simple steps we can take to limit the number of guns from reaching our children. We can close the loophole on the importation of high capacity ammunition clips. We can include trigger locks on every gun purchased.

And we need to continue with measures that are working. The Gun Free Schools Act is a targeted fix that is working. And the bill we are introducing today refines this law slightly to make it work even better.

This legislation will close several loopholes in current law under which allows some students to escape punishment who bring guns to school.

Because the law effectively imposes a one-year expulsion for students who have ''brought'' a weapon to school, students who ''have'' or ''possess'' a weapon in school can go ''scot-free.''

Under current law, for example, a student could use a firearm that was technically ''brought'' to school by another student. The student could then possess it in his or her backpack or locker and thus potentially make it available to others and go unpunished because he or she did not technically ''bring'' it to school.

Another loophole that the bill addresses is the definition of school. The current prohibition on guns in schools applies to ''a school.'' This could be interpreted to mean literally the school building.

Our bill clarifies that school means ''any setting that is under the control and supervision of the local education agency'', i.e., the school district. Without this change, a student could wield a firearm on the football field, on the school bus or in the parking lot and possibly evade punishment under this law.

Here are the four changes made by this bill: Under the current law, states are required to have a law requiring a one-year expulsion of students who have ''brought a weapon to a school'' in order to receive federal education funds.

The change our bill proposes is to add to current law, ''or to have possessed a firearm.'' We are proposing this change because punishing only people who ''bring'' a weapon to school leaves a glaring loophole in the law.

Without this change, students who ask friends to bring a weapon to school or who obtain a weapon from someone who has ''brought'' it to school, but carry it around or use the weapon, would not be covered since current law uses the term ''brought.'' Current law could be interpreted to mean that students can have a gun at school as long as they do not actually ''bring'' it into the school. I believe this change is an important clarification.

The IG's report says that without this change, states and school districts may ''incorrectly implement the Act, resulting in non-compliance or the submission of erroneous information on disciplinary actions under the Act.'' This is because current law does not ''specify expulsion as the consequence for students found in possession of a firearm.''

Under current law, school districts and states are required to report expulsions. They are, however, required to report incidents. An example of this would be when students bring a weapon to or possess weapons in schools, for which no disciplinary action is taken.

Without reporting all incidents in which students have or possess weapons in schools, it is impossible to determine if school officials are in fact enforcing the law, if they are actually expelling students.

The IG's audit cites an example at one Maryland school in which a student who brought a firearm to school was not expelled. Instead, the school's administrators allowed the student to withdraw from school and the school did not inform the school district of the incident. Police arrested the student. So action was taken, but the incident itself did not appear in the annual report because technically the student was not expelled.

Similarly, the IG found that in one California district, school officials did not expel a student ''involved in a firearm incident'' because the student was arrested and did not return to school.

In these cases, the students did face legal consequences for their action, but the weapons incidents were not reflected in the school's report because the law requires reporting only expulsions, not incidents.

The bill would add several new reporting requirements. School districts and states would have to report, 1. all firearms incidents; 2. each modification of an expulsion, e.g., when an administrator shortens an expulsion, which is allowed under current law; and 3. the level of education in which the incident occurs, elementary, middle, high school.

Only by thorough reporting can public officials, the Department of Education, and the Congress know how well the law is working and how effectively it is being enforced.

These proposed changes should remedy that deficiency.

There are two additional changes we are proposing based on the IG's work. The Department of Education has incorporated these two changes in their guidance to states and school districts, but I believe these changes should be codified in the law so they cannot be changed administratively.

The prohibition on weapons in ''school'' applies ''to a school,'' which implies that this means the building only. For many years, the U.S. Department of Education interpreted this to mean the school buildings only.

Under that approach, therefore, a student could bring a weapon to school and leave it in an unlocked car, where it would still be readily available to students throughout the school day.

Interpreted strictly to mean ''school buildings,'' that policy also allowed guns on athletic fields, in equipment sheds, and in school yards. As one Virginia legislator put it, ''you could legally come to a PTA meeting packing a weapon.''

Fortunately, the Department has corrected its guidance to school districts to clarify that the prohibition on bringing guns to schools applies to the entire school campus. The guidance states, ''The one-year expulsion requirement applies to students who bring weapons to any setting that is under the control and supervision of the local education agency.''

Under our bill, weapons would be allowed to be kept in cars and trucks on school property only if the weapons are ''lawfully stored inside a locked vehicle on school property.'' This provision is an effort to recognize that in some communities students may go hunting directly after school.

Under current law, the chief school administrator in a school district can modify an expulsion on a case-by-case basis.

Our bill would require that all modifications be put in writing. The IG found inconsistent reporting of modifications. This change should establish one consistent, clear policy and should provide a record of expulsions that are modified.

Guns have no place in schools. Congress made this clear in 1994 when we adopted the Gun-Free Schools Act.

This is a good law that should remain in place. The bill we introduce today makes some important clarifications in that law and strengthens it.

The latest Annual Report on School Safety reports that 3,930 students were expelled for bringing a firearm to school. One student is one too many, in my view.

The latest incidents in California are but another disturbing reminder of the ''culture of violence'' that so pervades our society. All of us must ask why students resort to guns to deal with their grievances or vent their frustrations. Clearly, we must take strong steps to address the underlying societal issues and to get guns out of the hands of youngsters.

This bill is one small, yet important, step to ensure that no more schoolchildren die from weapons violence. I urge my colleagues to enact this bill promptly.

I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

THE GUN-FREE SCHOOLS REFINEMENT ACT—SUMMARY

Amendments to the current Gun-Free Schools Act of 1994. These changes are based on the March 2001 report of the U.S. Department of Education's Inspector General (ED–OIG/S03–A0018).

1. ''BROUGHT A WEAPON''

Current law: Requires states to have a law requiring a one-year expulsion of students who have ''brought a weapon to a school.''

Proposed Change: Adds ''or possessed a weapon.''

2. ENTIRE SCHOOL CAMPUS

Current law: The prohibition on bringing a weapon to school applies ''to a school.''

Proposed Change: Clarifies that the prohibition on bringing guns to schools applies to entire school, specifically ''any setting that is under the control and supervision of the local education agency,'' unless a gun is lawfully locked in a vehicle.

3. REPORT INCIDENTS, MODIFICATIONS

Current Law: Requires only reporting of expulsions.

Proposed Changes: Requires the reporting of—

1. All weapons incidents;
2. Each modification of an expulsion (e.g., when an administrator shortens an expulsion); and
3. The level of education in which the incident occurs (elementary, middle, high school).

4. MODIFICATIONS IN WRITING

Current Law: Allows states' laws to allow the chief administering officer of a school district to modify one-year expulsions on a case-by-case basis.

Proposed Change: Requires that all modifications of expulsions be put in writing.

Mr. DORGAN. Mr. President, I am pleased to join Senator FEINSTEIN in introducing the Gun-Free Schools Refinement Act. As my colleagues may remember, Senator FEINSTEIN and I were the principal authors of the Gun-Free Schools Act of 1994, and as a result of this law, more than 13,000 students have been expelled from school between 1996 and 1999 for bringing a gun to school. That is more than 13,000 potential tragedies that have been avoided because we as a nation adopted a ''zero tolerance'' policy toward bringing a weapon into our school classrooms and hallways.

Despite the Gun-Free Schools Act, however, school shootings still occasionally occur, and even one of these incidents is too many. That's why, nearly two years ago, Senator FEINSTEIN and I asked the Department of Education Inspector General to conduct a review of the Gun-Free Schools Act to ensure that states and local school districts are vigorously enforcing this important law.

The Inspector General completed this review and issued her final report in February, 2001. Fortunately, the IG found no evidence that states or school districts were intentionally ignoring instances where students brought weapons to schools. However, while we were glad to learn that schools are generally trying to comply with the spirit of the law, the IG did find some instances where schools and states have not complied with the letter of the law. This may result in uneven enforcement of the Gun-Free Schools Act. Therefore, the IG recommended in March that Congress consider making a number of technical changes to the Gun-Free Schools Act to clarify areas of the statute where schools were confused about what was required in the enforcement of their ''zero tolerance'' policies.

The Gun-Free Schools Refinement Act would make four changes to the 1994 law: First, this legislation clarifies that the law applies to students who ''possess'' a gun in school, not just those who ''brought'' a weapon to school, as the law currently reads. A common-sense interpretation of the law would compel schools to expel students who possess firearms in school, even if they were not the ones who physically brought the guns there. This change merely codifies a common-sense reading of the law so that it applies to students who either bring or possess a weapon at school.

Second, this bill clarifies that the Gun-Free Schools Act applies not just to the school buildings but to the grounds and any other setting under the jurisdiction of the school. What is meant by a ''school'' is not currently defined by the statute, but the Department of Education has already determined in its implementation guidance that a ''school'' means any area under the supervision of the school, such as buses or off-campus athletic events or field trips. This change codifies the Department's reasonable definition. I do want to mention, however, that this change would still allow schools the flexibility to permit rifle clubs, hunter safety education, or other sanctioned school activities, as long as these limited purposes provide reasonable safeguards to ensure student safety and are otherwise consistent with the intent of the Gun-Free Schools Act.

This bill also requires that schools report all incidents of students bringing a gun to school, even if a student's expulsion is ultimately shortened using the case-by-case exception provided for in the Gun-Free Schools Act. Technically the law requires schools to report only expulsions, and the IG found that this has led to considerable confusion among schools about whether they also need to report shortened expulsions. The Department of Education has already taken a step in the right direction toward addressing this issue by revising the reporting form that schools use when reporting firearm incidents. This will further clarify for states and schools the data they need to report.

Finally, this legislation requires that modifications to one-year expulsions, which are made on a case-by-case basis by the chief school officer, be made in writing. This will simply ensure that school officials, parents or other appropriate individuals will have access to a written record explaining why the expulsion was shortened.

In summary, I think these are simple, straightforward, and sensible changes to the Gun-Free Schools Act. I urge my colleagues to join me and Senator FEINSTEIN in making these technical changes when the Senate debates upcoming legislation reauthorizing the Elementary and Secondary Education Act.

By Mrs. BOXER (for herself and Mr. WYDEN):

S. 650. A bill to amend the Mineral Leasing Act to prohibit the exportation of Alaska North Slope crude oil; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. BOXER. Mr. President, this year the spotlight on energy policy has increased. One issue that is key for this country is our oil supply. Americans are very dependent on gasoline, and it is imperative that we address this problem.

First on the demand side of the equation, we should increase the Corporate Average Fuel Economy standard for SUVs and light trucks so that it equals the standard for cars. That would save 1 million barrels of oil per day. By becoming more energy efficient, the amount of our dependence on oil will decrease.

Second, we also need to focus on the supply side of the picture. For example, we should protect the American supply by banning the exportation of crude oil from Alaska's North Slope. And, today, I am introducing, along with Senator WYDEN, legislation to do just that.

For 22 years, from 1973 to 1995, the export of Alaska North Slope oil was banned. We banned it to reduce our dependence on imported oil and to keep gasoline prices down.

Unfortunately, at the behest of oil producers, the ban was lifted in 1995. The General Accounting Office has stated that lifting the export ban resulted in an increase in the price of crude oil by about $1 per barrel. In fact, some oil companies used their ability to export this oil to artificially increase the price of gasoline on the West Coast.

With the spotlight on energy policy, President Bush and others have called for drilling in the Arctic National Wildlife Refuge, (ANWR). It makes no sense to destroy a beautiful, pristine sanctuary, one of the most remarkable wildlife habitats in the world, for oil that will only last six months. And this call to destroy ANWR comes even in the face of the possible export of American oil that is being drilled in areas already open to drilling.

For a little under a year now, no North Slope oil has been exported. But this has been done voluntarily—and in one case mainly to ensure that a proposed merger was approved by the FTC. Although there are no exports now, the threat exists and given our current situation, this ban is necessary to preclude any chance of exporting this oil.

This is oil that is on public lands, and that is transported along a federal right-of-way. Taxpayers own this product. We need to ensure that American consumers and industry will remain first. I encourage my colleagues to support the Oil Supply Improvement Act.

By Mr. REED (for himself, Mr. JEFFORDS, Ms. MIKULSKI, Ms. COLLINS, Mr. WELLSTONE, and Mrs. CLINTON):

S. 651. A bill to provide for the establishment of an assistance program for health insurance consumers; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to join with my distinguished colleagues, Senators JEFFORDS, COLLINS, MIKULSKI, WELLSTONE and CLINTON, in introducing bipartisan legislation that we believe can make a real difference in the lives of health care consumers in this nation. The Health Care Consumer Assistance Act provides grants to States to create, or expand upon, health care consumer assistance, or health ombudsman programs.

In 1997, the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry noted that consumers have the right to accurate information and assistance in making decisions about health plans. One model program, the Administration on Aging's Long Term Care Ombudsman Program, has been highly successful for twenty five years in promoting quality living and health care for nursing home residents nationwide.

Now more than ever, people need this kind of assistance to navigate the health care system. The Health Care Consumer Assistance Act would create a grant program for states to establish private, non-profit, independent entities to operate statewide ombudsman programs. Each state ombudsman program would be a ''one-stop'' source for information, counseling and referral services for health care consumers.

Last summer, the Henry J. Kaiser Family Foundation and Consumer Reports magazine released the results of a survey on consumer satisfaction with health plans. This survey is part of a larger project examining ways to improve how consumers resolve problems with their health insurance plans. The survey found that while most people who experienced a problem with their plan were able to resolve them, the majority of those surveyed were confused about where to go for information and help.

Over the past few years, a growing number of states have taken steps to give patients new rights in dealing with their health insurance plans. For example, more than 30 states now have an external review process for residents to appeal adverse decisions by their health plans. While the majority of those surveyed thought the ability to appeal a decision to an independent medical expert would be helpful, only one percent had actually used the process available in many states. In fact, most consumers were unaware this option even existed, much less how to use it.

The legislation we introduce today seeks to remedy this information gap by providing grants to states that wish to establish health care consumer assistance programs. These programs are designed to help make health care consumers more educated and effective as they seek to understand and exercise their health care choices, rights, and responsibilities.

I believe that the Health Care Consumer Assistance Act would compliment a Patient's Bill of Rights that includes a strong appeals process and access to legal remedies. It may, in fact, actually serve to ease the ongoing debate about litigation. By empowering health care consumers with information and effective strategies for making sure they get the care they have paid for when they need it most, the chances that a health-related dispute will end up in court are drastically minimized. When a person is sick and in need of medical care, the last thing they want is to have a protracted legal battle, they simply want the care that will make them better.

Under this bill, the Secretary of Health and Human Services will provide funds to eligible states to create or contract with an independent, nonprofit agency, to provide a variety of information and support services for health care consumers, including the following: educational materials about strategies for health care consumers to resolve problems and grievances; operate a 1–800 telephone hotline for consumer inquiries; coordinate and make referrals to other private and public health care entities when appropriate; and conduct education and outreach in the community.

The concept of a health care consumer assistance program has gained considerable support over the past several years as states have contemplated the patient protection issue and several states have taken steps to create these programs. Governors and state legislatures in many states including, Florida, Georgia, Massachusetts, Maryland, Nebraska, Nevada, Rhode Island, Texas, Vermont, Virginia and Wisconsin have introduced or enacted health care ombudsman legislation. However, a Families USA survey of existing programs has found that while some states have successfully launched their programs, other state initiatives have faltered due to a lack of sufficient funding.

I believe that Americans deserve access to the information and assistance they need to be empowered and informed health care consumers. As the health insurance system becomes more confusing and complex, it becomes critically important that consumers have a place where they can go for counseling and assistance. As health plan options become more complicated, people need a reliable, accessible source of information. State health care consumer assistance programs have proven their ability to meet this challenge. I look forward to working with my colleagues in advancing this important and timely legislation.

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. 651

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 ''Health Care Consumers Assistance Fund Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) All consumers need information and assistance to understand their health insurance choices and to facilitate effective and efficient access to needed health services. Many do not understand their health care coverage despite the current efforts of both the public and private sectors.

(2) Federally initiated health care consumer assistance and information programs targeted to consumers of long-term care and to medicare beneficiaries under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) are effective, as are a number of State and local consumer assistance initiatives.

(3) The principles, policies, and practices of health plans for providing safe, effective, and accessible health care can be enriched by State-based collaborative, independent education, problem resolution, and feedback programs. Health care consumer assistance programs have proven their ability to meet this challenge.

(4) Many states have created health care consumer assistance programs. The Federal Government can assist the States in developing and maintaining effective health care consumer assistance programs.

SEC. 3. GRANTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary'') shall establish a fund, to be known as the ''Health Care Consumer Assistance Fund'', to be used to award grants to eligible States to enable such States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(b) STATE ELIGIBILITY.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(1) the manner in which the State will ensure that the health care consumer assistance office (established under subsection (d)) will assist health care consumers in accessing needed care by educating and assisting health insurance enrollees to be responsible and informed consumers;

(2) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by the long-term care ombudsman authorized by the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the State health insurance information program authorized under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4), the protection and advocacy program authorized under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.), and any other programs that provide information and assistance to health care consumers;

(3) the manner in which the State will coordinate and distinguish the health care consumer assistance office and its services from enrollment services provided under the medicaid and State children's health insurance programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.), and medicare and medicaid health care fraud and abuse activities including those authorized by Federal law under title 11 of the Social Security Act (42 U.S.C. 1301 et seq.), and State health insurance departments and health plan programs that perform similar functions;

(4) the manner in which the State will provide services to underserved and minority populations and populations residing in rural areas;

(5) the manner in which the State will establish and implement procedures and protocols, consistent with applicable Federal and State confidentiality laws, to ensure the confidentiality of all information shared by consumers and their health care providers, health plans, or insurers with the office established under subsection (d)(1) and to ensure that no such information is used, released or referred without the express prior permission of the consumer in accordance with section 4(b), except to the extent that the office collects or uses aggregate information;

(6) the manner in which the State will oversee the health care consumer assistance office, its activities and product materials, and evaluate program effectiveness;

(7) the manner in which the State will provide for the collection of non-Federal contributions for the operations of the office in an amount that is not less than 25 percent of the amount of Federal funds provided under this Act; and

(8) the manner in which the State will ensure that funds made available under this Act will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this Act and those described in paragraphs (3) and (4).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From amounts appropriated under section 4 for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a health insurance plan (as determined by the Secretary) bears to the total number of individuals covered under a health insurance plan in all States (as determined by the Secretary). Any amounts provided to a State under this section that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this paragraph.

(2) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this section for a fiscal year be less than an amount equal to .5 percent of the amount appropriated for such fiscal year under section 5.

(d) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—From amounts provided under a grant under this section, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(2) ELIGIBILITY OF ENTITY.—To be eligible to enter into a contract under paragraph (1), an entity shall demonstrate that the entity has the technical, organizational, and professional capacity to deliver the services described in section 4 throughout the State to all public and private health insurance consumers.

SEC. 4. USE OF FUNDS.

(a) BY STATE.—A State shall use amounts provided under a grant awarded under this Act to carry out consumer assistance activities directly or by contract with an independent, non-profit organization. The State shall ensure the adequate training of personnel carrying out such activities. Such activities shall include—

(1) the operation of a toll-free telephone hotline to respond to consumer requests for assistance;

(2) the dissemination of appropriate educational materials on how best to access health care and the rights and responsibilities of health care consumers;

(3) the provision of education to health care consumers on effective methods to promptly and efficiently resolve their questions, problems, and grievances;

(4) referrals to appropriate private and public entities to resolve questions, problems and grievances;

(5) the coordination of educational and outreach efforts with consumers, health plans, health care providers, payers, and governmental agencies; and

(6) the provision of information and assistance to consumers regarding internal, external, or administrative grievances or appeals procedures in nonlitigative settings to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a health insurance plan.

(b) CONFIDENTIALITY AND ACCESS TO INFORMATION.—The health care consumer assistance office of a State shall establish and implement procedures and protocols, consistent with applicable Federal and State confidentiality laws, to ensure the confidentiality of all information shared by consumers and their health care providers, health plans, or insurers with the office and to ensure that no such information is used, released, or referred to State agencies or outside entities without the expressed prior permission of the consumer, except to the extent that the office collects or uses aggregate information that is not individually identifiable. Such procedures and protocols shall ensure that the health care consumer is provided with a description of the policies and procedures of the office with respect to the manner in which health information may be used to carry out consumer assistance activities.

(c) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information and referrals regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under employer-provided insurance, self-funded plans, the medicare or medicaid programs under title XVII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(d) DESIGNATION OF RESPONSIBILITIES.—

(1) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(A) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(B) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by consumers and their health care providers, health plans, or insurers with the office and to ensure that no information is transferred or released to the State agency or office without the expressed prior permission of the consumer in accordance with subsection (b).

(2) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under section 3(d), the entity shall provide assurances that the entity has no real or perceived conflict of interest in providing advice and assistance to consumers regarding health insurance and that the entity is independent of health insurance plans, companies, providers, payers, and regulators of care.

(e) SUBCONTRACTS.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this Act are complied with by the office.

(f) TERM.—A contract entered into under this section shall be for a term of 3 years.

SEC. 5. FUNDING.

There are authorized to be appropriated $100,000,000 to carry out this Act.

SEC. 6. REPORT OF THE SECRETARY.

Not later than 1 year after the Secretary first awards grants under this Act, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under section 4 and the effectiveness of such activities in resolving health care-related problems and grievances.

By Mr. EDWARDS (for himself, Mr. JEFFORDS, Mr. LEAHY, and Mr. WELLSTONE):

S. 652. A bill to promote the development of affordable, quality rental housing in rural areas for low-income households; to the Committee on Banking, Housing, and Urban Affairs.

Mr. EDWARDS. Mr. President, I rise to reintroduce legislation I offered last year to promote the development of affordable, quality rental housing for low-income households in rural areas. I am pleased, along with Senator JEFFORDS, Senator LEAHY, and Senator WELLSTONE, to introduce the ''Rural Rental Housing Act of 2001.''

There is a pressing and worsening need for quality rental housing for rural families and senior citizens. As a group, residents of rural communities are the worst housed of all our citizens. Rural areas contain approximately 20 percent of the nation's population as compared to suburbs with 50 percent. Yet, twice as many rural American families live in bad housing than in the suburbs. An estimated 2,600,000 rural households live in substandard housing with severe structural damage or without indoor plumbing, heat, or electricity.

Substandard housing is a particularly grave problem in the rural areas of my home state of North Carolina. Ten percent or more of the population in five of North Carolina's rural counties live in substandard housing. Rural housing units, in fact, comprise 60 percent of all substandard units in the state.

Even as millions of rural Americans live in wretched rental housing, millions more are paying an extraordinarily high price for their housing. One out of every three renters in rural America pays more than 30 percent of his or her income for housing; 20 percent of rural renters pay more than 50 percent of their income for housing.

Most distressing is when people living in housing that does not have heat or indoor plumbing pay an extraordinary amount of their income in rent. More than 90 percent of people living in housing in the worst conditions pay more than 50 percent of their income for housing costs.

Unfortunately, our rural communities are not in a position to address these problems alone. They are disproportionately poor and have fewer

resources to bring to bear on the issue. Poverty is a crushing, persistent problem in rural America. One-third of the non-metropolitan counties in North Carolina have 20 percent or more of their population living below the poverty line. In contrast, not a single metropolitan county in North Carolina has 20 percent or more of its population living below the poverty line. Not surprisingly, the economies of rural areas are generally less diverse, limiting jobs and economic opportunity. Rural areas have limited access to many forces driving the economy, such as technology, lending, and investment, because they are remote and have low population density. Banks and other investors, looking for larger projects with lower risk, seek metropolitan areas for loans and investment. Credit in rural areas is often more expensive and available at less favorable terms than in metropolitan areas.

Given the magnitude of this problem, it is startling to find that the federal government is turning its back on the situation. In the face of this challenge, the federal government's investment in rural rental housing is at its lowest level in more than 25 years. Federal spending for rural rental housing has been cut by 73 percent since 1994. Rural rental housing unit production financed by the federal government has been reduced by 88 percent since 1990. Moreover, poor rural renters do not fair as well as poor urban renters in accessing existing programs. Only 17 percent of very low-income rural renters receive housing subsidies, compared with 28 percent of urban poor. Rural counties fared worse with Federal Housing Authority assistance on a per capita basis, as well, getting only $25 per capita versus $264 in metro areas. Our veterans in rural areas are no better off: Veterans Affairs housing dollars are spent disproportionately in metropolitan areas.

To address the scarcity of rural rental housing, I believe that the federal government must come up with new solutions. We cannot simply throw money at the problem and expect the situation to improve. Instead, we must work in partnership with State and local governments, private financial institutions, private philanthropic institutions, and the private and nonprofit sectors to make headway. We must leverage our resources wisely to increase the supply and quality of rural rental housing for low-income households and the elderly.

Senator JEFFORDS, Senator LEAHY, Senator WELLSTONE, and I are proposing a new solution. Today, we introduce the Rural Rental Housing Act of 2001 to create a flexible source of financing to allow project sponsors to build, acquire or rehabilitate rental housing based on local needs. We demand that the federal dollars to be stretched by requiring State matching funds and by requiring the sponsor to find additional sources of funding for the project. We are pleased that more than 70 housing groups from 26 states have already indicated their support for this legislation.

Let me briefly describe what the measure would do. We propose a $250 million fund to be administered by the United States Department of Agriculture, USDA. The funds will be allotted to states based on their share of rural substandard units and of the rural population living in poverty, with smaller states guaranteed a minimum of $2 million. We will leverage federal funding by requiring states or other non-profit intermediaries to provide a dollar-for-dollar match of project funds. The funds will be used for the acquisition, rehabilitation, and construction of low-income rural rental housing.

The USDA will make rental housing available for low-income populations in rural communities. The population served must earn less than 80 percent area median income. Housing must be in rural areas with populations not exceeding 25,000. Priority for assistance will be given to very low income households, those earning less than 50 percent of area median income, and in very low-income communities or in communities with a severe lack of affordable housing. To ensure that housing continues to serve low-income populations, the legislation specifies that housing financed under the legislation must have a low-income use restriction of not less than 30 years.

The Act promotes public-private partnerships to foster flexible, local solutions. The USDA will make assistance available to public bodies, Native American tribes, for-profit corporations, and private nonprofit corporations with a record of accomplishment in housing or community development. Again, it stretches federal assistance by limiting most projects from financing more than 50 percent of a project cost with this funding. The assistance may be made available in the form of capital grants, direct, subsidized loans, guarantees, and other forms of financing for rental housing and related facilities.

Finally, the Act will be administered at the state level by organizations familiar with the unique needs of each state rather than creating a new federal bureaucracy. The USDA will be encouraged to identify intermediary organizations based in the state to administer the funding provided that it complies with the provisions of the Act. These intermediary organizations can be states or state agencies, private nonprofit community development corporations, nonprofit housing corporations, community development loan funds, or community development credit unions.

This Act is not meant to replace, but to supplement the Section 515 Rural Rental Housing program, which has been the primary source of federal funding for affordable rental housing in rural America from its inception in 1963. Section 515, which is administered by the USDA's Rural Housing Service, makes direct loans to non-profit and for-profit developers to build rural rental housing for very low income tenants. Our support for 515 has decreased in recent years—there has been a 73 percent reduction since 1994—which has had two effects. It is practically impossible to build new rental housing, and our ability to preserve and maintain the current stock of Section 515 units is hobbled. Fully three-quarters of the Section 515 portfolio is more than 20 years old.

The time has come for us to take a new look at a critical problem facing rural America. How can we best work to promote the development of quality rental housing for low-income people in rural America? My colleagues and I believe that to answer this question, we must comply with certain basic principles. We do not want to create yet another program with a large federal bureaucracy. We want a program that is flexible, that fosters public-private partnerships, that leverages federal funding, and that is locally controlled. We believe that the Rural Rental Housing Act of 2001 satisfies these principles and will help move us in the direction of ensuring that everyone in America, including those in rural areas, have access to affordable, quality housing options.

I request 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. 652

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 ''Rural Rental Housing Act of 2001''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) There is a pressing and increasing need for rental housing for rural families and senior citizens, as evidenced by the fact that—

(A) two-thirds of extremely low-income and very low-income rural households do not have access to affordable rental housing units;

(B) more than 900,000 rural rental households (10.4 percent) live in either severely or moderately inadequate housing; and

(C) substandard housing is a problem for 547,000 rural renters, and approximately 165,000 rural rental units are overcrowded.

(2) Many rural United States households live with serious housing problems, including a lack of basic water and wastewater services, structural insufficiencies, and overcrowding, as shown by the fact that—

(A) 28 percent, or 10,400,000, rural households in the United States live with some kind of serious housing problem;

(B) approximately 1,000,000 rural renters have multiple housing problems; and

(C) an estimated 2,600,000 rural households live in substandard housing with severe structural damage or without indoor plumbing, heat, or electricity.

(3) In rural America—

(A) one-third of all renters pay more than 30 percent of their income for housing;

(B) 20 percent of rural renters pay more than 50 percent of their income for housing; and

(C) 92 percent of all rural renters with significant housing problems pay more than 50 percent of their income for housing costs, and 60 percent pay more than 70 percent of their income for housing.

(4) Rural economies are often less diverse, and therefore, jobs and economic opportunity are limited because—

(A) factors that exist in rural environments, such as remoteness and low population density, lead to limited access to many forces driving the economy, such as technology, lending, and investment; and

(B) local expertise is often limited in rural areas where the economies are focused on farming or natural resource-based industries.

(5) Rural areas have less access to credit than metropolitan areas since—

(A) banks and other investors that look for larger projects with lower risk seek metropolitan areas for loans and investment;

(B) credit that is available is often insufficient, leading to the need for interim or bridge financing; and

(C) credit in rural areas is often more expensive and available at less favorable terms than in metropolitan areas.

(6) The Federal Government investment in rural rental housing has dropped during the last 10 years, as evidenced by the fact that—

(A) Federal spending for rural rental housing has been cut by 73 percent since 1994; and

(B) rural rental housing unit production financed by the Federal Government has been reduced by 88 percent since 1990.

(7) To address the scarcity of rural rental housing, the Federal Government must work in partnership with State and local governments, private financial institutions, private philanthropic institutions, and the private sector, including nonprofit organizations.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE PROJECT.—The term ''eligible project'' means a project for the acquisition, rehabilitation, or construction of rental housing and related facilities in an eligible rural area for occupancy by low-income families.

(2) ELIGIBLE RURAL AREA.—The term ''eligible rural area'' means a rural area with a population of not more than 25,000, as determined by the most recent decennial census of the United States, and that is located outside an urbanized area.

(3) ELIGIBLE SPONSOR.—The term ''eligible sponsor'' means a public agency, an Indian tribe, a for-profit corporation, or a private nonprofit corporation—

(A) a purpose of which is planning, developing, or managing housing or community development projects in rural areas; and

(B) that has a record of accomplishment in housing or community development and meets other criteria established by the Secretary by regulation.

(4) LOW-INCOME FAMILIES.—The term ''low-income families'' has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(5) QUALIFIED INTERMEDIARY.—The term ''qualified intermediary'' means a State, a State agency designated by the Governor of the State, a public instrumentality of the State, a private nonprofit community development corporation, a nonprofit housing corporation, a community development loan fund, or a community development credit union, that—

(A) has a record of providing technical and financial assistance for housing and community development activities in rural areas; and

(B) has a demonstrated technical and financial capacity to administer assistance made available under this Act.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(8) STATE.—The term ''State'' means each of the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.

SEC. 4. RURAL RENTAL HOUSING ASSISTANCE.

(a) IN GENERAL.—The Secretary may, directly or through 1 or more qualified intermediaries in accordance with section 5, make assistance available to eligible sponsors in the form of loans, grants, interest subsidies, annuities, and other forms of financing assistance, to finance the eligible projects.

(b) APPLICATIONS.—

(1) IN GENERAL.—To be eligible to receive assistance under this section, an eligible sponsor shall submit to the Secretary, or a qualified intermediary, an application in such form and containing such information as the Secretary shall require by regulation.

(2) AFFORDABILITY RESTRICTION.—Each application under this subsection shall include a certification by the applicant that the housing to be acquired, rehabilitated, or constructed with assistance under this section will remain affordable for low-income families for not less than 30 years.

(c) PRIORITY FOR ASSISTANCE.—In selecting among applicants for assistance under this section, the Secretary, or a qualified intermediary, shall give priority to providing assistance to eligible projects—

(1) for very low-income families (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)); and

(2) in low-income communities or in communities with a severe lack of affordable rental housing, in eligible rural areas, as determined by the Secretary; or

(3) if the applications are submitted by public agencies, Indian tribes, private nonprofit corporations or limited dividend corporations in which the general partner is a non-profit entity whose principal purposes include planning, developing and managing low-income housing and community development projects.

(d) ALLOCATION OF ASSISTANCE.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall allocate assistance among the States, taking into account the incidence of rural substandard housing and rural poverty in each State and the share of that State of the national total of such incidence.

(2) SMALL STATE MINIMUM.—In making an allocation under paragraph (1), the Secretary shall provide each state an amount not less than $2,000,000.

(e) LIMITATIONS ON AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), assistance made available under this Act may not exceed 50 percent of the total cost of the eligible project.

(2) EXCEPTION.—Assistance authorized under this Act shall not exceed 75 percent of the total cost of the eligible project, if the project is for the acquisition, rehabilitation, or construction of not more than 20 rental housing units for use by very low-income families.

SEC. 5. DELEGATION OF AUTHORITY.

(a) IN GENERAL.—The Secretary may delegate authority for distribution of assistance—

(1) to one or more qualified intermediaries in the State; and

(2) for a period of not more than 3 years, at which time that delegation of authority shall be subject to renewal, in the discretion of the Secretary, for 1 or more additional periods of not more than 3 years.

(b) SOLICITATION.—

(1) IN GENERAL.—The Secretary may, in the discretion of the Secretary, solicit applications from qualified intermediaries for a delegation of authority under this section.

(2) CONTENTS OF APPLICATION.—Each application under this subsection shall include—

(A) a certification that the applicant will—

(i) provide matching funds from sources other than this Act in an amount that is not less than the amount of assistance provided to the applicant under this section; and

(ii) distribute assistance to eligible sponsors in the State in accordance with section 4; and

(B) a description of—

(i) the State or the area within a State to be served;

(ii) the incidence of poverty and substandard housing in the State or area to be served;

(iii) the technical and financial qualifications of the applicant; and

(iv) the assistance sought and a proposed plan for the distribution of such assistance in accordance with section 4.

(3) MULTISTATE APPLICATIONS.—The Secretary may, in the discretion of the Secretary, seek application by qualified intermediaries for more than 1 State.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $250,000,000 for each of fiscal years 2002 through 2006.

Mr. LEAHY. Mr. President, I am proud, once again, to rise and offer my support for the Rural Rental Housing Act. This important legislation will help reaffirm the federal government's commitment to provide quality affordable housing in rural areas. I joined Senator EDWARDS in introducing this bill last year, and look forward to the opportunity to debate this issue in the 107th Congress.

The need for a new federal program to encourage production, rehabilitation and acquisition of rural rental housing has never been more evident than it is today. Families in small towns across the country find themselves with fewer and fewer options for a safe and affordable place to live. In my home state of Vermont, like many other states across the country, housing costs have soared out of reach of most low-income families and rental vacancy rates have fallen to alarmingly low levels. For those people fortunate enough to find an available apartment it is increasingly difficult to afford the rent the market demands.

Despite this trend, the federal government has continued to scale back their commitment to rural housing programs over the last decade. Money for production has dropped nearly 88 percent since 1990, and funding for subsidized housing has fallen by 73 percent since 1994. This decline has made it incredibly difficult to maintain the existing housing stock, little less produce the number of units need to meet demand. In Vermont four thousand rental units were built with federal assistance between 1976 and 1985, but during the next ten years this number fell to under two thousand—nearly half of what was produced the decade before, despite the rising need. Nationwide it is estimated that nearly 2.6 million

households live in substandard conditions, often without proper plumbing, heat or electricity.

The Rural Rental Housing Act will provide $250 million dollars for a new matching federal grant program to address this situation. These funds will complement existing programs run by the Rural Housing Service at Department of Agriculture and will be used in a variety of ways to increase the supply, the affordability, and the quality of housing for the most needy residents, the lowest income families and our elderly citizens. Most importantly, this program is designed to be administered at the state and local level and to encourage public-private partnerships to best address the unique needs of each state.

I think it is time for the Senate to take action to address the needs of our country's most rural populations. I am proud to be a cosponsor of this bill and I encourage my colleagues to add their support.

Mr. WELLSTONE. Mr. President, today I offer my support for the Rural Rental Housing Act of 2001. Communities in every state in this country are suffering from a critical lack of affordable housing. Many rural areas have been particularly hard hit. This bill takes an important step toward re-establishing the production and preservation of affordable housing as a National priority. It assures that the needs of rural communities are not forgotten. I am pleased to be a co-sponsor of this bill, and urge all of my colleagues similarly to support this legislation.

The time has come for the federal government to get back in the business of producing affordable housing. Until we do, we will not get at the issue underlying the current affordable housing crisis: the rapid erosion of affordable housing stock. Every year, in fact, every day, we see the demolition of old affordable housing units without seeing the creation of an equivalent number of new affordable housing units. And while there can be no question that some of our existing affordable housing units should be demolished, we have yet to meet our responsibility to replace the old units that are lost with new, better, affordable units. Our current policy simply results in too many displaced families, families who are forced to sometimes double-up or even become homeless in worst-case scenarios, overburdening otherwise already fragile communities.

The housing needs of rural communities are particularly pronounced. Rural households pay more of their income for housing than do urban households. They are less likely to receive government-assisted mortgages; they tend to be poorer than urban households. They have limited access to mortgage credit, and they are often targeted by predatory lenders. Rural communities have a disproportionate share of the nation's substandard housing. They often have an inadequate supply of affordable housing. Development costs are higher in rural communities than in urban areas, and rural communities have a limited secondary mortgage market. Many low-income rural families have only limited experience with credit and lending institutions, and they often lack an understanding of what it takes to get a home loan. Compounding this problem is a lack of pre- and post-purchase counseling for rural homeowners.

Despite the critical housing needs of rural communities, direct lending for new or improved rural rental housing is currently at its lowest funding level in more than 25 years. The Department of Agriculture, USDA, has oversight of most of the federal rural housing assistance programs. The primary sources of funding for rural housing assistance, the Section 515 Rural Rental Housing Loan Program, which makes direct loans to developers and cooperatives to build rural rental housing and the Section 521 Rental Assistance Program (which provides rent subsidies to low-income rural renters), have seen their funding levels steadily eroded since the mid-eighties. As a consequence, right now the rate of housing assistance to non-metro areas is only about half that to metro areas.

Unfortunately, while funding levels for rural housing assistance programs have been decreasing, the need for affordable rural housing has been increasing. According to an analysis of 1995 American Housing Survey, AHS, data, 10.4 million rural households, 28 percent, have housing problems. When considering only rural renters, the problem becomes even more pronounced. Thirty-three percent of all rural renters are ''cost burdened,'' paying more than 30 percent of their income for housing costs. Almost one million rural renter households suffer from multiple housing problems. Of these households, 90 percent are severely cost burdened, paying more than 50 percent of their income for rent. Sixty percent pay more than 70 percent of their income for housing. Nearly 60 percent of tenants in Section 515 housing are elderly, disabled or handicapped. The average tenant income is less than $8,000 a year, and the average income of tenants who receive Section 521 housing assistance is $7,300 per year. Ninety-eight percent of them are either low-income, 88 percent, or very-low income, 10 percent, and 75 percent are single female or female-headed households.

The ''Rural Rental Housing Act of 2001'' is intended to promote the development of affordable, quality rental housing in rural areas for low income households. The bill would authorize the Secretary of Agriculture, directly or through specified intermediaries, to provide rural rental housing assistance in the form of loans, grants, interest subsidies, annuities, and other forms of assistance to finance eligible projects. It would require that no state receives less that $2 million. It would limit the amount of assistance to 50 percent of the total cost of eligible projects, unless the project is smaller than 20 units and is targeted to very-low income tenants, then assistance can total up to 75 percent of the total cost. It would require that properties acquired, rehabbed, or constructed with these funds remain affordable for low-income families for at least 30 years, and it would give priority to low-income families, low-income communities, or communities lacking affordable rental housing. Finally, it would authorize $250,000,000 in appropriations for each fiscal year 2002 through 2006.

I am pleased to be a co-sponsor of this important legislation, and look forward to working with Senators EDWARDS, JEFFORDS, and LEAHY to ensure its passage.

By Mr. BAYH (for himself, Mr. DOMENICI, Mrs. LINCOLN, Mr. LUGAR, Mr. GRAHAM, Mr. VOINOVICH, Mr. CARPER, Mr. LIEBERMAN, Mr. JOHNSON, Mr. MILLER, Ms. LANDRIEU, Mr. BREAUX, and Mr. KOHL):

S. 653. A bill to amend part D of title IV of the Social Security Act to provide grants to States to encourage media campaigns to promote responsible fatherhood skills, and for other purposes; to the Committee on Finance.

Mr. BAYH. Mr. President, I rise today to introduce The Responsible Fatherhood Act of 2001 with Senator PETE DOMENICI. Our bill aims to encourage fathers to take both emotional and financial responsibility for their children.

Many of America's mothers, including single moms, are heroic in their efforts to make ends meet while raising good, responsible children. Many dads are too. But an increasing number of men are not doing their part, or are absent entirely. The decline in the involvement of fathers in the lives of their children over the last forty years is a troubling trend that affects us all. Fathers can help teach their children about respect, honor, duty and so many of the values that make our communities strong.

The number of children living in households without fathers has tripled over the last forty years, from just over 5 million in 1960 to more than 17 million today. Today, the United States leads the world in fatherless families, and too many children spend their lives without any contact with their fathers. The consequences are severe, A study by the Journal of Research in Crime and Delinquency found that the best predictor of violent crime and burglary in a community is not the rate of poverty, but the rate of fatherless homes.

When fathers are absent from their lives, children are: 5 times more likely to live in poverty; twice as likely to commit crimes; more likely to bring weapons and drugs into the classroom; twice as likely to drop out of school; twice as likely to be abused; more likely to commit suicide; over twice as

likely to abuse alcohol or drugs; and more likely to become pregnant as teenagers.

I have had the opportunity to work with and visit local fatherhood programs in Indiana. I have talked to fathers as they work to re-engage with their children, learn how to be better parents, and gradually build the trust that allows them to be involved emotionally, as well as financially, with their children. I visited the Father Resource Program, run by Dr. Wallace McLaughlin in Indianapolis. This program is a wonderful example of a local, private/public partnership that delivers results. It has served more than 500 fathers, primarily young men between the ages of 15 and 25, by providing father peer support meetings, pre-marital counseling, family development forums and family support services, as well as co-parenting, employment, job training, education, and life skills classes.

The fathers there were eager to tell me about the profound impact these programs have made in their lives, and the lives of their children. One said to me, ''After the six week fatherhood training program, the support doesn't stop . . . I was wild before. The program taught me self-discipline, parenting skills, and responsibility.'' Another said, ''As fathers, we would like to interact with our kids. When they grow into something, we want to feel proud and say that we were a part of that.'' And yet another, ''The program showed me how to have a better relationship with my child's mother, and a better relationship with my child. Before those relationships were just financial.'' While the program's emotional benefits to families are difficult to measure, we do know it is helping fathers enter the workforce. Over eighty percent of the men who have graduated from the program are currently employed.

This type of investment is a fiscally responsible one, it helps get to the root cause of many of the social problems that cost our society and our government a great deal of money: The cost to society of drug and alcohol abuse is more than $110 billion per year. The social and economic costs of teenage pregnancy, abortion and STDs has been estimated at over $21 billion per year. The federal government spends $8 billion a year on dropout prevention programs. Last year, the federal government spent more than $105 billion on poverty relief programs for families and children.

All this adds up to a staggering price. My legislation, The Responsible Fatherhood Act of 2001, does three primary things to help combat fatherlessness in America. First, it creates a grant program for state media campaigns to encourage fathers to act responsibly. Second, it funds community efforts that provide fathers with the tools necessary to be responsible fathers. Finally, the bill creates a National Clearinghouse to assist states with their media campaigns and with the dissemination of materials to promote responsible fatherhood.

Senators VOINOVICH, LINCOLN, LUGAR, JOHNSON, MILLER, LANDRIEU, BREAUX, GRAHAM, LIEBERMAN, KOHL, and CARPER also join me in the introduction of The Responsible Fatherhood Act of 2001. This legislation has been introduced in the House of Representatives by Congresswoman JULIA CARSON, and has the endorsement of the Congressional Black Caucus.

President Bush has included funding for responsible fatherhood in his budget blueprint and I encourage him to continue to make this initiative a priority. Collectively, I hope we are able to pass responsible fatherhood legislation prior to Father's Day this year.

I know that government cannot be the lone answer to this problem. We cannot legislate parental responsibility. But government can encourage fathers to behave responsibly, inform the public about the consequences of father absence, and remove barriers to responsible fatherhood.

I urge my colleagues to support this important initiative.

By Mr. LUGAR (for himself and Mr. HARKIN):

S. 657. A bill to authorize funding for the National 4-H Program Centennial Initiative; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LUGAR. Mr. President, I rise to introduce legislation authorizing funding for the National 4-H Program Centennial Initiative.

In 2002 we will celebrate the centennial of the founding of the 4-H program. This important youth development program operates in each of the 50 states and more than 3,000 counties. The program is carried out through the cooperative efforts of: youth; volunteer leaders; land grant universities; federal, state and local governments; and the U.S. Department of Agriculture.

Last year over 6.8 million youth ages 5 to 19 participated in the 4-H program. Over 600,000 volunteer leaders work directly or indirectly with youth through the 4-H program.

The legislation I am introducing today recognizes the important role of 4-H in youth development. I am pleased that Senator Harkin has joined with me as a cosponsor.

In celebration of its centennial, the National 4-H Council has proposed a public-private partnership to develop new strategies for youth development for the next century. The funding authorized in this bill will allow the National 4-H Council to convene meetings and hold discussions at the national, state, and local levels to form strategies for youth development. From input provided through these sessions, a final report will be prepared that summarizes the discussions, makes specific recommendations of strategies for youth development, and proposes a plan of action for carrying out those strategies.

Because 4-H is an important program for youth in each of our states, I am hopeful that there will be strong support for this initiative from my colleagues. I urge my colleagues to cosponsor this legislation.

I ask unanimous consent that the text of the bill to be printed in the RECORD.

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

S. 657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL 4–H PROGRAM CENTENNIAL INITIATIVE.

(a) FINDINGS.—Congress finds that—

(1) the 4–H Program is 1 of the largest youth development organizations operating in each of the 50 States and over 3,000 counties;

(2) the 4–H Program is promoted by the Secretary of Agriculture through the Cooperative State Research, Education, and Extension Service and land-grant colleges and universities;

(3) the 4–H Program is supported by public and private resources, including the National 4–H Council; and

(4) in celebration of the centennial of the 4–H Program in 2002, the National 4–H Council has proposed a public-private partnership to develop new strategies for youth development for the next century in light of an increasingly global and technology-oriented economy and ever-changing demands and challenges facing youth in widely diverse communities.

(c) GRANT.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Agriculture shall make a grant to the National 4–H Council to be used to pay the Federal share of the cost of—

(A) conducting a program of discussions through meetings, seminars, and listening sessions on the National, State, and local levels regarding strategies for youth development; and

(B) preparing a report that—

(i) summarizes and analyzes the discussions;

(ii) makes specific recommendations of strategies for youth development; and

(iii) proposes a plan of action for carrying out those strategies.

(2) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of the program under paragraph (1) shall be 50 percent.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of the program under paragraph (1) may be paid in the form of cash or the provision of services, material, or other in-kind contributions.

(d) REPORT.—The National 4–H Council shall submit the report prepared under subsection (c) to the President, the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2002.

Mr. HARKIN. Mr. President, I am pleased to join Senator Lugar, the chairman of the Committee on Agriculture, Nutrition and Forestry, to introduce this legislation to authorize a national effort to strengthen 4-H's youth development program. With the

4-H program set to observe its centennial year in 2002, this legislation is a fitting tribute to the tremendous contributions 4-H has made over the years to youth development in both rural and urban communities.

The 4-H program is uniquely positioned to continue and expand upon its record of service to our youth all across America and across our many diverse communities, from farms to inner cities. 4-H is federally authorized, carried out through state land-grant universities and supported with public and private resources, including from the National 4-H Council. However, the key to 4-H's success is the multitude of volunteers who make the 4-H program work at the local community level.

This legislation will authorize a new initiative for developing and carrying out strategies for strengthening 4-H youth development in its second century. Working through public-private partnerships, the National 4-H Council will start at the grassroots level with a program of discussions around the country involving meetings, seminars and listening sessions to address the future of 4-H youth development. Based on the information and ideas gathered, a report will be prepared that summarizes and analyzes the discussions, makes specific recommendations of strategies for youth development and proposes a plan of action for carrying out those strategies.

The objective, of course, is to build on the tradition and success of 4-H to develop new approaches for youth development that are appropriate and effective in the 21st Century. Youth today face ever-growing pressures, demands and challenges far different from those of the past. 4-H has a great deal to offer them, but to be fully successful 4-H must adapt to the realities of an increasingly complex and rapidly changing world. 4-H must also be responsive to the widening diversity of the local communities where its contributions really make a difference.

In short, 4-H can expand its fine record of service and accomplish even more in its second century by developing new strategies for youth development. That is exactly what this legislation is designed to help achieve. I urge my colleagues to support it.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 658. A bill to amend title 32, United States Code, to authorize units of the National Guard to conduct small arms competitions and athletic competitions, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, I am pleased to rise today with Senator JEFFORDS to introduce legislation that will allow the National Guard to participate fully in international sports competitions. Currently, members of the National Guard are involved in a myriad of athletic and small arms competitions, but their authority for such activities is unclear. This legislation will make it easier for the Guard to support the competitions and allow them to use their funds and facilities for such events. This is basic but necessary legislation.

The National Guard is already participating in these events. The Vermont National Guard hosted the 2001 Conseil International du Sport Militaire, CISM, World Military Ski Championships at the Stowe ski area this month. This military ski event united military personnel from more than 30 countries, promoting friendship and mutual understanding through sports. More than 350 international athletes competed in such events as the biathlon, giant slalom, cross country, and military patrol race. They tested their skill and mettle in the beautiful Green Mountains, where the recent nor'easter added to the already bountiful snow cover there.

But it takes a lot more than a 3-foot base of powder to carry off these competitions. It takes clear authorities, regulations, and resources. This legislation will allows these important events to continue with full participation of the National Guard. I urge the Senate to join Senator JEFFORDS and me in sponsoring this legislation and moving it quickly through the legislative process.

I ask unanimous consent that additional material be printed in the RECORD.

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

S. 658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDUCT OF SMALL ARMS COMPETITIONS AND ATHLETIC COMPETITIONS BY THE NATIONAL GUARD.

(a) PREPARATION AND PARTICIPATION GENERALLY.—Section 504 of title 32, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''or'' at the end of paragraph (2);

(B) by striking paragraph (3) and inserting:

''(3) prepare for and participate in small arms competition; or''; and

(C) by adding at the end the following new paragraph:

''(4) prepare for and participate in qualifying athletic competitions.''; and

(2) by adding at the end the following new subsections:

''(c)(1) Units of the National Guard may conduct a small arms competition or qualifying athletic competition in conjunction with training required under this chapter if such activity (treating the activity as of it were a provision of services) meets the requirements set forth in paragraphs (1), (3), and (4) of section 508(a) of this title.

''(2) Facilities and equipment of the National Guard, including military property and vehicles described in section 508(c) of this title, may be used in connection with activities carried out under paragraph (1).

''(3) Except as otherwise provided in an applicable provision of an appropriations Act, amounts appropriated for the National Guard may be used to pay the costs of activities carried out under this subsection and expenses incurred by members of the National Guard in engaging in activities under paragraph (3) or (4) of subsection (a), including participation fees, costs of attendance, costs of travel, per diem, costs of clothing, costs of equipment, and related expenses.

''(d) In this section, the term 'qualifying athletic competition' means a competition in an athletic event that necessarily involves demonstrations by the competitors of—

''(1) skills relevant to the performance of military duties; or

''(2) physical fitness consistent with the standards that are applicable to members of the National Guard in evaluations of the physical readiness of members for military duty in the members' armed force.''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 504. National Guard schools; small arms competitions; athletic competitions''.

(2) The item relating to such section in the table of sections at the beginning of chapter 5 of title 32, United States Code, is amended to read as follows:

''504. National Guard schools; small arms competitions; athletic competitions.''.

SECTIONAL ANALYSIS

Section XXX amends 32 U.S.C. §504 to allow the National Guard to use appropriated funds to support certain costs of members of the National Guard involved with small arms and other athletic training and competitions to promote morale and military readiness. Although the Department of Defense (DOD), Air Force (USAF), and Army (DA) regulations allow use of appropriated funds to support sports programs, there are some things under general fiscal law principles for which appropriated funds can not be used, unless specifically authorized by law. The Active Components cover these costs with non-appropriated funds. Unlike the Air Force and the Army, the National Guard receives no non-appropriated funds for Morale, Welfare, Recreation (MWR) sports activities and, therefore, can not cover costs associated with sports programs with such funds. Section XXX addresses this inconsistency and provides authority for NGB to spend appropriated funds on items the Active Components generally cover with non-appropriated funds.

Departmental, national, and international sports competition programs are run by the Army and the Air Force. AR 215–1 and AFI 34–107 outline the requirements for soldier/airmen athletes to apply to compete at this higher level as individuals or as part of departmental teams. 10 U.S.C. §717 provides specific statutory authority to use appropriated funds to purchase personal furnishings for soldier/airmen competitors at this level. This authority, however, can not be used to support the NG sports program because implementing regulations require control and approval at the departmental level. DODD 1330.4, AR 215–1, chap. 8, AFI 34–107. The NG competitive sports program, as with other MACOM level and below sports programs within the Active Components, maintains intramural level sports programs to support athletes who will train to compete for positions on the departmental teams authorized by 10 U.S.C. §717. Section XXX authorizes the NG to use appropriated funds to support a MACOM level sports program on par with Active Component MACOMs.

Section XXX places two limits on NGB sports activities to ensure any training, participation, or holding of sports events enhances military readiness. First, the amendment allows preparation for and participation in sports events that ''require skills relevant to military duties or involve aspects of physical fitness that are evaluated by the

armed forces in determining whether a member of the National Guard is fit for military duty.'' Second, the amendment requires the National Guard hold only sports events that ''meet the requirements set forth in paragraphs (1), (3), and (4) of section 508(a)'' of title 32, United States Code. This limitation allows the National Guard Bureau to hold sporting events only if: (1) such event ''does not adversely affect the quality of training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit; (2) ''National Guard personnel will enhance their military skills as a result of'' participation in the sports event; and (3) the event ''will not result in a significant increase in the cost of the training.'' 32 U.S.C. 508(a)(1), (3), (4). These limitations safeguard one of the purposes of competitive sporting events within DOD, namely to enhance military readiness.

Mr. JEFFORDS. Mr. President, It is with great pleasure that Senator LEAHY and I today to introduce the National Guard Competitive Sports Equity Act.

Passage of this bill will allow the National Guard to utilize appropriated funds in support of National Guard Sports Programs, National Guard Bureau sanctioned competitive events and associated training programs.

The National Guard Competitive Events and Sports program adds value to the National Guard by enhancing the National Guard's competitive training programs through participation in military, national and international sports competitions. The National Guard Competitive Sports Program trains, coordinates and participates in events such as the Pan Am Games, World Championships and Olympic Games, Competition International Sports Militaire, CISM, and manages the World Class Athlete Program.

The National Guard Sports Office manages four core programs that include marksmanship, biathlon, parachute competition and marathon programs.

This legislation is important because it will allow these programs to continue to flourish and provide the National Guard training resource equity on par with similar programs available to active duty soldiers.

Under current law, active component services are able to utilize Morale, Welfare and Recreation, MWR funds for training, allowances, entry fees, personal clothing and specialized equipment in support of training and competitive events. The Guard does not receive or have access to similar funding sources. The Guard is forced to use training funds potentially earmarked for other events or not participate.

This important legislation will allow this program to continue and provide the National Guard with the funding flexibility it requires to maintain this highly successful program.

By Mr. CRAPO (for himself, Mr. CRAIG, Mr. HAGEL, Mr. COCHRAN, Mrs. LINCOLN, Mr. ROBERTS, Mr. HELMS, Mr. DAYTON, and Mr. HUTCHINSON):

S. 659. A bill to amend title XVIII of the Social Security Act to adjust the labor costs relating to items and services furnished in a geographically reclassified hospital for which reimbursement under the medicare program is provided on a prospective basis; to the Committee on Finance.

Mr. CRAPO. Mr. President, I rise today to introduce the Medicare Geographic Adjustment Fairness Act of 2001. I am pleased to have the support of several of my colleagues including Senators CRAIG, HAGEL, COCHRAN, LINCOLN, ROBERTS, HELMS, DAYTON, and HUTCHINSON. These members recognize the need for adequate reimbursements for rural health facilities. I am also grateful to Representative BART STUPAK who will be introducing this legislation in the House.

The Medicare Geographic Adjustment Fairness Act will amend the Social Security Act to redirect additional Medicare reimbursements to rural hospitals. Currently, hospitals throughout the country are losing Medicare reimbursements, which results in severe implications for surrounding communities.

As you know, in an attempt to keep Medicare from consuming its limited reserves, Congress enacted the Balanced Budget Act of 1997, BBA, which made sweeping changes in the manner that health care providers are reimbursed for services rendered to Medicare beneficiaries. These were the most significant modifications in the history of the program.

All of the problems with the BBA, whether hospitals, nursing facilities, home health agencies, or skilled nursing facilities, are especially acute in rural states, where Medicare payments are a bigger percentage of hospital revenues and profit margins are generally much lower. These facilities were already managed at a highly efficient level and had ''cut the fat out of the system.'' Therefore, the cuts implemented in the BBA hit the rural communities in Idaho and throughout the United States in a very significant and serious way.

In the 106th Congress, the Senate did a tremendous job of bringing forth legislation that adjusted Medicare payments to health care providers hurt by cuts ordered in the BBA. While this was a meaningful step, the Senate must continue to address the inequities in the system.

My bill would expand wage-index reclassification by requiring the Secretary of Health and Human Services to deem a hospital that has been reclassified for purposes of its inpatient wage-index to also reclassify for purposes of other services which are provider-based and for which payments are adjusted using a wage-index. In other words, this legislation would require the Secretary to use a hospital's reclassification wage-index to adjust payments for hospital outpatient, skilled nursing facility, home health, and other services, providing those entities are provider-based. This change should have been made in BBA when Congress required that prospective payment systems be established for these and other services. As such, this change would address an issue that has been left unaddressed for several years.

It makes sense that, if a hospital has been granted reclassification by the Medicare Geographic Classification Review Board for certain inpatient services, it also be granted wage-index reclassification for outpatient and other services. It is estimated that this provision would help approximately 400 hospitals, 90 percent which are rural. Furthermore, this provision would be budget neutral.

I know my colleagues in the Senate share my commitment of promoting access to health care services in rural areas. Expanding wage-index geographic reclassification will allow hospitals to recoup lost funds and use those funds to address patients' needs in an appropriate, effective, and meaningful way. I encourage my colleagues to cosponsor the Medicare Geographic Adjustment Fairness Act.

By Mr. THOMPSON (for himself, Mr. BREAUX, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. GRAMM, Mr. NICKLES, and Mrs. LINCOLN):

S. 661. A bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury; to the Committee on Finance.

Mr. THOMPSON. Mr. President, today I am introducing legislation to repeal the 4.3-cent federal excise tax on railroad and inland waterway transportation fuels. This tax was signed into law by President Clinton in 1993 in order to help reduce the federal budget deficit. Now that the budget is in surplus, however, the tax is no longer needed. Railroad and barges should not continue to be the only forms of transportation that must pay this tax for purposes of deficit reduction, particularly during this time of high fuel prices. I am pleased to be joined in my efforts by the Senator from Louisiana, Mr. BREAUX, the Senator from Alaska, Mr. MURKOWSKI, the Senator from Vermont, Mr. JEFFORDS, the Senator from Oklahoma, Mr. NICKLES, the Senator from Texas, Mr. GRAMM, and the Senator from Arkansas, Mrs. LINCOLN.

The Omnibus Budget Reconciliation Act of 1993 imposed a Federal excise tax of 4.3 cents per gallon on all transportation fuels. The revenue raised from the tax was dedicated to deficit reduction, so tax revenue was deposited in the general fund instead of into any of the transportation trust funds. Prior to the 1993 act, the gasoline, aviation and diesel fuel excise taxes had been considered to be ''user fees.'' The revenue raised from these taxes was deposited into the transportation trust funds and was dedicated to improving highways, airports and waterways. There is

no railroad trust fund. Therefore, the 1993 act was a significant departure from previous treatment of transportation fuel taxes.

In 1997, Congress redirected the 4.3-cent gasoline excise tax back into the highway trust fund and the 4.3-cent aviation fuel excise tax back into the airport and airway trust fund as a part of the surface transportation reauthorization bill, TEA–21. The 1997 law restored the gasoline and aviation taxes to their previous status as true user fees. The revenue collected from these taxes are once again used for the benefit of our highways and airports. However, the final version of TEA–21 did not touch the tax on inland waterway barge fuel or railroad fuel, so that tax revenue is still being deposited in the general fund.

Last Congress, the Senator from Rhode Island, John Chafee, led the effort to repeal the 4.3-cent excise tax on railroad and barge fuel. The 106th Congress actually voted to repeal the tax as part of the Taxpayer Refund and Relief Act of 1999. Unfortunately, the bill was vetoed by President Clinton.

I am pleased to carry on the work of our former colleague by introducing this bill to repeal the 4.3-cent tax on railroad and barge fuel effective this year. I believe the time has come to repeal the 4.3-cent tax, since it provides no benefit to the railroad and barge systems, and it only imposes a burden on these two industries that are important to my home state of Tennessee. I look forward to working with my colleagues to repeal this outdated tax.

By Mr. DODD (for himself, Mr. BYRD, Mr. SANTORIUM, Mr. CONRAD, Mr. FEINGOLD, Mr. KENNEDY, Mr. KOHL, Mr. LEAHY, Mr. DORGAN, and Mr. VOINOVICH):

S. 662. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or to otherwise commemorate, certain individuals; to the Committee on Veterans' Affairs.

Mr. DODD. Mr. President, according to the Department of Veterans Affairs, today some 1,500 American World War II-era veterans, members of the so-called Greatest Generation, will pass away. Tomorrow about the same number will pass away. That daily number will gradually rise in the weeks, months, and years to come. Most of them were not career soldiers, but they answered the call to serve our country. Many bravely confronted our enemies in distant lands, in battles that we regard as history, but that they remember as their personal stories. Midway Island, Omaha Beach, and Iwo Jima are just a few of the places hallowed by their deeds. Through their strength and dedication these veterans have earned the respect and gratitude of all Americans to follow.

As these veterans pass away, their families are rightfully seeking to preserve the record of their loved ones' service to our nation. One way in which they are seeking to record that service is to secure official burial recognition. But, because of a provision of current law, the Department of Veterans Affairs is prohibited from providing an official headstone or grave marker to as many as 20,000 of these families each year.

The law I am referring to dates back to the Civil War era, when our nation wanted to ensure that our fallen soldiers were not buried in unmarked graves. Thus, the law instructs the VA to provide a grave marker for veterans who would otherwise lie in unmarked graves. Of course, in this day and age, a grave rarely goes unmarked. Today, virtually every deceased veteran is buried in a marked grave, or in some other way duly memorialized by surviving family members. Until 1990, the surviving family members of a deceased veterans could receive from the VA, after a burial or cremation, a partial reimbursement for the cost of a private headstone, a VA headstone, or a VA marker. The choice was solely up to the vet's surviving family members. However, budgetary belt tightening measures enacted in 1990 eliminated the reimbursement component and precluded the VA from providing a headstone or a marker where the family had already done so privately. That measure has left the VA without any recourse when dealing with veterans families who have made private burial arrangements, other than denying their request for official headstones or grave markers.

The inequity created by the current law is not difficult to understand. A family who is aware of this peculiarity in the law can simply request the official headstone, or in most cases grave marker, prior to making private arrangements for a headstone or marker. The VA will examine the request, find that the veterans grave has not been marked, and provide the marker, bestowing the appropriate recognition for service to the Nation. The family is then able to incorporate the VA marker into its private arrangements as the family deems fit.

However, many, if not most, families do not know about the peculiarities of the law in this area. Most families are unaware of the current law and act as any family would in a time of loss and grief: they make private and appropriate arrangements to commemorate the deceased. For most, the idea of checking with the VA at this most difficult time is the farthest thing from their minds, but the effect of not doing so is absolute and final. When families purchase a private headstone, as nearly every family does these days, they unknowingly forfeit the opportunity to receive a government headstone or marker.

The Guzzo family of West Hartford, CT is one of the countless families who have found out about this law the hard way. Thomas Guzzo first brought this matter to my attention several years ago. His late father, Agostino Guzzo, served in the Phillippines and was honorably discharged from the Army in 1947. Today, Agostino Guzzo is interred in a mausoleum at the Cedar Hill Cemetery in Hartford, CT, but the mausoleum bears no reference to his service because of the current law. Like so many families, the Guzzo family provided its own marker and subsequently found that it was not eligible for an official VA marker.

When I was first contacted by the Guzzo family, I attempted to straighten out what I thought to be a bureaucratic mixup. I was surprised to realize that Thomas Guzzo's difficulties resulted not from some glitch in the system, but rather from the law itself. In the end, I wrote to the former Secretary of Veterans Affairs regarding Thomas Guzzo's very reasonable request. The Secretary responded that his hands were tied as a result of the obscure law. Furthermore, the Secretary's response indicated that, even if a grave marker could be provided for Agostino Guzzo, that marker could not be placed on a cemetery bench or tree dedicated in his name. The law prevented the Department from providing a marker for placement anywhere but the grave site and thus prevents families from recognizing their veteran's service as they wish.

I rise today to introduce a bill that will appropriately address these issues and ensure our deceased veterans are treated equitably. The bill will allow the families of deceased veterans to receive an official headstone or grave marker in recognition of their veteran's contribution to our nation, regardless of whether their grave is privately marked.

What I propose today is a modest means of solving a massive problem. The VA has described this issue as one of its greatest public affairs challenges, but the cost of fixing it is relatively small. Last Congress, the idea was scored by the Congressional Budget Office at less than $3 million dollars per year, over the first 5 years. This bill will put at ease countless families who are disillusioned by the current system. Moreover, it gives those families the appropriate flexibility, with respect to common cemetery restrictions, to commemorate deceased veterans by dedicating a tree or bench or other suitable site in the veteran's honor.

America is different today than it was when we changed the burial benefits in 1990. Our fiscal house is in order; disciplined spending has produced budget surpluses for the first time in many years. We know that the VA is forced to reject as many as 20,000 headstone and grave marker requests each year under the current law. These are meritorious requests by deserving applicants whose families unknowingly forfeit their right to this modest memorial in a time of stress and loss. The cost of fixing this inequity is minor. It

is appropriate, I feel, to make sure that all our veterans receive the recognition they have earned.

The policy is simple. We should provide these markers or headstones to the families when they request them, and we should allow these families to recognize their deceased veterans in a manner deemed fitting by each family.

Time is of the essence. One thousand five hundred veterans pass away each day, and each day there are 1,500 new families who may be denied a modest recognition of the service their loved one gave to our Nation.

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. 662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO PROVIDE HEADSTONES OR MARKERS FOR MARKED GRAVES OR OTHERWISE COMMEMORATE CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 2306 of title 38, United States Code, is amended—

(1) in subsections (a) and (e)(1), by striking ''the unmarked graves of''; and

(2) by adding at the end the following:

''(f) A headstone or marker furnished under subsection (a) shall be furnished, upon request, for the marked grave or unmarked grave of the individual or at another area appropriate for the purpose of commemorating the individual.''.

(b) APPLICABILITY.—The amendment to subsection (a) of section 2306 of title 38, United States Code, made by subsection (a) of this section, and subsection (f) of such section 2306, as added by subsection (a) of this section, shall apply with respect to burials occurring on or after November 1, 1990.

By Mr. WELLSTONE (for himself and Mr. DAYTON):

S. 663. A bill to authorize the President to present a gold medal on behalf of Congress to Eugene McCarthy in recognition of his service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

Mr. WELLSTONE. Mr. President, in recognition of his distinguished record of service to the United States, I am introducing a bill today to award a Congressional Gold Medal to Eugene McCarthy.

The Congressional Gold Medal is considered to the most distinguished recognition that Congress bestows. I believe, and I hope my colleagues will agree, that the Congressional Gold Medal is a fitting tribute to the dedicated service Eugene McCarthy has given to our Nation.

Eugene McCarthy graduated from St. Johns University in Minnesota in 1935, and from the University of Minnesota in 1939. He taught economics and sociology at public and Catholic high schools and colleges in Minnesota and North Dakota, including at St. Thomas College in St. Paul, and at his own alma mater, St. Johns University. McCarthy served in the military intelligence division of the U.S. War Department in 1944. In 1948, he was elected to Congress to represent the State of Minnesota. For Eugene McCarthy, this was merely a first step, revealing that his long-time interest in politics would be even more a calling than it would be a career. He has pursued his political vocation and mission for more than 40 years. This span covers Eugene McCarthy's service in the House of Representatives and in the Senate during the years 1948 to 1971, his anti-war presidential campaign of 1968, his Independent candidacy of 1976, and the many books, essays and speeches that always spoke out for reform of the political process and the limitation of executive power.

Eugene McCarthy exemplified the highest standards of public service and dedication to Constitutional principles as a member of the House of Representatives for five terms, from 1948 to 1958, and as a Member of this body, the Senate, for two terms, from 1959 to 1971. Through his shaping of legislation on civil rights, tax policy, Social Security and Medicare, the minimum wage, unemployment compensation, government reform, foreign policy and Congressional oversight of the Central Intelligence Agency, McCarthy upheld the finest principles of politics and policy. As Chairman of the Senate Special Committee on Unemployment Problems in 1959–60, McCarthy held hearings which led to the Committee's outlining of many of the economic development and social welfare programs later enacted during the Kennedy and Johnson administration. On the Ways and Means and Finance Committees of the House and Senate, respectively, McCarthy pushed for additional benefits and minimum wage coverage for migrant workers. In the early 1960s, he led the fight to give Medicare coverage to the mentally ill. He was a leader throughout the 1960s in efforts to extend unemployment compensation. Beginning in 1954, and subsequently for more than 15 years in both the House and the Senate, McCarthy called for Congressional oversight of the CIA.

Eugene McCarthy's principled campaign for the Democratic Presidential nomination in 1968 and his courageous stand regarding U.S. withdrawal from the Vietnam War inspired countless young people to believe they could make a difference in public life. He always emphasized the role of Congress in foreign policy, and his actions helped hasten the end of the most controversial war in American history. Eugene McCarthy deplored cynicism and any tendency to look upon all politicians as corrupt. He said:

> Truth will prove the best antidote to cynicism which is an especially dangerous attitude when it prevails among young people . . . Not only does it destroy confidence and hope, some of the most precious assets of youth, but it also eats away the will to attack difficult political problems, as it does problems in other fields.

As a distinguished author, poet and lecturer, Eugene McCarthy has elevated the language of public dialogue in a way that epitomizes the deepest and most cherished values of American political life. ''What the country needs,'' McCarthy said in 1968, ''is a freeing of our moral energy, a freeing of our resolution, a freeing of our strength.'' He added that, ''in a free country the potential for leadership must exist in every man and ever woman.'' McCarthy has authored numerous books on American politics and institutions, including ''A Liberal Answer to the Conservative Challenge,'' 1964; ''America Revisited: 150 Years After Tocqueville,'' 1976; ''the Ultimate Tyranny: The Majority over the Majority,'' 1980; and ''Up Till Now: A Memoir,'' 1988.

Eugene McCarthy has dedicated much of his life to our Nation. His leadership and service have extended far beyond his tenure in the United States Congress. It is an honor for me to ask that we award the congressional Gold Medal to this deserving scholar and gentleman. This bill offers us here in the Senate finally to recognize Eugene McCarthy's extraordinary contributions to the United States and to say: Eugene McCarthy, we thank you.

By Mr. GREGG (for himself and Mr. KOHL):

S. 664. A bill to provide jurisdictional standards for the imposition of State and local tax obligations on interstate commerce, and for other puroses; to the Committee on Finance.

Mr. GREGG. Mr. President, today I introduce with Senator KOHL the New Economy Tax Fairness Act, or NET FAIR. As we all know, the Internet and electronic commerce have reshaped our society over the last decade. Much of the success that our Nation's economy has enjoyed has been a result of innovative companies making use of Internet technology to conduct commerce online. E-commerce has created new jobs, increased productivity, lowered business costs, generated a higher level of convenience for consumers, and sparked overall growth in the U.S. economy.

With this in mind, there remain those that would like to tax interstate commerce over the Internet even while this budding technology has yet to meet its full potential. The NET FAIR Act addresses the issue of taxing remote sellers that conduct interstate commerce electronically.

In 1992, the Supreme Court ruled in Quill Corp. v. North Dakota that States cannot force out-of-State retail firms to collect sales taxes. The Court held that Congress alone has the authority to impose such requirements under the interstate commerce clause of the Constitution. NET FAIR builds upon the Quill decision by extending the same approach that currently governs catalogue sales to the Internet. This legislation would allow States to require a company to collect sales and use tax, or to pay business activity taxes, only if their goods or services

are sold to individuals living in states where the company has a substantial physical presence, or ''nexus.''

Today, there are over 7,600 taxing jurisdictions nationwide. NET FAIR provides clear rules of the road for all parties involved, establishing sound nexus standards for the 21st Century. This legislation allows the Internet to continue as an engine of economic growth while respecting the sovereign right of States to determine their own tax policy for commerce conducted within their borders. A failure to address this issue will subject small and large businesses alike to thousands of different tax standards and rules, making it difficult to ensure compliance. In fact, it will be the small and medium sized businesses—using the Internet to remain competitive in the new economy—that will be hit the hardest, as they lack the resources to comply with the thousands of jurisdictional tax standards that exist across the country.

At my urging, the bipartisan Advisory Commission on Electronic Commerce was established in 1998. The Commission was established to examine all aspects of the Internet taxation issue. In April 2000, the Commission issued its report to Congress. With majority support, the ACEC recommended that the Internet tax moratorium be extended, which I support, and that Congress clarify nexus rules for e-commerce and establish clear guidelines for when state and local governments could levy taxes on vendors of interstate commerce. Our legislation goes to the very heart of this issue, and establishes clear nexus rules for e-commerce. Since the ACEC issued its report, it has become apparent that reform in this area is necessary; however, Congress should not allow a ''tax first, reform later'' approach to prevail. Rather, Congress should address the nexus issued head on.

NET FAIR provides legal certainty for companies and consumers that engage in interstate commerce via the Internet, telephone, or mail order. This bill adheres to our Founding Fathers' tenet of ''no taxation without representation'' by codifying fair taxation principles. We cannot stand idly by and allow this new economic avenue to be hampered with new taxes. This legislation does not preempt a State's right to tax commerce; however, it does protect businesses and consumers from unfair taxation on interstate commerce and from what could be a crippling effect on the growth of the new 21st Century economy.

Senator KOHL and I firmly believe that the New Economy Tax Fairness Act accomplishes this task. It is vital that Congress address Internet taxation and clarify nexus standards so that interstate commerce, especially online, electronic commerce, can continue to thrive and positively impact our Nation's overall economic success. I would ask that our Senate colleagues join us in this effort.

I ask that the text of this legislation be printed in the RECORD.

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

S. 664

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 ''New Economy Tax Fairness Act or NET FAIR Act''.

SEC. 2. JURISDICTIONAL STANDARDS FOR THE IMPOSITION OF STATE AND LOCAL BUSINESS ACTIVITY, SALES, AND USE TAX OBLIGATIONS ON INTERSTATE COMMERCE.

Title I of the Act entitled ''An Act relating to the power of the States to impose net income taxes on income derived from interstate commerce, and authorizing studies by congressional committees of matters pertaining thereto'', approved on September 14, 1959 (15 U.S.C. 381 et seq.), is amended to read as follows:

''TITLE I—JURISDICTIONAL STANDARDS

''SEC. 101. IMPOSITION OF STATE AND LOCAL BUSINESS ACTIVITY, SALES, AND USE TAX OBLIGATIONS ON INTERSTATE COMMERCE.

''(a) IN GENERAL.—No State shall have power to impose, for any taxable year ending after the date of enactment of this title, a business activity tax or a duty to collect and remit a sales or use tax on the income derived within such State by any person from interstate commerce, unless such person has a substantial physical presence in such State. A substantial physical presence is not established if the only business activities within such State by or on behalf of such person during such taxable year are any or all of the following:

''(1) The solicitation of orders or contracts by such person or such person's representative in such State for sales of tangible or intangible personal property or services, which orders or contracts are approved or rejected outside the State, and, if approved, are fulfilled by shipment or delivery of such property from a point outside the State or the performance of such services outside the State.

''(2) The solicitation of orders or contracts by such person or such person's representative in such State in the name of or for the benefit of a prospective customer of such person, if orders or contracts by such customer to such person to enable such customer to fill orders or contracts resulting from such solicitation are orders or contracts described in paragraph (1).

''(3) The presence or use of intangible personal property in such State, including patents, copyrights, trademarks, logos, securities, contracts, money, deposits, loans, electronic or digital signals, and web pages, whether or not subject to licenses, franchises, or other agreements.

''(4) The use of the Internet to create or maintain a World Wide Web site accessible by persons in such State.

''(5) The use of an Internet service provider, on-line service provider, internetwork communication service provider, or other Internet access service provider, or World Wide Web hosting services to maintain or take and process orders via a web page or site on a computer that is physically located in such State.

''(6) The use of any service provider for transmission of communications, whether by cable, satellite, radio, telecommunications, or other similar system.

''(7) The affiliation with a person located in the State, unless—

''(A) the person located in the State is the person's agent under the terms and conditions of subsection (d); and

''(B) the activity of the agent in the State constitutes substantial physical presence under this subsection.

''(8) The use of an unaffiliated representative or independent contractor in such State for the purpose of performing warranty or repair services with respect to tangible or intangible personal property sold by a person located outside the State.

''(b) DOMESTIC CORPORATIONS; PERSONS DOMICILED IN OR RESIDENTS OF A STATE.—The provisions of subsection (a) shall not apply to the imposition of a business activity tax or a duty to collect and remit a sales or use tax by any State with respect to—

''(1) any corporation which is incorporated under the laws of such State; or

''(2) any individual who, under the laws of such State, is domiciled in, or a resident of, such State.

''(c) SALES OR SOLICITATION OF ORDERS OR CONTRACTS FOR SALES BY INDEPENDENT CONTRACTORS.—For purposes of subsection (a), a person shall not be considered to have engaged in business activities within a State during any taxable year merely by reason of sales of tangible or intangible personal property or services in such State, or the solicitation of orders or contracts for such sales in such State, on behalf of such person by one or more independent contractors, or by reason of the maintenance of an office in such State by one or more independent contractors whose activities on behalf of such person in such State consist solely of making such sales, or soliciting orders or contracts for such sales.

''(d) ATTRIBUTION OF ACTIVITIES AND PRESENCE.—For purposes of this section, the substantial physical presence of any person shall not be attributed to any other person absent the establishment of an agency relationship between such persons that—

''(1) results from the consent by both persons that one person act on behalf and subject to the control of the other; and

''(2) relates to the activities of the person within the State.

''(e) DEFINITIONS.—For purposes of this title—

''(1) BUSINESS ACTIVITY TAX.—The term 'business activity tax' means a tax imposed on, or measured by, net income, a business license tax, a business and occupation tax, a franchise tax, a single business tax or a capital stock tax, or any similar tax or fee imposed by a State.

''(2) INDEPENDENT CONTRACTOR.—The term 'independent contractor' means a commission agent, broker, or other independent contractor who is engaged in selling, or soliciting orders or contracts for the sale of, tangible or intangible personal property or services for more than one principal and who holds himself or herself out as such in the regular course of his or her business activities.

''(3) INTERNET.—The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such Protocol.

''(4) INTERNET ACCESS.—The term 'Internet access' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as a part of a package of services offered to users.

''(5) REPRESENTATIVE.—The term 'representative' does not include an independent contractor.

''(6) SALES TAX.—The term 'sales tax' means a tax that is—

''(A) imposed on or incident to the sale of tangible or intangible personal property or services as may be defined or specified under the laws imposing such tax; and

''(B) measured by the amount of the sales price, cost, charge, or other value of or for such property or services.

''(7) SOLICITATION OF ORDERS OR CONTRACTS.—The term 'solicitation of orders or contracts' includes activities normally ancillary to such solicitation.

''(8) STATE.—The term 'State' means any of the several States, the District of Columbia, or any territory or possession of the United States, or any political subdivision thereof.

''(9) USE TAX.—The term 'use tax' means a tax that is—

''(A) imposed on the purchase, storage, consumption, distribution, or other use of tangible or intangible personal property or services as may be defined or specified under the laws imposing such tax; and

''(B) measured by the purchase price of such property or services.

''(10) WORLD WIDE WEB.—The term 'World Wide Web' means a computer server-based file archive accessible, over the Internet, using a hypertext transfer protocol, file transfer protocol, or other similar protocols.

''(f) APPLICATION OF SECTION.—This section shall not be construed to limit, in any way, constitutional restrictions otherwise existing on State taxing authority.

''SEC. 102. ASSESSMENT OF BUSINESS ACTIVITY TAXES.

''(a) LIMITATIONS.—No State shall have power to assess after the date of enactment of this title any business activity tax which was imposed by such State or political subdivision for any taxable year ending on or before such date, on the income derived for activities within such State that affect interstate commerce, if the imposition of such tax for a taxable year ending after such date is prohibited by section 101.

''(b) COLLECTIONS.—The provisions of subsection (a) shall not be construed—

''(1) to invalidate the collection on or before the date of enactment of this title of any business activity tax imposed for a taxable year ending on or before such date; or

''(2) to prohibit the collection after such date of any business activity tax which was assessed on or before such date for a taxable year ending on or before such date.

''SEC. 103. TERMINATION OF SUBSTANTIAL PHYSICAL PRESENCE.

''If a State has imposed a business activity tax or a duty to collect and remit a sales or use tax on a person as described in section 101, and the person so obligated no longer has a substantial physical presence in that State, the obligation to pay a business activity tax or to collect and remit a sales or use tax on behalf of that State applies only for the period in which the person has a substantial physical presence.

''SEC. 104. SEPARABILITY.

''If any provision of this title or the application of such provision to any person or circumstance is held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.''.

Mr. KOHL. Mr. President, today I introduce with my good friend from New Hampshire NET FAIR, the New Economy Fairness Act. This bill is identical to a bill we introduced last Congress. It would clarify the tax situation of companies that sell and ship products out of the state in which they are located.

NET FAIR codifies current legal decisions defining when a business can be subject to state and local business taxes and be required to collect State and local sales taxes. Currently, a business falls into a state or local taxing jurisdiction when it has a ''substantial physical presence'' or ''nexus'' there.

And that makes sense. If a business is located in a State—uses the roads there, impacts the environment there, employs local workers there it should pay taxes and business fees there, and it should collect sales taxes on products sold there.

But if a business is located out of State, and simply ships products to consumers there, it is not part of the local economy. It does not use local services or infrastructure. And it should not be subject to the taxes and tax collection burdens that support a community not its own.

That seems simple. But as with anything that happens in tax law, it is not. Cases have been brought in courts across the country trying to clarify exactly what is a ''substantial physical presence.'' Is it maintaining a Web site? Sending employees to training conferences? Taking orders over the Internet? Our bill codifies the decisions already established by the courts and restates the principle on which they are all based: State and local taxing authorities do not have jurisdiction over businesses that are not physically located in their borders.

Because this area of the law is as arcane as it is important, it is important to describe what our bill does not do.

It does not exempt e-businesses or any other mail order businesses from taxation. The businesses our bill cover pay plenty of taxes—Federal taxes and State and local taxes and fees in every state in which they maintain a physical presence.

Our bill does not offer special breaks for e-businesses. Though the struggling e-economy will certainly benefit from having its tax situation clarified, nothing we state in this bill goes beyond current established case law.

Our bill does not take away any revenue States and localities are currently collecting. Only Congress has the right to regulate the flow of commerce between the States. State and local tax collectors have never been able to reach into other States and collect revenues from businesses outside their borders.

Our bill does not threaten ''main street businesses.'' In fact, it is just the opposite. The small stores of Main Street are threatened by malls and mega-stores—not by the Internet or catalogue companies. In fact, many Main Street speciality stores are staying alive by offering their products over the Internet.

In Wisconsin, for example, we have many cheese makers who have run small family businesses for years. A quick search on the World Wide Web yields 20 Wisconsin cheese makers selling over the Internet. They are from Wisconsin towns like Plain, Durand, Fennimore, Tribe Lake, Thorp, and Prairie Ridge. Could these small towns support speciality cheese makers with walk-in traffic only? Would these small businesses continue to sell over the Internet if they had to figure and remit sales taxes and business fees to the over 7000 taxing jurisdictions into which they might ship? Of course not.

What our bill does do is protect businesses, big and small, and consumers from facing a plethora of new taxes and tax compliance burdens. What it does do is keep the life-line of Internet sales available for countless small businesses and entrepreneurs. What it does do is clarify the tax law and eliminate the need for State-by-State litigation—that governs the developing world of e–commerce. What it does do is provide predictability to the mail order business sector an industry that employs 300,000 in the State of Wisconsin.

I urge my colleagues to support NETFAIR and protect thousands of businesses and millions of consumers from new and onerous tax burdens.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 65—HONORING NEIL L. RUDENSTINE, PRESIDENT OF HARVARD UNIVERSITY

Mr. KERRY submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 65

Whereas Neil L. Rudenstine is retiring as the 26th President of Harvard University in Cambridge, Massachusetts, on June 30, 2001, after 10 years of service in the position;

Whereas Harvard University, founded in 1636, is the oldest university in the United States and 1 of the preeminent academic institutions in the world;

Whereas throughout the history of the United States, graduates of Harvard University have served the United States as leaders in public service, including 7 Presidents and many distinguished members of the United States Senate and the House of Representatives;

Whereas in recognition of his belief in, and Harvard University's continued commitment to, public service as a value of higher education, Neil L. Rudenstine worked to establish the Center for Public Leadership at Harvard University's Kennedy School of Government to prepare individuals for public service and leadership in an ever-changing world;

Whereas in order to make a Harvard University education available to as many qualified young people as possible, during Neil L. Rudenstine's tenure, the University expanded its financial aid budget by $8,300,000 to help students graduate with less debt;

Whereas Neil L. Rudenstine has made Harvard University a good neighbor in the community of Cambridge and greater Boston by launching a $21,000,000 affordable housing program and by creating more than 700 jobs; and

Whereas Neil Rudenstine built an academic career of great distinction, including 2 bachelor's degrees, 1 from Princeton University and the other from Oxford University, a Rhodes Scholarship, a Harvard Ph.D. in

English, recognition as a scholar and authority on Renaissance literature, and preeminent positions in higher education: Now, therefore, be it

Resolved,

SECTION 1. HONORING NEIL L. RUDENSTINE.

The Senate—

(1) expresses deep appreciation to President Neil L. Rudenstine of Harvard University for his contributions to higher education, for the spirit of public service that characterized his decade as Harvard University's President, for his many years of academic leadership at other universities, and for the grace and elegance that he brought to all he has done; and

(2) wishes him well in every future endeavor, anticipating the continuing benefit of his thoughtful expertise to American higher education.

SEC. 2. TRANSMITTAL.

The Secretary of the Senate shall transmit a copy of this resolution to Neil L. Rudenstine.

AMENDMENTS SUBMITTED AND PROPOSED

SA 155. Mr. HARKIN (for himself, Mr. WELLSTONE, and Mr. BIDEN) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

SA 156. Mr. FRIST (for himself and Mr. BREAUX) proposed an amendment to the bill S. 27, supra.

SA 157. Mr. BINGAMAN proposed an amendment to the bill S. 27, supra.

SA 158. Mr. BINGAMAN proposed an amendment to the bill S. 27, supra.

SA 159. Mr. NELSON, of Florida proposed an amendment to the bill S. 27, supra.

SA 160. Mr. KERRY proposed an amendment to the bill S. 27, supra.

SA 161. Mr. LEVIN (for himself, Mr. ENSIGN, Mrs. CLINTON, Mr. DORGAN, Mr. NELSON, of Nebraska, and Mr. REID) proposed an amendment to the bill S. 27, supra.

SA 162. Mr. DURBIN (for himself and Mr. COCHRAN) proposed an amendment to the bill S. 27, supra.

SA 163. Mr. THOMPSON (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEAHY, Mr. JEFFORDS, and Mr. DODD) proposed an amendment to the bill S. 27, supra.

SA 164. Mr. REED proposed an amendment to the bill S. 27, supra.

TEXT OF AMENDMENTS

SA 155. Mr. HARKIN (for himself, Mr. WELLSTONE, and Mr. BIDEN) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 38, after line 3, add the following:

TITLE V—VOLUNTARY SENATE CANDIDATE SPENDING LIMITS AND BENEFITS

SEC. 501. VOLUNTARY SENATE SPENDING LIMITS AND PUBLIC BENEFITS.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 is amended by adding at the end the following:

"TITLE V—VOLUNTARY SPENDING LIMITS AND PUBLIC BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible candidate if the candidate—

''(1) meets the primary and general election filing requirements of subsections (b) and (c); and

''(2) meets the primary and runoff election expenditure limits of subsection (d).

''(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration as to whether—

''(A) the candidate and the candidate's authorized committees—

''(i) will meet the primary and runoff election expenditure limits of subsection (d); and

''(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits; and

''(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(a).

''(2) The declaration under paragraph (1) shall be filed on the date the candidate files as a candidate for the primary election.

''(c) GENERAL ELECTION FILING REQUIREMENT.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

''(A) the candidate and the candidate's authorized committees—

''(i) met the primary and runoff election expenditure limits under subsection (d); and

''(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable;

''(B) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

''(C) such candidate and the authorized committees of such candidate—

''(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 502(a);

''(ii) will not accept any contributions in violation of section 315;

''(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the amount of the general election expenditure limit under section 502(a);

''(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties; and

''(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

''(D) the candidate intends to make use of the benefits provided under section 503.

''(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date the candidate qualifies for the general election ballot under State law; or

''(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

''(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

''(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of an amount equal to 67 percent of the general election expenditure limit under section 502(a).

''(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(a).

''(2)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

''(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

''(i) would result in the violation of any limitation under section 315; or

''(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(C)(iii).

"SEC. 502. LIMITATIONS ON EXPENDITURES.

''(a) GENERAL ELECTION EXPENDITURE LIMIT.—Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible candidate and the candidate's authorized committees shall not exceed the sum of—

''(1) $1,000,000; and

''(2) 50 cents multiplied by the voting age population of the candidate's State.

''(b) PAYMENT OF TAXES.—The limitation under subsection (a) shall not apply to any expenditure by the candidate or the candidate's authorized committees for Federal, State, or local taxes on earnings allocable to contributions received by such candidates or committees.

"SEC. 503. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

''(a) PAYMENTS.—An eligible candidate shall be entitled to payments from the Senate Election Campaign Fund with respect to an election in an amount equal to 2 times the excess expenditure amount determined under subsection (b) with respect to the election, beginning on the date on which an opponent in the same election as the eligible candidate makes an aggregate amount of expenditures, or accepts an aggregate amount of contributions, in excess of an amount equal to the sum of—

''(1) the excess expenditure amount; and

''(2) $10,000.

''(b) EXCESS EXPENDITURE AMOUNT.—For purposes of subsection (a), except as provided in section 505(c), the excess expenditure amount determined under this subsection with respect to an election is the greatest aggregate amount of expenditures made (or obligated to be made), or contributions received, by any opponent of the eligible candidate with respect to such election in excess of the primary or runoff expenditure limits under section 501(d) or general election expenditure limit under section 502(a) of the eligible candidate (as applicable).

''(c) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—An eligible candidate who receives payments under subsection (a) that are allocable to the excess expenditure amounts described in subsection (b) may make expenditures from such payments to defray expenditures for the primary, runoff, or general election without regard to the applicable expenditure limits under section 501(d) or 502(a).

''(d) USE OF PAYMENTS FROM FUND.—Payments received by a candidate under subsection (a) shall be used to defray expenditures incurred with respect to the election for which the amounts were made available. Such payments shall not be used—

''(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

''(2) to make any expenditure other than expenditures to further the applicable election of such candidate;

''(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

''(4) to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

''(e) UNEXPENDED FUNDS.—Any amount received by an eligible candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid to the Secretary of the Treasury.

''SEC. 504. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

''(2) Not later than 48 hours after an eligible candidate files a request with the Secretary of the Senate to receive benefits under section 505, the Commission shall certify to the Secretary of the Treasury whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund and the amount of such payments to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

''(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

''(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

''(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive.

''SEC. 505. PAYMENTS RELATING TO ELIGIBLE CANDIDATES.

''(a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established in the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

''(2)(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

''(i) any contributions by persons which are specifically designated as being made to the Fund; and

''(ii) any other amounts which may be deposited into the Fund under this title.

''(B) It is the sense of the Senate that a contribution to the Fund under subparagraph (A)(i) shall exclusively consist of amounts derived from income tax refunds due the person or additional amounts included with the person's return and not from any income tax liability owed by the person to the Treasury.

''(C) The Secretary of the Treasury (referred to in this section as the 'Secretary') shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

''(D) Amounts in the Fund shall remain available without fiscal year limitation.

''(3) Amounts in the Fund shall be available only for the purposes of—

''(A) making payments required under this title; and

''(B) making disbursements in connection with the administration of the Fund.

''(4) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

''(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (c), the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

''(c) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 504 for payment to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

''(2) Amounts withheld under subparagraph (A) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

''(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

''(i) the amount of monies in the Fund which will be available to make payments required by this title in the succeeding calendar year; and

''(ii) the amount of payments which will be required under this title in such calendar year.

''(B) If the Secretary determines that there will be insufficient monies in the Fund to make the payments required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments under this subsection. Such notice shall be by registered mail.

''(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(C)(iii) shall be increased by the amount of the estimated pro rata reduction.

''(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(C)(iii) shall be increased by the amount of such excess.

''(d) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments were made to an eligible candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

''(2) If the Commission revokes the certification of a candidate as an eligible candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay to the Secretary an amount equal to 200 percent of the amount of any benefit made available to the candidate under this title.

''(e) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

''(f) APPROPRIATIONS.—Any fees collected or fines imposed by the Commission under this Act are hereby appropriated for deposit in the Fund for use in carrying out the purposes of this title.

''SEC. 506. DEFINITIONS.

''In this title—

''(1) except as otherwise provided in this title, the definitions under section 301 shall apply for purposes of this title insofar as such definitions relate to elections to the office of Senator;

''(2) the term 'eligible candidate' means a candidate who is eligible under section 501 to receive benefits under this title;

''(3) the terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 505;

''(4) the term 'general election' means any election which will directly result in the election of a person to the office of Senator, but does not include an open primary election;

''(5) the term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

''(A) the date of such general election; or

''(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

''(6) the term 'immediate family' means—

''(A) a candidate's spouse;

''(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

''(C) the spouse of any person described in subparagraph (B);

''(7) the term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of this title;

''(8) the term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for the office of Senator;

''(9) the term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

''(A) the date of the first primary election for that office following the last general election for that office; or

''(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

''(10) the term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for the office of Senator;

''(11) the term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office;

''(12) the term 'voting age population' means the resident population, 18 years of

age or older, as certified pursuant to section 315(e); and

''(13) the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.''.

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 2001.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 2002, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 2002, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 2002, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this title shall be treated as invalid.

SEC. 502. NOTIFICATION REQUIREMENTS.

The Federal Election Commission shall promulgate such regulations as necessary to allow the Federal Election Commission to notify eligible candidates (as defined in section 506 of the Federal Election Campaign Act of 1971, as added by section 501) of the expenditures and contributions of an opposing candidate in the same election in a timely manner for purposes of determining the payment amount under section 503 of such Act, as so added.

SEC. 503. NONSEVERABILITY.

(a) IN GENERAL.—If any provision of, or amendment made by, this Act that is described in subsection (b), or the application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the provisions of, and amendments made by, this title, and the application of such provisions and amendments to any person or circumstance, shall be invalid.

(b) PROVISIONS.—A provision or amendment described in this subsection is a provision or amendment contained in any of the following sections:

(1) Section 201.
(2) Section 202.
(3) Section 203.
(4) Section 204.

SA 156. Mr. FRIST (for himself and Mr. BREAUX) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, strike lines 18 through 24 and insert the following:

(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 a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

(b) NONSEVERABILITY OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—If one of the provisions of, or amendments made by, this Act that is described in paragraph (2), or if the application of any such provision or amendment to any person or circumstance, is held to be unconstitutional, then all the provisions and amendments described in paragraph (2) shall be invalid.

(2) NONSEVERABLE PROVISIONS.—A provision or amendment described in this paragraph is a provision or amendment contained in any of the following sections:

(A) Section 101, except for section 323(d) of the Federal Election Campaign Act of 1971, as added by such section.

(B) Section 103(b).

(C) Section 201.

(D) Section 203.

(c) JUDICIAL REVIEW.—

(1) EXPEDITED REVIEW.—Any Member of Congress, candidate, national committee of a political party, or any person adversely affected by any provision of, or amendment made by, this Act, or the application of such a provision or amendment to any person or circumstance, may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that such provision or amendment violates the Constitution.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia granting or denying an injunction regarding, or finally disposing of, an action brought under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under paragraph (1).

(4) APPLICABILITY.—This subsection shall apply only with respect to any action filed under paragraph (1) not later than 30 days after the effective date of this Act.

SA 157. Mr. BINGAMAN proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. ____. DONATIONS TO PRESIDENTIAL INAUGURAL COMMITTEE.

(a) IN GENERAL.—Chapter 5 of title 36, United States Code, is amended by—

(1) redesignating section 510 as section 511; and

(2) inserting after section 509 the following:

''§ 510. Disclosure of and prohibition on certain donations.

''(a) IN GENERAL.—A committee shall not be considered to be the Inaugural Committee for purposes of this chapter unless the committee agrees to, and meets, the requirements of subsections (b) and (c).

''(b) DISCLOSURE.—

''(1) IN GENERAL.—Not later than the date that is 90 days after the date of the Presidential inaugural ceremony, the committee shall file a report with the Federal Election Commission disclosing any donation of money or anything of value made to the committee in an aggregate amount equal to or greater than $200.

''(2) CONTENTS OF REPORT.—A report filed under paragraph (1) shall contain—

''(A) the amount of the donation;

''(B) the date the donation is received; and

''(C) the name and address of the person making the donation.

''(c) LIMITATION.—The committee shall not accept any donation from a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b))).''.

(b) REPORTS MADE AVAILABLE BY FEC.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 103 and 201, is amended by adding at the end the following:

''(g) REPORTS FROM INAUGURAL COMMITTEES.—The Federal Election Committee shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission.''.

SA 158. Mr. BINGAMAN proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. ____. OPPORTUNITY OF CANDIDATES TO RESPOND TO NEGATIVE POLITICAL ADVERTISEMENTS SPONSORED BY NONCANDIDATES.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by this Act, is amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following:

''(b) POLITICAL ADVERTISEMENTS OF NONCANDIDATES.—

''(1) IN GENERAL.—If any licensee permits a person, other than a legally qualified candidate for Federal office (or an authorized committee of that candidate), to use a broadcasting station during the period described in paragraph (2) to attack or oppose (as defined in paragraph (3)) a clearly identified candidate (as defined in section 301 of the Federal Election Campaign Act of 1971) for Federal office, the broadcasting station shall, within a reasonable period of time, make available to such candidate the opportunity to use the broadcasting station, without charge, for the same amount of time during the same period of the day and week as was used by such person.

''(2) PERIOD DESCRIBED.—The period described in this paragraph is—

''(A) with respect to a general, special, or runoff election for such Federal office, the 60-day period preceding such election; or

''(B) with respect to 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, the 30-day period preceding such election, convention, or caucus.

''(3) ATTACK OR OPPOSE DEFINED.—The term 'attack or oppose' means, with respect to a clearly identified candidate—

''(A) any expression of unmistakable and unambiguous opposition to the candidate; or

''(B) any communication that contains a phrase such as 'vote against', 'defeat', or 'reject', or a campaign slogan or words that, when taken as a whole, and with limited reference to external events (such as proximity to an election) can have no reasonable meaning other than to advocate the defeat of one

or more clearly identified candidates, regardless of whether or not the communication expressly advocates a vote against the candidate.''.

SA 159. Mr. NELSON of Florida proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. ___. PROHIBITION ON FRAUDULENT SOLICITATION OF FUNDS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''No person'';

(2) by adding at the end the following:

''(b) FRAUDULENT SOLICITATION OF FUNDS.—No person shall—

''(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

''(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).''.

SA 160. Mr. KERRY proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. 305. STUDY AND REPORT ON CLEAN MONEY CLEAN ELECTIONS LAWS.

(a) CLEAN MONEY CLEAN ELECTIONS DEFINED.—In this section, the term ''clean money clean elections'' means funds received under State laws that provide in whole or in part for the public financing of election campaigns.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the clean money clean elections of Arizona and Maine.

(2) MATTERS STUDIED.—

(A) STATISTICS ON CLEAN MONEY CLEAN ELECTIONS CANDIDATES.—The Comptroller General of the United States shall determine—

(i) the number of candidates who have chosen to run for public office with clean money clean elections including—

(I) the office for which they were candidates;

(II) whether the candidate was an incumbent or a challenger; and

(III) whether the candidate was successful in the candidate's bid for public office; and

(ii) the number of races in which at least one candidate ran an election with clean money clean elections.

(B) EFFECTS OF CLEAN MONEY CLEAN ELECTIONS.—The Comptroller General of the United States shall describe the effects of public financing under the clean money clean elections laws on the 2000 elections in Arizona and Maine.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress detailing the results of the study conducted under subsection (b).

SA 161. Mr. LEVIN (for himself, Mr. ENSIGN, Mrs. CLINTON, Mr. DORGAN, Mr. NELSON of Nebraska, and Mr. REID) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

Beginning on page 3, strike line 12 and all that follows through page 4, line 4, and insert the following:

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an entity directly or indirectly established, financed, maintained, or controlled by or acting on behalf of 1 or more candidates for State or local office, or individuals holding State or local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act. Nothing in this subsection shall prevent a principal campaign committee of a candidate for State or local office from raising and spending funds permitted under applicable State law other than for a Federal election activity that refers to a clearly identified candidate for election to Federal office.

''(2) APPLICABILITY.—

''(A) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 301(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party for an activity described in either such clause to the extent the costs of such activity are allocated under regulations prescribed by the Commission as costs that may be paid from funds not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(B) CONDITIONS.—Subparagraph (A) shall only apply if—

''(i) the activity does not refer to a clearly identified candidate for Federal office; and

''(ii) the costs described in subparagraph (A) are paid directly or indirectly from amounts donated in accordance with State law, except that no person (and any person established, financed, maintained, or controlled by such person) may donate more than $10,000 to a State, district or local committee of a political party in a calendar year to be used for the costs described in subparagraph (A).

SA 162. Mr. DURBIN (for himself and Mr. COCHRAN) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. . CLARITY STANDARDS FOR IDENTIFICATION OF SPONSORS OF ELECTION-RELATED ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking 'Whenever' and inserting 'Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever';

(ii) by striking 'an expenditure' and inserting 'a disbursement'; and

(iii) by striking 'direct'; and

(iv) by inserting 'or makes a disbursement for an electioneering communication (as defined in section 304(d)(3))'' after ''public political advertising''

(B) in paragraph (3), by inserting 'and permanent street address, telephone number, or World Wide Web address'' after 'name''; and

(2) by adding at the end the following:

'(c) SPECIFICATION.—Any printed communication described in subsection (a) shall—

'(1) be of sufficient type size to be clearly readable by the recipient of the communication;

'(2) be contained in a printed box set apart from the other contents of the communication; and

'(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

'(d) ADDITIONAL REQUIREMENTS.—

'(1) AUDIO STATEMENT.—

(A) CANDIDATE.—Any communication described in paragraphs (1) or (2) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

'(B) OTHER PERSONS.—Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: 'XXXXXXXX is responsible for the content of this advertising.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.'.

'(2) TELEVISION.—If a communication described in paragraph (1)(A) is transmitted through television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

'(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

'(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.'.

SEC. . SEVERABILITY.

If this amendment or the application of this amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendments to any person or circumstance, shall not be affected by the holding.

SA 163. Mr. THOMPSON (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEAHY, Mr. JEFFORDS, and Mr. DODD) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. ___. INCREASE IN PENALTIES.

(a) IN GENERAL.—Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

''(A) Any person who knowingly and willfully commits a violation of any provision of

this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure—

''(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

''(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than one year, or both.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the date of enactment of this Act.

SEC. ___. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking ''3'' and inserting ''5''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the date of enactment of this Act.

SEC. ___. SENTENCING GUIDELINES.

(a) IN GENERAL.—The United States Sentencing Commission shall—

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS.—The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves—

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Government.

(3) Provide a sentencing enhancement for any violation by a person who is a candidate or a high-ranking campaign official for such candidate.

(4) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(5) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(6) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—

(1) EFFECTIVE DATE.—Notwithstanding section 402, the United States Sentencing Commission shall promulgate guidelines under this section not later than the later of—

(A) 90 days after the date of enactment of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

SA 164. Mr. REED proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between line 14 and 15, insert the following:

SEC. ___. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

(2) by adding at the end the following:

''(2) RANDOM AUDITS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act.

''(B) LIMITATION.—The Commission shall not institute an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer an active candidate for the office sought by the candidate in that election cycle.

''(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking ''6 months'' and inserting ''12 months''.

SEC. ___. AUTHORITY TO SEEK INJUNCTION.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

''(13) AUTHORITY TO SEEK INJUNCTION.—

''(A) IN GENERAL.—If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

''(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

''(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

''(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

''(iv) the public interest would be best served by the issuance of an injunction;

the Commission may initiate a civil action for a temporary restraining order or a preliminary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

''(B) VENUE.—An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found, or in which the violation is occurring, has occurred, or is about to occur.'';

(2) in paragraph (7), by striking ''(5) or (6)'' and inserting ''(5), (6), or (13)''; and

(3) in paragraph (11), by striking ''(6)'' and inserting ''(6) or (13)''.

SEC. ___. INCREASE IN PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.

Section 309(a)(5)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended by striking ''the greater of $10,000 or an amount equal to 200 percent'' and inserting ''the greater of $15,000 or an amount equal to 300 percent''.

SEC. ___. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

''(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) A political committee that is not an authorized committee shall not—

''(i) include the name of any candidate in its name, or

''(ii) except in the case of a national, State, or local committee of a political party, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

SEC. ___. EXPEDITED PROCEDURES.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)), as amended by this Act, is amended by adding at the end the following:

''(14) EXPEDITED PROCEDURE.—

''(A) 60 DAYS PRECEDING AN ELECTION.—If the complaint in a proceeding is filed within 60 days immediately preceding a general election, the Commission may take action described in this paragraph.

''(B) RESOLUTION BEFORE ELECTION.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur and it appears that the requirements for relief stated in clauses (ii), (iii), and (iv) of paragraph (13)(A) are met, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, immediately seek relief under paragraph (13)(A).

''(C) COMPLAINT WITHOUT MERIT.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.''.

SEC. ___. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL ELECTION COMMISSION.

Section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended—

(1) by inserting ''(a)'' before ''There'';

(2) in the second sentence—

(A) by striking ''and'' after ''1978,''; and

(B) by striking the period at the end and inserting the following: '', and $80,000,000 (as adjusted under subsection (b)) for each fiscal year beginning after September 30, 2001.''; and

(3) by adding at the end the following:

''(b) The $80,000,000 under subsection (a) shall be increased with respect to each fiscal year based on the increase in the price index determined under section 315(c) for the calendar year in which such fiscal year begins,

except that the base period shall be calendar year 2000.''.

SEC. ___. EXPEDITED REFERRALS TO ATTORNEY GENERAL.

Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

''(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND AND FORESTRY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, March 29, 2001. The purpose of this hearing will be to review environmental trading opportunities for agriculture.

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

COMMITTEE ON FINANCE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, March 29, 2001 to hear testimony on Debt Reduction.

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

COMMITTEE ON FINANCE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the Session of the Senate on Thursday, March 29, 2001, to consider the nominations of Kenneth W. Dam of Illinois to be Deputy Secretary of the Treasury; David D. Aufhauser to be General Counsel of the Department of the Treasury; Michele A. Davis, of Virginia to be an Assistant Secretary of the Treasury; and, Faryar Shirzad to be an Assistant Secretary of Commerce.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 29, 2001 at 10:30 am to hold a hearing.

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

SPECIAL COMMITTEE ON AGING

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Thursday, March 29, 2001 from 9:30 a.m.–12:00 p.m in Dirksen 562 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON AVIATION

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 29, 2001, at 10:00 a.m. on Aviation Delay Prevention Legislation.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 29, at 2:30 p.m. to conduct an oversight hearing. The subcommittee will receive testimony on the Administration's National Fire Plan.

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 29 at 10:00 a.m. to conduct an oversight hearing. The subcommittee will review the National Park Service's implementation of management policies and procedures to comply with the provisions of Title I, II, III, V, VI, VII, and VIII of the National Parks Omnibus Management Act of 1998.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. THOMPSON. Mr. President, I ask unanimous consent that the Committee on Government Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet on Thursday, March 29, at 10:00 a.m. for a hearing entitled, ''The National Security Implications of the Human Capital Crisis.''

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

SUBCOMMITTEE ON SECURITIES AND INVESTMENT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Securities and Investment of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 29, 2001, to conduct a hearing on ''S. 206, The Public Utility Holding Company Act of 2001.''

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

PRIVILEGE OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that William Lyons, a legislative assistant in my office, be afforded privileges of the floor during the proceedings.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Title 46, Section 1295(b), of the U.S. Code, as amended by Public Law 101–595, and upon the recommendation of the Chairman of the Committee on Commerce, Science, and Transportation, appoints the following Senators to the Board of Visitors of the U.S. Merchant Marine Academy: The Senator from Arizona (Mr. McCAIN), ex officio, as Chairman of the Committee on Commerce, Science, and Transportation; and the Senator from Maine (Ms. SNOWE), Committee on Commerce, Science, and Transportation.

The Chair, on behalf of the Vice President, pursuant to 14 U.S.C. 194(a), as amended by Public Law 101–595, and upon the recommendation of the Chairman of the Committee on Commerce, Science, and Transportation, appoints the following Senators to the Board of Visitors of the U.S. Coast Guard Academy: The Senator from Arizona (Mr. McCAIN), ex officio, as Chairman of the Committee on Commerce, Science, and Transportation; and the Senator from Illinois (Mr. FITZGERALD), Committee on Commerce, Science, and Transportation.

ORDERS FOR FRIDAY, MARCH 30, 2001

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 a.m. on Friday, March 30. I further ask consent that on Friday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 27, the campaign finance reform bill, as under the previous order.

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

PROGRAM

Mr. SESSIONS. For the information of all Senators, the Senate will resume consideration of the campaign finance reform bill at 9 a.m. Amendments will be offered throughout the morning, with stacked votes to begin at 11 a.m. All amendments to the bill will be disposed of during tomorrow's session, with a vote on final passage to occur at 5:30 p.m. on Monday.

ADJOURNMENT UNTIL TOMORROW AT 9 A.M.

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:30 p.m., adjourned until Friday, March 30, 2001, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 29, 2001:

DEPARTMENT OF DEFENSE

CHARLES S. ABELL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ALPHONSO MALDON, JR.

DEPARTMENT OF COMMERCE

GRANT D. ALDONAS, OF VIRGINIA, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE, VICE ROBERT S. LARUSSA.

BRENDA L. BECKER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE DEBORAH K. KILMER, RESIGNED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To Be Admiral

REAR ADM. KEITH W. LIPPERT, 0000